

MAINE STATE LEGISLATURE

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122nd MAINE LEGISLATURE

FIRST REGULAR SESSION-2005

Legislative Document

No. 1156

H.P. 799

House of Representatives, March 8, 2005

An Act To Protect Public Health by Clarifying the Laws Regarding Smoking in Public Places

Reference to the Committee on Health and Human Services suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative WALCOTT of Lewiston.
Cosponsored by Senator MAYO of Sagadahoc and
Representatives: BURNS of Berwick, CRAVEN of Lewiston, GROSE of Woolwich, MILLER
of Somerville, PINGREE of North Haven.

Be it enacted by the People of the State of Maine as follows:

2
4 **Sec. 1. 22 MRSA §1541, sub-§§1 and 2**, as enacted by PL 1993, c. 342, §1 and affected by §9, are amended to read:

6 **1. Designated smoking area.** "Designated smoking area" means an enclosed area designated as a place for smoking. A designated area must be designed to ~~minimize~~ prevent smoke escaping from the designated area into a public place.

10 **2. Enclosed area.** "Enclosed area" means a space between a floor and a ceiling that is demarcated on all sides by ~~floor-to-ceiling~~ walls, windows, shutters, doors or passageways. Partitions, partial walls or office dividers that do not extend from the floor to within 4 feet of the ceiling are not demarcations of enclosed areas.

18 **Sec. 2. 22 MRSA §1542, sub-§1**, as enacted by PL 1993, c. 342, §1 and affected by §9, is amended to read:

20 **1. Prohibition.** Smoking is prohibited in all enclosed areas of public places and all rest rooms made available to the public. In the case of a child care facility that is not home-based, smoking is also prohibited in a facility-designated motor vehicle within 12 hours before transporting a child who is in the care of the child care facility, and whenever such a child is present in the vehicle. Smoking is also prohibited in outdoor areas of the facility where children may be present.

30 **Sec. 3. 22 MRSA §1542, sub-§2, ¶A**, as enacted by PL 1993, c. 342, §1 and affected by §9, is amended to read:

32 A. Smoking is not prohibited in an enclosed area of a public place during a period of time that the facility containing the enclosed area of the public place is not open to the public. During its normal business hours, a public place must be closed for at least one hour to be considered "not open to the public."

40 **Sec. 4. 22 MRSA §1542, sub-§2, ¶J**, as amended by PL 1997, c. 150, §1, is further amended to read:

42 J. Smoking is not prohibited in a private residence unless the private residence is used as a day care or baby-sitting service, in which case ~~these--portions--of--the--private residence--used--to--care--for--children--and--adjacent--areas--from which--smoke--could--enter--the--areas--used--to--care--for--children~~ are--public--places smoking is prohibited for the period of time that children who are being cared for are present in ~~that--portion--of~~ the residence and in outdoor areas where

2 children in the care of a home day care or baby-sitting
3 service may be present. Smoking is also prohibited in a
4 motor vehicle whenever a child who is in the care of a home
5 day care or baby-sitting service is in the vehicle during
6 the facility's hours of operation.

7 **Sec. 5. 22 MRSA §1542, sub-§2, ¶M,** as enacted by PL 1993, c.
8 342, §1 and affected by §9, is repealed.

9 **Sec. 6. 22 MRSA §1544,** as enacted by PL 1993, c. 342, §1 and
10 affected by §9, is amended to read:

11 **§1544. Retaliation prohibited**

12
13 A person may not discharge, refuse to hire, discipline or
14 otherwise retaliate against ~~an-employee-or-applicant~~ any person
15 who pursues any remedy available to enforce the requirements of
16 this chapter.
17

18 **Sec. 7. 22 MRSA §1545,** as enacted by PL 1993, c. 342, §1 and
19 affected by §9, is amended to read:

20 **§1545. Penalty**

21
22 A person who violates any provision of this chapter commits
23 a civil violation for which a ~~forfeiture-not-to-exceed~~ fine of
24 \$100 to \$2,500 may be adjudged for each violation.
25

26 **Sec. 8. 22 MRSA §1547** is enacted to read:

27 **§1547. Enforcement**

28
29 The Attorney General may bring an action to enforce this
30 chapter in District Court or Superior Court and may seek
31 injunctive relief, including a preliminary or final injunction,
32 and fines, penalties and equitable relief and may seek to prevent
33 or restrain actions in violation of this chapter by a person or
34 any person controlling such person.
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41 **SUMMARY**

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43 This bill clarifies certain definitions in the law governing
44 smoking in public places, tightens the restrictions regarding
45 exposure of children to secondhand smoke in day care facilities,
46 removes the exemption for privately chartered buses, expands the
47 application of the provision prohibiting retaliation, increases
48 the range of fines that may be imposed for violation of the law
49 and adds an enforcement provision to the law that is consistent
50 with enforcement provisions in other tobacco-related statutes.