

MAINE STATE LEGISLATURE

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123rd MAINE LEGISLATURE

FIRST SPECIAL SESSION-2008

Legislative Document

No. 2316

H.P. 1676

House of Representatives, April 10, 2008

An Act Regarding Flavored Cigarettes and Cigars

(EMERGENCY)

Reported by Representative PERRY of Calais for the Joint Standing Committee on Health and Human Services pursuant to Joint Order, H.P. 1656.

Millicent M. MacFarland

MILLICENT M. MacFARLAND
Clerk

1 **Emergency preamble. Whereas,** acts and resolves of the Legislature do not
2 become effective until 90 days after adjournment unless enacted as emergencies; and

3 **Whereas,** the First Regular Session of the 123rd Legislature enacted into law, as the
4 Maine Revised Statutes, Title 22, section 1560-D, a ban on certain flavored cigarettes and
5 cigars and authorized the Attorney General to adopt major substantive rules to implement
6 the law; and

7 **Whereas,** in the process of adopting major substantive rules to implement the new
8 law the Attorney General determined that amendment to Title 22, section 1560-D would
9 strengthen the law and provide additional clarity that will help in enforcement of the law
10 and in the exemption process; and

11 **Whereas,** in the judgment of the Legislature, these facts create an emergency within
12 the meaning of the Constitution of Maine and require the following legislation as
13 immediately necessary for the preservation of the public peace, health and safety; now,
14 therefore,

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

16 **Sec. 1. 22 MRSA §1560-D, sub-§5,** as enacted by PL 2007, c. 467, §3, is
17 amended to read:

18 **5. Exemptions.** For flavored cigarettes and flavored cigars that were first on the
19 market after January 1, 1985, the Attorney General shall establish and administer a
20 process by rule for granting exemptions based on a determination by the Attorney
21 General that the characterizing flavor ~~and the associated packaging, promotion and brand~~
22 ~~style do not directly or indirectly target~~ is not one known to appeal or likely to appeal to
23 ~~youth or encourage the initiation of smoking.~~

24 A. After an exemption has been granted for a flavored cigarette or flavored cigar
25 under this subsection, a person or entity to whom an exemption has been granted has
26 an affirmative duty to inform the Attorney General at the time that a material change
27 is made in the characterizing flavor of the flavored cigarette or flavored cigar. A
28 violation of the duty to inform imposed by this paragraph constitutes a civil violation
29 for which a fine of not more than \$10,000 may be adjudged.

30 B. The Attorney General may revoke an exemption granted under this subsection if
31 the Attorney General determines that a material change has been made to the
32 product's characterizing flavor.

33 **Sec. 2. Emergency rulemaking.** The Attorney General shall amend Chapter 10,
34 Rules for Exemptions to the Ban on Flavored Cigarettes and Cigars to conform to the
35 changes in section 1 of this Act. Rules adopted pursuant to this section are major
36 substantive rules as defined in the Maine Revised Statutes, Title 5, chapter 375,
37 subchapter 2-A and may be adopted on an emergency basis in order to avoid a threat to
38 the public health and safety.



123rd MAINE LEGISLATURE

LD *2314*

LR 3643(01)

An Act Regarding Flavored Cigarettes and Cigars

Fiscal Note for Original Bill
Sponsor: Rep. Perry, A. of Calais
Committee: Health and Human Services
Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund
Minor revenue increase - General Fund

Correctional and Judicial Impact Statements

Establishes a new civil violation. The collection of additional fines may also increase General Fund revenue by minor amounts.

Fiscal Detail and Notes

Additional costs to the Department of the Attorney General can be absorbed utilizing existing budgeted resources.