

MAINE STATE LEGISLATURE

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124th MAINE LEGISLATURE

FIRST REGULAR SESSION-2009

Legislative Document

No. 1347

H.P. 948

House of Representatives, March 31, 2009

**An Act To Deter Initiation of Tobacco Use by Increasing the Tax on
Tobacco Products**

(EMERGENCY)

Reference to the Committee on Taxation suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative PERRY of Calais.

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, this legislation needs to take effect before the expiration of the 90-day
4 period in order to protect public health and safety, including the prevention of tobacco
5 use by children; and

6 Whereas, in the judgment of the Legislature, these facts create an emergency within
7 the meaning of the Constitution of Maine and require the following legislation as
8 immediately necessary for the preservation of the public peace, health and safety; now,
9 therefore,

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

11 **Sec. 1. 36 MRSA §4361, sub-§1-A**, as amended by PL 1997, c. 458, §1, is
12 repealed and the following enacted in its place:

13 **1-A. Cigarette. "Cigarette" means:**

14 A. A roll of tobacco that is wrapped in paper or in any substance not containing
15 tobacco; or

16 B. A roll of tobacco that is wrapped in a reconstituted tobacco sheet or any other
17 substance, other than leaf tobacco, containing tobacco and that:

18 (1) Has a typical cigarette size and shape, with a cellulose acetate or other
19 cigarette-type integrated filter;

20 (2) Is marketed in a traditional cigarette-type package or a package that bears a
21 product designation or tax classification specified in 27 Code of Federal
22 Regulations, Part 40.214(c); or

23 (3) Has a filler that consists primarily of flue-cured, burley, oriental or
24 unfermented tobacco or any other material that yields the smoking characteristics
25 of those tobaccos.

26 **Sec. 2. 36 MRSA §4365**, as amended by PL 2005, c. 457, Pt. AA, §1 and affected
27 by §8, is further amended to read:

28 **§4365. Rate of tax**

29 A tax is imposed on all cigarettes imported into this State or held in this State by any
30 person for sale at the rate of ~~100~~ 150 mills for each cigarette. Payment of the tax is
31 evidenced by the affixing of stamps to the packages containing the cigarettes.

32 **Sec. 3. 36 MRSA §4365-F**, as enacted by PL 2005, c. 457, Pt. AA, §3 and
33 affected by §8, is repealed.

34 **Sec. 4. 36 MRSA §4365-G** is enacted to read:

1 **§4365-G. Application of cigarette tax rate increase effective July 1, 2009**

2 The following provisions apply to cigarettes held for resale on July 1, 2009.

3 **1. Rate.** Cigarettes stamped at the rate of 100 mills per cigarette and held for resale
4 after June 30, 2009 are subject to tax at the rate of 150 mills per cigarette. Cigarettes, also
5 known as little cigars and not defined as cigarettes prior to June 30, 2009, but defined as
6 cigarettes after June 30, 2009 and held for resale after June 30, 2009 are subject to tax at
7 the rate of 150 mills per little cigar.

8 **2. Liability.** Payment of the tax is evidenced by the affixing of stamps to packages
9 containing cigarettes held for resale. Where practicable, the State Tax Assessor may also
10 require that stamps be affixed to packages containing little cigars. Any cigarette or little
11 cigar on which the tax imposed by this chapter has been paid, such payment being
12 evidenced by the affixing of such stamp or such evidence as the State Tax Assessor may
13 require, may not be subject to a further tax under this chapter.

14 **3. Vending machines.** Notwithstanding any other provision of this chapter, it is
15 presumed that all cigarette vending machines are filled to capacity on July 1, 2009 and
16 the tax imposed by this section must be reported on that basis. A credit against this
17 inventory tax must be allowed for cigarettes stamped at the rate of 150 mills per cigarette
18 placed in vending machines before July 1, 2009.

19 **4. Payment.** Payment of the tax imposed by this section must be made to the State
20 Tax Assessor by July 1, 2009, accompanied by forms prescribed by the assessor.

21 **Sec. 5.** 36 MRSA §4366-A, sub-§2, ¶D, as amended by PL 2007, c. 438, §93, is
22 repealed.

23 **Sec. 6.** 36 MRSA §4366-A, sub-§2, ¶E is enacted to read:

24 E. For stamps at the face value of 150 mills, the discount rate is .87%.

25 **Sec. 7.** 36 MRSA §4401, sub-§1-A is enacted to read:

26 **1-A. Cigar.** "Cigar" means a tobacco product that:

27 A. Consists of a roll of tobacco wrapped in leaf tobacco; or

28 B. Consists of a roll of tobacco wrapped in a substance other than leaf tobacco and is
29 not defined as a cigarette under section 4361, subsection 1-A.

30 **Sec. 8.** 36 MRSA §4401, sub-§2-A is enacted to read:

31 **2-A. Little cigar.** "Little cigar" means a tobacco product that is classified as a
32 cigarette rather than a cigar for tax purposes and consisting of a roll of tobacco wrapped
33 in a substance containing tobacco, pursuant to section 4361, subsection 1-A, paragraph B.

34 **Sec. 9.** 36 MRSA §4401, sub-§6-A is enacted to read:

1 **6-A. Roll-your-own tobacco.** "Roll-your-own tobacco" means other tobacco
2 suitable for making cigarettes as defined in Section 5702 of the Code.

3 **Sec. 10. 36 MRSA §4403, sub-§1**, as amended by PL 2005, c. 627, §8, is further
4 amended to read:

5 **1. Smokeless tobacco.** A tax is imposed on all smokeless tobacco, including
6 chewing tobacco and snuff, at the rate of ~~78%~~ 132% of the wholesale sales price or \$2.67
7 per consumer container or package, whichever tax is greater, beginning ~~October~~ July 1,
8 ~~2005~~ 2009.

9 **Sec. 11. 36 MRSA §4403, sub-§2**, as amended by PL 2005, c. 627, §8, is further
10 amended to read:

11 **2. Other tobacco.** A tax is imposed on cigars other than little cigars, pipe tobacco
12 and other tobacco intended for smoking at the rate of ~~20%~~ 30% of the wholesale sales
13 price beginning ~~October~~ July 1, ~~2005~~ 2009.

14 **Sec. 12. 36 MRSA §4403, sub-§2-A** is enacted to read:

15 **2-A. Little cigars.** A tax is imposed on all little cigars at the rate of 150 mills for
16 each little cigar.

17 **Sec. 13. 36 MRSA §4403, sub-§2-B** is enacted to read:

18 **2-B. Roll-your-own tobacco.** A tax is imposed on roll-your-own tobacco at the rate
19 of 150 mills for each 0.036 ounces.

20 **Emergency clause.** In view of the emergency cited in the preamble, this
21 legislation takes effect July 1, 2009.

22 **SUMMARY**

23 The proposals in this bill are intended to deter initiation of tobacco use. Specifically
24 this bill:

25 1. Increases the cigarette tax by \$1.00, from \$2.00 to \$3.00;

26 2. Reclassifies certain little cigars that are, in content, design, size and shape,
27 substantially similar to traditional cigarettes and taxes them as cigarettes;

28 3. Adjusts the tax on 0.036 ounces, a cigarette stick equivalent, of roll-your-own
29 tobacco; and

30 4. Increases the tax on smokeless tobacco to 132% from 78% of the wholesale sales
31 price or a minimum tax per container of \$2.67, whichever is greater, and increases the tax
32 on cigars, pipe tobacco and other tobacco intended for smoking to 30% from 20% of the
33 wholesale sales price.