

# MAINE STATE LEGISLATURE

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# 125th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2011

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Legislative Document

No. 589

H.P. 447

House of Representatives, February 15, 2011

### **An Act To Increase the Legal Age To Purchase, Use or Sell Tobacco Products**

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

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST  
Clerk

Presented by Representative FOSSEL of Alna.  
Cosponsored by Representatives: GRAHAM of North Yarmouth, MALABY of Hancock,  
PRESCOTT of Topsham, WEBSTER of Freeport.

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

2 **Sec. 1. 22 MRSA §1551, sub-§2**, as enacted by PL 1995, c. 470, §9 and affected  
3 by §19, is amended to read:

4 **2. Juvenile.** "Juvenile" means ~~any individual~~ a person who is younger than ~~18~~ 21  
5 years of age.

6 **Sec. 2. 22 MRSA §1553-A, sub-§1, ¶B**, as enacted by PL 1995, c. 470, §9 and  
7 affected by §19, is amended to read:

8 B. A sign must be affixed conspicuously to the front of the machine. The sign must:

9 (1) Contain lettering that is at least 3/8 inches in height; and

10 (2) State the following: "WARNING. It is unlawful for any person under the  
11 age of ~~18~~ 21 to purchase cigarettes in this State."

12 **Sec. 3. 22 MRSA §1553-A, sub-§1, ¶C**, as enacted by PL 1995, c. 470, §9 and  
13 affected by §19, is amended to read:

14 C. At all times during the hours the vending machine is accessible, it must be located  
15 within the unobstructed line of sight and under the direct supervision of an adult.  
16 That adult is responsible for preventing ~~persons under 18 years of age~~ juveniles from  
17 purchasing cigarettes or any other tobacco product from that vending machine.

18 **Sec. 4. 22 MRSA §1555-B, sub-§1**, as amended by PL 2009, c. 398, §2 and  
19 affected by §6, is further amended to read:

20 **1. Retail sales.** Tobacco products may be sold at retail only in a direct, face-to-face  
21 exchange in which the purchaser may be clearly identified. For direct, face-to-face sales,  
22 employees who sell tobacco products must be at least ~~17~~ 21 years of age. ~~An employee~~  
23 ~~who is at least 17 years of age but less than 21 years of age may sell tobacco products~~  
24 ~~only in the presence of an employee who is at least 21 years of age and is in a supervisory~~  
25 ~~capacity.~~

26 **Sec. 5. 22 MRSA §1555-B, sub-§2**, as enacted by PL 1997, c. 305, §5, is  
27 amended to read:

28 **2. Sales to juveniles prohibited.** A person may not sell, furnish, give away or offer  
29 to sell, furnish or give away a tobacco product to ~~any person under 18 years of age~~ a  
30 juvenile. Tobacco products may not be sold at retail to any person under 27 years of age  
31 unless the seller first verifies that person's age by means of reliable photographic  
32 identification containing the person's date of birth.

33 **Sec. 6. 22 MRSA §1555-B, sub-§4**, as enacted by PL 1997, c. 305, §5 and  
34 amended by c. 526, §14, is further amended to read:

35 **4. Wholesale sales.** Tobacco products may be distributed at wholesale without a  
36 face-to-face exchange only in the normal course of trade and under procedures approved

1 by the Bureau of Revenue Services to ensure that tobacco products are not provided to  
2 ~~any person under 18 years of age~~ juveniles.

3 **Sec. 7. 22 MRSA §1555-B, sub-§5-A**, as enacted by PL 2003, c. 452, Pt. K, §8  
4 and affected by Pt. X, §2, is repealed and the following enacted in its place:

5 **5-A. Possession and use of cigarettes, cigarette papers or tobacco products by**  
6 **juveniles prohibited.** Except as provided in subsection 5-B, a juvenile may not  
7 purchase, possess or use cigarettes, cigarette papers or any tobacco product.

8 **Sec. 8. 22 MRSA §1555-B, sub-§5-B**, as enacted by PL 2003, c. 452, Pt. K, §8  
9 and affected by Pt. X, §2, is amended to read:

10 **5-B. Exception to possession by juvenile.** A ~~person under 18 years of age~~ juvenile  
11 may transport or permit to be transported in a motor vehicle cigarettes, cigarette papers or  
12 tobacco products in the original sealed package in which they were placed by the  
13 manufacturer if the transportation is in the scope of that person's employment.

14 **Sec. 9. 22 MRSA §1555-B, sub-§5-C**, as enacted by PL 2003, c. 452, Pt. K, §8  
15 and affected by Pt. X, §2, is repealed and the following enacted in its place:

16 **5-C. Use of false identification by juveniles prohibited.** A juvenile may not offer  
17 false identification in an attempt to purchase a tobacco product or to purchase, possess or  
18 use cigarettes, cigarette papers or any other tobacco product.

19 **Sec. 10. 22 MRSA §1555-B, sub-§6**, as enacted by PL 1997, c. 305, §5, is  
20 amended to read:

21 **6. Display of prohibition of sales to juveniles.** A dealer or distributor of tobacco  
22 products shall post notice of this section prohibiting tobacco and cigarette paper sales to  
23 persons under ~~18~~ 21 years of age. Notices must be publicly and conspicuously displayed  
24 in the dealer's or distributor's place of business in letters at least 3/8 inches in height.  
25 Signs required by this section may be provided at cost by the department.

26 **Sec. 11. 22 MRSA §1555-B, sub-§10**, as enacted by PL 1997, c. 305, §5, is  
27 amended to read:

28 **10. Affirmative defense.** It is an affirmative defense to prosecution for a violation  
29 of subsection 1, 2 or 4 that the defendant sold, furnished, gave away or offered to sell,  
30 furnish or give away a tobacco product to a ~~person under 18 years of age~~ juvenile in  
31 reasonable reliance upon a fraudulent proof of age presented by the purchaser.

## 32 SUMMARY

33 This bill raises the legal age to purchase, use or sell tobacco products from 18 years  
34 of age to 21 years of age.