

MAINE STATE LEGISLATURE

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Date: 5/18/11

L.D. 1067
(Filing No. H-276)

VETERANS AND LEGAL AFFAIRS

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
125TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 802, L.D. 1067, Bill, "An Act To Improve Awareness of Smoking Policies in Maine Rental Housing and Condominiums"

Amend the bill by striking out the title and substituting the following:

'An Act To Improve Awareness of Smoking Policies in Maine Rental Housing'

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

'Sec. 1. 14 MRSA §6030-E is enacted to read:

§6030-E. Smoking policy

1. Definition. For the purposes of this section, unless the context otherwise indicates, "smoking" means carrying or having in one's possession a lighted cigarette, cigar, pipe or other object giving off tobacco smoke.

2. Smoking policy disclosure. A landlord who or other person who on behalf of a landlord enters into a lease or tenancy at will agreement for residential premises that are used by a tenant or will be used by a potential tenant as a primary residence shall provide to the tenant or potential tenant a smoking policy disclosure that notifies tenants or potential tenants of the landlord's policy regarding smoking on the premises in accordance with subsection 3.

3. Notification. A landlord who or other person who on behalf of a landlord enters into a lease or tenancy at will agreement for residential premises shall provide written notice to a tenant or potential tenant regarding the allowance or prohibition of smoking on the premises.

A. The notice must state whether smoking is prohibited on the premises, allowed on the entire premises or allowed in limited areas of the premises. If the landlord allows smoking in limited areas on the premises, the notice must identify the areas on the premises where smoking is allowed.

COMMITTEE AMENDMENT

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1 B. A landlord or other person who acts on behalf of a landlord may notify a tenant or
2 potential tenant of a smoking policy by:

- 3 (1) Disclosing the smoking policy in a written lease agreement; or
4 (2) Providing a separate written notice to a tenant or potential tenant entering
5 into a tenancy at will agreement.

6 C. Before a tenant or potential tenant enters into a contract or pays a deposit to rent
7 or lease a property, the landlord or other person who acts on behalf of a landlord shall
8 obtain a written acknowledgment of the notification of the smoking policy from the
9 tenant or potential tenant.

10 4. Construction. This subsection restricts private causes of action based on
11 violations of this section or smoking policies provided to tenants or potential tenants
12 pursuant to this section.

13 A. A tenant or potential tenant may not maintain a private cause of action against a
14 landlord or other person who acts on behalf of a landlord on the sole basis that the
15 landlord or other person who acts on behalf of a landlord failed to provide the
16 smoking policy disclosure required by this section.

17 B. A tenant or potential tenant may not use a violation of a smoking policy by
18 another tenant as the basis for a private cause of action against a landlord or other
19 person who acts on behalf of a landlord.'

20 **SUMMARY**

21 This amendment changes the title and replaces the bill. The amendment requires that
22 landlords disclose the policy pertaining to smoking on the premises to all tenants or
23 potential tenants. The amendment requires the landlord to provide notice as part of a
24 lease agreement or through a separate written notice to those tenants or potential tenants
25 entering into a tenancy at will agreement.

26 The amendment removes the requirement in the bill that the landlord provide notice
27 using a form developed by the Department of Health and Human Services, Maine Center
28 for Disease Control and Prevention through rules. The amendment removes the penalty
29 provision in the bill and clarifies that the failure by a landlord to provide disclosure of the
30 smoking policy as required does not create grounds for a private cause of action by a
31 tenant against a landlord. The amendment clarifies that a tenant may not use a violation
32 of a smoking policy by another tenant as the basis for a private cause of action against a
33 landlord. The amendment also removes the section of the bill requiring disclosure of
34 smoking policies to purchasers of condominiums.