

# MAINE STATE LEGISLATURE

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# 126th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2013

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Legislative Document

No. 1294

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H.P. 921

House of Representatives, April 2, 2013

**An Act To Increase the Penalty for Smoking in a Motor Vehicle  
When a Child Is Present**

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

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative HAMANN of South Portland.  
Cosponsored by Representatives: GIDEON of Freeport, STUCKEY of Portland, WILSON of  
Augusta.

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

2 **Sec. 1. 22 MRSA §1549, sub-§5**, as enacted by PL 2007, c. 591, §1 and affected  
3 by §2, is amended to read:

4 **5. Penalty; deposit of fines.** Notwithstanding section 1545 and except as provided  
5 in subsection 6, penalties for violations of this section are as set out in this subsection.  
6 Fines collected pursuant to this subsection must be deposited in the Fund for a Healthy  
7 Maine established in section 1511 and used to fund smoking cessation activities.

8 ~~A. From September 1, 2008 to August 31, 2009, a law enforcement officer shall give~~  
9 ~~a written warning to an operator or passenger of a motor vehicle who is in violation~~  
10 ~~of this section.~~

11 B. ~~Beginning September 1, 2009, a~~ A person who violates this section commits a  
12 civil violation for which a fine of ~~\$50 must be assessed, except that a law~~  
13 ~~enforcement officer may give a written warning to the operator or a passenger of a~~  
14 ~~motor vehicle who is in violation of this section~~ \$250 must be adjudged.

15 C. A person who violates this section after having previously violated this section  
16 commits a civil violation for which a fine of \$500 must be adjudged.

17 D. A person who violates this section after having previously violated this section 2  
18 or more times commits a civil violation for which a fine of \$500 must be adjudged.  
19 The court shall report information regarding a person who is adjudicated as having  
20 violated this paragraph to the office of the department responsible for child  
21 protection.

22 **Sec. 2. 22 MRSA §1549, sub-§6** is enacted to read:

23 **6. Secondhand smoke class.** The department shall establish criteria regarding and  
24 certify classes on secondhand smoke. In order to be certified by the department, a class  
25 must be at least 4 hours long, detail the dangers of secondhand smoke to children and  
26 meet the criteria established by the department. The department is not required to  
27 conduct the classes. The classes may be conducted by a 3rd-party provider. A person  
28 who is adjudicated of violating this section for the first time may choose to attend a  
29 certified class on secondhand smoke at that person's own expense in lieu of paying a fine.  
30 A person who is adjudicated of violating this section for a 2nd time shall attend a certified  
31 class on secondhand smoke at that person's own expense unless that person has already  
32 attended a certified class on secondhand smoke. The department shall adopt routine  
33 technical rules as defined in Title 5, chapter 375, subchapter 2-A to implement this  
34 subsection.

35 **SUMMARY**

36 This bill increases the fine for smoking in a motor vehicle when a child is present  
37 from \$50 for all offenses to \$250 for a first offense and \$500 for a 2nd or subsequent  
38 offense. It requires fines to be deposited in the Fund for a Healthy Maine and used for  
39 smoking cessation activities. The court is required to report information regarding a  
40 person who is adjudicated of a 3rd or subsequent offense to the office of the Department

1 of Health and Human Services responsible for child protection. It allows an offender the  
2 option of taking a class on the dangers of secondhand smoke to children and receiving a  
3 fine waiver for a first offense and requires an offender to take a class on the dangers of  
4 secondhand smoke to children for a 2nd offense if the offender has not taken this class  
5 before.