

MAINE STATE LEGISLATURE

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126th MAINE LEGISLATURE

FIRST REGULAR SESSION-2013

Legislative Document

No. 1326

H.P. 950

House of Representatives, April 3, 2013

An Act To Prevent Youth Tobacco Use

(EMERGENCY)

Reference to the Committee on Taxation suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative ROCHELO of Biddeford.
Cosponsored by Senator GRATWICK of Penobscot, Senator GOODALL of Sagadahoc and Representatives: BEAUDOIN of Biddeford, BERRY of Bowdoinham, COTTA of China, DORNEY of Norridgewock, GATTINE of Westbrook, GOODE of Bangor, GRAHAM of North Yarmouth, GUERIN of Glenburn, HERBIG of Belfast, HUBBELL of Bar Harbor, JACKSON of Oxford, KESCHL of Belgrade, KNIGHT of Livermore Falls, MASTRACCIO of Sanford, RYKERSON of Kittery, SANBORN of Gorham, THERIAULT of Madawaska, TIPPING-SPITZ of Orono, TREAT of Hallowell, VOLK of Scarborough, WELSH of Rockport, WINCHENBACH of Waldoboro, Senators: CRAVEN of Androscoggin, JOHNSON of Lincoln, SAVIELLO of Franklin, WOODBURY of Cumberland.

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,** tobacco use is the leading cause of preventable death in the United States
4 and in the State; and

5 **Whereas,** youth use rates for cigarettes have declined in the State since 2001, but
6 youth use rates for noncigarette tobacco products have increased and adolescent
7 smokeless tobacco users are more likely than nonusers to become adult cigarette smokers;
8 and

9 **Whereas,** excise taxes on tobacco products are currently applied unevenly across
10 products, creating a market condition that creates lower relative prices for certain
11 noncigarette tobacco products; and

12 **Whereas,** increasing tobacco prices is one of the most effective ways to prevent and
13 reduce tobacco use; and

14 **Whereas,** it is imperative that this legislation take effect immediately to prevent the
15 increase of tobacco use by the State's youth; and

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

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

21 **Sec. 1. 36 MRSA §4401, sub-§1-B** is enacted to read:

22 **1-B. Cigar.** "Cigar" means a tobacco product that consists of:

23 A. A roll of tobacco wrapped in leaf tobacco; or

24 B. A roll of tobacco wrapped in a substance other than leaf tobacco and that is not
25 defined as a cigarette under section 4361, subsection 1-A or as a little cigar.

26 **Sec. 2. 36 MRSA §4401, sub-§§2-A and 2-B** are enacted to read:

27 **2-A. Little cigar.** "Little cigar" means a roll of tobacco wrapped in a reconstituted
28 tobacco sheet or any other substance containing tobacco, other than leaf tobacco, that is
29 not a cigarette as defined in section 4361, subsection 1-A and that:

30 A. Has a typical cigarette size and shape with a cellulose acetate or other cigarette-
31 type integrated filter; or

32 B. Is marketed in a traditional cigarette-type package or a package that bears a
33 product designation or tax classification specified in 27 Code of Federal Regulations,
34 Section 40.214(c) (2011).

1 For purposes of this subsection, "leaf tobacco" means a section cut from a whole tobacco
2 leaf that has not been processed further before use.

3 **2-B. Loose tobacco.** "Loose tobacco" means any unwrapped tobacco sold or
4 otherwise intended or expected to be smoked, including roll-your-own tobacco and pipe
5 tobacco.

6 **Sec. 3. 36 MRSA §4401, sub-§§7-A and 7-B** are enacted to read:

7 **7-A. Single-unit tobacco product.** "Single-unit tobacco product" means a tobacco
8 product other than cigarettes or cigars that is offered in discrete single-use tablets,
9 lozenges, pouches, pills or other single-dose or single-use units or in packages of such
10 single-use units.

11 **7-B. Smokeless tobacco.** "Smokeless tobacco" means a tobacco product or product
12 derived from tobacco not intended for smoking that is intended or expected to be used for
13 oral consumption, including pulverized or shredded tobacco or a blend containing
14 tobacco that is not a single-unit tobacco product. "Smokeless tobacco" does not include a
15 product that has been approved by the United States Food and Drug Administration for
16 sale as a tobacco use cessation product or for other medical purposes and is being
17 marketed and sold solely for that approved purpose.

18 **Sec. 4. 36 MRSA §4401, sub-§9,** as amended by PL 2005, c. 627, §4, is further
19 amended to read:

20 **9. Tobacco products.** "Tobacco products" means products containing, made or
21 derived from tobacco that are intended for human consumption by any means, or any
22 components, parts or accessories of tobacco products, including, but not limited to,
23 cigars; little cigars; cheroots; stogies; periques, granulated, plug cut, crimp cut, ready
24 rubbed, and other smoking tobacco; snuff; snuff flour; cavendish; plug and twist tobacco;
25 finecut and other chewing tobaccos; loose tobacco; shorts; and refuse scraps, clippings,
26 cuttings and sweepings of tobacco; ~~and other kinds and forms of tobacco, prepared in~~
27 ~~such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for~~
28 ~~chewing and smoking;~~ but does not include tobacco products that are subject to the tax
29 provided by chapter 703 or products that have been approved by the United States Food
30 and Drug Administration for sale as tobacco use cessation products or for other medical
31 purposes and are being marketed and sold solely for that approved purpose.

32 **Sec. 5. 36 MRSA §4403, sub-§1,** as repealed and replaced by PL 2009, c. 213,
33 Pt. H, §1 and affected by §3, is repealed.

34 **Sec. 6. 36 MRSA §4403, sub-§2,** as amended by PL 2005, c. 627, §8, is repealed.

35 **Sec. 7. 36 MRSA §4403, sub-§2-A** is enacted to read:

36 **2-A. Other tobacco.** Beginning October 1, 2013, a tax is imposed on tobacco
37 products at a tax rate based on the wholesale sales price of the tobacco products that is
38 equivalent to the rate of tax imposed on a pack of 20 cigarettes in chapter 703 expressed
39 as a percentage of the average wholesale sales price of a pack of 20 cigarettes as

1 determined by the State Tax Assessor or, if the following rate is higher, at the following
2 rate:

3 A. On cigars with a retail price of less than \$2.50 per cigar, the amount of the total
4 tax on a pack of 20 cigarettes established by chapter 703 per package of 4 cigars, with
5 a proportionate tax for any package or quantity of cigars consisting of fewer or more
6 than 4 cigars;

7 B. On loose tobacco, the amount of the total tax on a pack of 20 cigarettes
8 established by chapter 703 per 0.65 ounces;

9 C. On little cigars, the amount of the total tax per cigarette established by chapter
10 703 per little cigar; and

11 D. On single-unit tobacco products, the amount of the total tax per cigarette
12 established by chapter 703 per single-dose or single-use unit of the single-unit
13 tobacco product.

14 **Sec. 8. 36 MRSA §4403, sub-§5** is enacted to read:

15 **5. Equivalence with cigarette tax.** If the tax on cigarettes under chapter 703 is
16 increased or decreased, the State Tax Assessor shall calculate a rate of tax on tobacco
17 products under this section that is substantially equivalent to the new tax on 20 cigarettes.

18 **Sec. 9. Appropriations and allocations.** The following appropriations and
19 allocations are made.

20 **HEALTH AND HUMAN SERVICES, DEPARTMENT OF**

21 **Health - Bureau of 0143**

22 Initiative: Provides funds for tobacco treatment counseling by a tobacco hotline.

23

24 OTHER SPECIAL REVENUE FUNDS	2013-14	2014-15
25 All Other	\$140,000	\$140,000
26		
27 OTHER SPECIAL REVENUE FUNDS TOTAL	<u>\$140,000</u>	<u>\$140,000</u>

28 **Sec. 10. Effective date.** Those sections of this Act that repeal the Maine Revised
29 Statutes, Title 36, section 4403, subsections 1 and 2 take effect October 1, 2013.

30 **Emergency clause.** In view of the emergency cited in the preamble, this
31 legislation takes effect when approved, except as otherwise indicated.

32 **SUMMARY**

33 This bill requires that all tobacco products be taxed at rates equivalent to the current
34 tax on cigarettes. The bill provides an appropriations and allocations section to fund
35 anticipated increased demand on the tobacco hotline for those people who are seeking to
36 quit tobacco use.