

# MAINE STATE LEGISLATURE

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DM  
R. O. S.

L.D. 1028

Date: 6/17/19

Majority

(Filing No. H-622)

TAXATION

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
129TH LEGISLATURE  
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 758, L.D. 1028, Bill, "An Act To Prevent and Reduce Tobacco Use with Adequate Funding and by Raising the Tax on Tobacco Products"

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

**'An Act To Prevent and Reduce Tobacco Use with Adequate Funding and by Equalizing the Taxes on Tobacco Products'**

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

**'Sec. 1. 36 MRSA §4401, sub-§§2-A, 2-B and 7-A are enacted to read:**

**2-A. Electronic smoking device.** "Electronic smoking device" means a device used to deliver nicotine or any other substance intended for human consumption that may be used by a person to simulate smoking through inhalation of vapor or aerosol from the device, including, without limitation, a device manufactured, distributed, marketed or sold as an electronic cigarette, electronic cigar, electronic pipe, electronic hookah or so-called vape pen.

**2-B. Hookah.** "Hookah" means a device used for smoking tobacco that consists of a tube connected to a container where the smoke is cooled by passing through water.

**7-A. Smoking.** "Smoking" includes carrying or having in one's possession a lighted or heated cigarette, cigar or pipe or a lighted or heated tobacco or plant product intended for human consumption through inhalation whether natural or synthetic in any manner or in any form. "Smoking" includes the use of an electronic smoking device.

**Sec. 2. 36 MRSA §4401, sub-§9, as amended by PL 2005, c. 627, §4, is further amended to read:**

**9. Tobacco products.** "Tobacco products" means cigars; cheroots; stogies; electronic smoking devices and liquids used in electronic smoking devices whether or not they contain nicotine; periques, granulated, plug cut, crimp cut, ready rubbed; and other smoking tobacco; snuff; snuff flour; snus; cavendish; plug and twist tobacco; fincut and

**COMMITTEE AMENDMENT**

1 other chewing tobaccos; shorts; refuse scraps, clippings, cuttings and sweepings of  
2 tobacco; and other kinds and forms of tobacco, prepared in such manner as to be suitable  
3 ~~for chewing or smoking in a pipe or otherwise, or both for chewing and smoking; but~~  
4 ~~does not include tobacco products that are subject to the tax provided by chapter 703~~  
5 intended for human consumption or is likely to be consumed, whether smoked, heated,  
6 chewed, absorbed, dissolved, inhaled or ingested by any other means. "Tobacco  
7 products" does not include:

- 8 A. Products that are subject to the tax provided by chapter 703;
- 9 B. Drugs, devices or combination products authorized for sale by the United States  
10 Department of Health and Human Services, Food and Drug Administration, as those  
11 terms are defined in the Federal Food, Drug, and Cosmetic Act; or
- 12 C. Any product that contains adult use marijuana subject to tax under Title 28-B,  
13 section 1001.

14 **Sec. 3. 36 MRSA §4403, sub-§1**, as repealed and replaced by PL 2009, c. 213,  
15 Pt. H, §1 and affected by §3, is amended to read:

16 **1. Smokeless tobacco.** A tax is imposed on smokeless tobacco, including chewing  
17 tobacco and snuff, at the rate of:

- 18 A. On amounts of smokeless tobacco packaged for sale to the consumer in a package  
19 that contains one ounce or more of smokeless tobacco, \$2.02 per ounce and prorated;  
20 and
- 21 B. On smokeless tobacco packaged for sale to the consumer in a package that  
22 contains less than one ounce of smokeless tobacco, \$2.02 per package.

23 Beginning January 2, 2020, the tax rates in this subsection are subject to adjustment  
24 pursuant to subsection 5.

25 **Sec. 4. 36 MRSA §4403, sub-§2**, as amended by PL 2005, c. 627, §8, is further  
26 amended to read:

27 **2. Other tobacco.** A tax is imposed on cigars, pipe tobacco and other tobacco  
28 intended for smoking at the rate of 20% of the wholesale sales price beginning October 1,  
29 2005. Beginning January 2, 2020, a tax is imposed on all tobacco products, other than  
30 those subject to tax under subsection 1, at the rate of 43% of the wholesale sales price.  
31 Beginning January 2, 2020, the tax rate imposed pursuant to this subsection is subject to  
32 adjustment pursuant to subsection 5.

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

34 **5. Equivalence.** If the tax on cigarettes under chapter 703 is increased after January  
35 2, 2020, the assessor shall calculate a rate of tax on other tobacco products under  
36 subsections 1 and 2 that is equivalent to the same percentage change in the tax rate for  
37 one cigarette. The adjusted rates calculated by the assessor take effect at the same time as  
38 the increase in the tax on cigarettes.

39 **Sec. 6. Appropriations and allocations.** The following appropriations and  
40 allocations are made.

41 **ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF**

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**Revenue Services, Bureau of 0002**

Initiative: Provides funding for one Tax Examiner position and related costs to review and process additional tobacco products tax returns.

<b>GENERAL FUND</b>	<b>2019-20</b>	<b>2020-21</b>
POSITIONS - LEGISLATIVE COUNT	1,000	1,000
Personal Services	\$65,492	\$85,661
All Other	\$12,089	\$2,700
<b>GENERAL FUND TOTAL</b>	<b>\$77,581</b>	<b>\$88,361</b>

**ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF DEPARTMENT TOTALS**

	<b>2019-20</b>	<b>2020-21</b>
<b>GENERAL FUND</b>	<b>\$77,581</b>	<b>\$88,361</b>
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$77,581</b>	<b>\$88,361</b>

**HEALTH AND HUMAN SERVICES, DEPARTMENT OF**

**Maine Center for Disease Control and Prevention 0143**

Initiative: Appropriates funds for evidence-based tobacco use prevention and cessation, in accordance with the United States Health and Human Services, Centers for Disease Control and Prevention best practices.

<b>GENERAL FUND</b>	<b>2019-20</b>	<b>2020-21</b>
All Other	\$5,100,000	\$5,100,000
<b>GENERAL FUND TOTAL</b>	<b>\$5,100,000</b>	<b>\$5,100,000</b>

**Medical Care - Payments to Providers 0147**

Initiative: Appropriates and allocates funds for tobacco use cessation medications and counseling provided to MaineCare members.

<b>GENERAL FUND</b>	<b>2019-20</b>	<b>2020-21</b>
All Other	\$1,000,000	\$750,000
<b>GENERAL FUND TOTAL</b>	<b>\$1,000,000</b>	<b>\$750,000</b>



A. O. S.

COMMITTEE AMENDMENT "A" to H.P. 758, L.D. 1028

1 United States Department of Health and Human Services, Centers for Disease Control  
2 and Prevention recommendations. The bill also provides \$1,000,000 in fiscal year 2019-  
3 20 and \$750,000 in fiscal year 2020-21 for tobacco use cessation medications and  
4 counseling for MaineCare members.

5 **FISCAL NOTE REQUIRED**

6 **(See attached)**



# 129th MAINE LEGISLATURE

LD 1028

LR 493(03)

## An Act To Prevent and Reduce Tobacco Use with Adequate Funding and by Raising the Tax on Tobacco Products

Fiscal Note for Bill as Amended by Committee Amendment *A(H-622)*

Committee: Taxation

Fiscal Note Required: Yes

### Fiscal Note

	FY 2019-20	FY 2020-21	Projections FY 2021-22	Projections FY 2022-23
<b>Net Cost (Savings)</b>				
General Fund	\$311,498	(\$4,727,245)	(\$4,714,011)	(\$4,676,409)
<b>Appropriations/Allocations</b>				
General Fund	\$6,177,581	\$5,938,361	\$5,940,930	\$5,967,877
Federal Expenditures Fund	\$1,776,235	\$1,332,177	\$1,332,177	\$1,332,177
<b>Revenue</b>				
General Fund	\$5,866,083	\$10,665,606	\$10,654,941	\$10,644,286
Other Special Revenue Funds	\$15,331	\$27,874	\$27,846	\$27,818

#### Fiscal Detail and Notes

This bill increases the tobacco products tax from 20% to 43% of the wholesale sales price and adds electronic smoking devices and liquids used in these devices to the definition of tobacco products. These provisions increase General Fund revenue by \$5,866,083 in fiscal year 2019-20 and \$10,665,606 in fiscal year 2020-21. They also increase Local Government Fund revenue by \$15,331 in fiscal year 2019-20 and \$27,874 in fiscal year 2020-21.

The bill includes General Fund appropriations to the Department of Health and Human Services of \$6,100,000 in fiscal year 2019-20 and \$5,850,000 in fiscal year 2020-21 for evidence-based tobacco use prevention and cessation services and tobacco use cessation medications and counseling provided to MaineCare members. Federal Expenditures Fund allocations are also included for the FMAP match.

The bill also includes General Fund appropriations of \$77,581 in fiscal year 2019-20 and \$88,361 in 2020-21 to the Department of Administrative and Financial Services for one Tax Examiner position and related costs to review and process additional tobacco products tax returns.