

MAINE STATE LEGISLATURE

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129th MAINE LEGISLATURE

FIRST REGULAR SESSION-2019

Legislative Document

No. 1028

H.P. 758

House of Representatives, February 28, 2019

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

Reference to the Committee on Taxation suggested and ordered printed.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative McCREIGHT of Harpswell.
Cosponsored by Senator CHIPMAN of Cumberland and
Representatives: GROHOSKI of Ellsworth, KESCHL of Belgrade, TERRY of Gorham,
TIPPING of Orono, Senators: CYRWAY of Kennebec, MOORE of Washington, ROSEN of
Hancock, SANBORN, L. of Cumberland.

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

2 **Sec. 1. 36 MRSA §4365**, as amended by PL 2005, c. 457, Pt. AA, §1 and affected
3 by §8, is further amended to read:

4 **§4365. Rate of tax**

5 A tax is imposed on all cigarettes imported into this State or held in this State by any
6 person for sale at the rate of ~~400~~ 175 mills for each cigarette. Payment of the tax is
7 evidenced by the affixing of stamps to the packages containing the cigarettes.

8 **Sec. 2. 36 MRSA §4365-F**, as enacted by PL 2005, c. 457, Pt. AA, §3 and
9 affected by §8, is repealed.

10 **Sec. 3. 36 MRSA §4365-G** is enacted to read:

11 **§4365-G. Application of cigarette tax rate increase effective November 1, 2019**

12 The following provisions apply to cigarettes held for resale on November 1, 2019.

13 **1. Stamped rate.** Cigarettes stamped at the rate of 100 mills per cigarette and held
14 for resale after October 31, 2019 are subject to tax at the rate of 175 mills per cigarette.

15 **2. Liability.** A person possessing cigarettes for resale is liable for the difference
16 between the tax rate of 175 mills per cigarette and the tax rate of 100 mills per cigarette in
17 effect before November 1, 2019. Stamps indicating payment of the tax imposed by this
18 section must be affixed to all packages of cigarettes held for resale as of November 1,
19 2019, except that cigarettes held in vending machines as of that date do not require that
20 stamp.

21 **3. Vending machines.** Notwithstanding any other provision of this chapter, it is
22 presumed that all cigarette vending machines are filled to capacity on November 1, 2019,
23 and the tax imposed by this section must be reported on that basis. A credit against this
24 inventory tax must be allowed for cigarettes stamped at the rate of 175 mills per cigarette
25 placed in vending machines before November 1, 2019.

26 **4. Payment.** Payment of the tax imposed by this section must be made to the
27 assessor by January 1, 2020, accompanied by forms prescribed by the assessor.

28 **Sec. 4. 36 MRSA §4366-A, sub-§2, ¶D**, as amended by PL 2007, c. 438, §93, is
29 further amended to read:

30 D. For stamps at the face value of ~~400~~ 175 mills, the discount rate is ~~1.15%~~ 0.65%.

31 **Sec. 5. 36 MRSA §4401, sub-§9**, as amended by PL 2005, c. 627, §4, is repealed
32 and the following enacted in its place:

33 **9. Tobacco product.** "Tobacco product" has the same meaning as in Title 22,
34 section 1551, subsection 3 but does not include products that are subject to the tax under
35 chapter 703.

1 **Sec. 6. 36 MRSA §4403, sub-§1**, as repealed and replaced by PL 2009, c. 213,
2 Pt. H, §1 and affected by §3, is repealed.

3 **Sec. 7. 36 MRSA §4403, sub-§2**, as amended by PL 2005, c. 627, §8, is further
4 amended to read:

5 **2. Tobacco products.** A tax is imposed on ~~cigars, pipe tobacco and other tobacco~~
6 ~~intended for smoking products~~ at the rate of ~~20%~~ 81%, subject to adjustment under
7 subsection 5, of the wholesale sales price beginning ~~October 1, 2005~~ November 1, 2019.

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

9 **5. Equivalence.** If the tax on cigarettes under chapter 703 is increased after
10 November 1, 2019, the assessor shall calculate a rate of tax on other tobacco products
11 under subsection 2 that is equivalent to the same percentage change in the tax rate for one
12 cigarette. The adjusted rates calculated by the assessor take effect at the same time as the
13 increase in the tax on cigarettes.

14 **Sec. 9. Appropriations and allocations.** The following appropriations and
15 allocations are made.

16 **ATTORNEY GENERAL, DEPARTMENT OF THE**
17 **Human Services Division 0696**

18 Initiative: Appropriates funds for tobacco enforcement activities.

19			
20	GENERAL FUND	2019-20	2020-21
21	All Other	\$250,000	\$250,000
22			
23	GENERAL FUND TOTAL	\$250,000	\$250,000

24			
25	ATTORNEY GENERAL, DEPARTMENT OF		
26	THE		
27	DEPARTMENT TOTALS	2019-20	2020-21
28			
29	GENERAL FUND	\$250,000	\$250,000
30			
31	DEPARTMENT TOTAL - ALL FUNDS	\$250,000	\$250,000

32 **HEALTH AND HUMAN SERVICES, DEPARTMENT OF**
33 **Maine Center for Disease Control and Prevention 0143**

34 Initiative: Appropriates funds for tobacco use prevention and cessation.

35

1	GENERAL FUND	2019-20	2020-21
2	All Other	\$11,100,000	\$11,100,000
3			
4	GENERAL FUND TOTAL	<u>\$11,100,000</u>	<u>\$11,100,000</u>

5 **Medical Care - Payments to Providers 0147**

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

8			
9	GENERAL FUND	2019-20	2020-21
10	All Other	\$1,000,000	\$750,000
11			
12	GENERAL FUND TOTAL	<u>\$1,000,000</u>	<u>\$750,000</u>

13			
14	HEALTH AND HUMAN SERVICES,		
15	DEPARTMENT OF		
16	DEPARTMENT TOTALS	2019-20	2020-21
17			
18	GENERAL FUND	\$12,100,000	\$11,850,000
19			
20	DEPARTMENT TOTAL - ALL FUNDS	<u>\$12,100,000</u>	<u>\$11,850,000</u>

21			
22	SECTION TOTALS	2019-20	2020-21
23			
24	GENERAL FUND	\$12,350,000	\$12,100,000
25			
26	SECTION TOTAL - ALL FUNDS	<u>\$12,350,000</u>	<u>\$12,100,000</u>

27 **Sec. 10. Effective date.** Those sections of this Act that amend the Maine Revised
28 Statutes, Title 36, section 4365, section 4366-A, subsection 2, paragraph D and section
29 4403, subsection 2; that repeal Title 36, section 4365-F and section 4403, subsection 1;
30 that enact Title 36, section 4365-G and section 4403, subsection 5; and that repeal and
31 replace Title 36, section 4401, subsection 9 take effect November 1, 2019.

32 **SUMMARY**

33 This bill increases the cigarette tax from \$2.00 to \$3.50 per pack of 20 cigarettes and
34 increases the tax on all other tobacco products including electronic cigarettes to 81% of
35 the wholesale sales price, beginning November 1, 2019. The bill provides that, if the tax
36 on cigarettes is increased on or after November 1, 2019, the tax on all other tobacco
37 products will be adjusted by a rate that is equivalent to the percentage change in the tax
38 rate for one cigarette. The bill provides ongoing funding, \$11,100,000 per year, to the

1 Department of Health and Human Services, Maine Center for Disease Control and
2 Prevention for tobacco use prevention and cessation in order to align with the United
3 States Department of Health and Human Services, Centers for Disease Control and
4 Prevention recommendations. The bill also provides \$1,000,000 in fiscal year 2019-20
5 and \$750,000 thereafter for MaineCare members for tobacco use cessation medications
6 and counseling. Finally, the bill provides \$250,000 per year in ongoing funding to the
7 Attorney General's office for increased tobacco enforcement activities.