

# MAINE STATE LEGISLATURE

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# 129th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2019

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Legislative Document

No. 1081

S.P. 313

In Senate, March 5, 2019

### **An Act To Impose Further Restrictions on where Marijuana May Be Smoked**

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Reference to the Committee on Veterans and Legal Affairs suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT  
Secretary of the Senate

Presented by Senator CYRWAY of Kennebec.  
Cosponsored by Representative COSTAIN of Plymouth and  
Senator: DAVIS of Piscataquis, Representatives: ALLEY of Beals, HANLEY of Pittston,  
LYFORD of Eddington, MAREAN of Hollis, STEARNS of Guilford, STROM of Pittsfield,  
VEROW of Brewer.

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

2 **Sec. 1. 22 MRSA §1542**, as amended by PL 2009, c. 140, §1 and c. 300, §§1 and  
3 2, is further amended to read:

4 **§1542. Smoking prohibited in public places**

5 **1. Prohibition.** Smoking is prohibited in all enclosed areas of public places, outdoor  
6 eating areas as provided in section 1550 and all rest rooms made available to the public.  
7 In the case of a child care facility that is not home-based, smoking is also prohibited in a  
8 facility-designated motor vehicle within 12 hours before transporting a child who is in the  
9 care of the child care facility, and whenever such a child is present in the vehicle.  
10 Smoking is also prohibited in outdoor areas of the facility where children may be present.  
11 For purposes of this subsection, "smoking" includes the smoking of marijuana.

12 **2. Limitations.** The prohibition in subsection 1 is subject to the following  
13 limitations.

14 A. Smoking is not prohibited in an enclosed area of a public place during a period of  
15 time that the facility containing the enclosed area of the public place is not open to  
16 the public. During its normal business hours, a public place must be closed for at  
17 least one hour to be considered "not open to the public."

18 B. Smoking is not prohibited in theaters or other enclosed structures used for plays,  
19 lectures, recitals or other similar purposes if the smoking is solely by a performer and  
20 the smoking is part of the performance.

21 C. Smoking is not prohibited in any area where undertaken as part of a religious  
22 ceremony or as part of a cultural activity by a defined group.

23 E. Smoking in places of employment is governed by the provisions of section  
24 1580-A. If public employees' rights provided in collective bargaining agreements are  
25 affected by this section, the employees have the right to reopen negotiations for the  
26 purpose of bargaining for smoking areas in nonpublic areas of publicly owned  
27 buildings.

28 H. Smoking is not prohibited in motel or hotel rooms that are rented to members of  
29 the public.

30 J. Smoking is not prohibited in a private residence, subject to section 1580-A, unless  
31 the private residence is used as a day care or baby-sitting service. If a private  
32 residence is used as a day care or baby-sitting service, smoking is prohibited:

33 (1) In the residence, during the hours of operation as a day care or baby-sitting  
34 service;

35 (2) In outdoor areas on the property of that private residence, wherever a child  
36 under care may be present; and

37 (3) During the facility's hours of operation, in a motor vehicle owned or operated  
38 by the facility whenever a child under care is in the vehicle.

1 K. Smoking is not prohibited in public places when beano or bingo games are being  
2 conducted in accordance with the provisions of Title 17, section 314-A.

3 L. Smoking is not prohibited in a tobacco specialty store. The on-premises service,  
4 preparation or consumption of food or drink, if the tobacco specialty store is not  
5 licensed for such service or consumption prior to January 1, 2007, is prohibited in  
6 such a store. Smoking a waterpipe or hookah is prohibited in a tobacco specialty  
7 store that is newly licensed or that requires a new license after January 1, 2007.

8 N. Smoking is not prohibited in designated smoking areas in an off-track betting  
9 facility or simulcast racing facility at a commercial track, if that facility is licensed  
10 pursuant to Title 8, chapter 11 and in operation on June 30, 2003, is purchased from  
11 the owner or purchaser of a facility licensed pursuant to Title 8, chapter 11 and in  
12 operation on June 30, 2003 or is moved to another location within the same  
13 municipality by the owner or purchaser of a facility licensed pursuant to Title 8,  
14 chapter 11 and in operation on June 30, 2003, as long as:

15 (1) No sales or services are provided in the designated smoking area, except that  
16 television equipment and stand-alone betting terminals or other means of placing  
17 wagers may be provided;

18 (2) No employees work in or are required to pass through the designated  
19 smoking area;

20 (3) Members of the public, except for those who choose to be present in the  
21 designated smoking area, are not required to utilize or pass through the  
22 designated smoking area for any purpose;

23 (4) No one under 18 years of age is permitted in the designated smoking area;

24 (5) The designated smoking area within the purchased or relocated off-track  
25 betting facility or purchased or relocated simulcast racing facility has a floor area  
26 no larger than 2,000 square feet, except that any designated smoking area larger  
27 than 2,000 square feet and in existence on January 1, 2005 is exempt from this  
28 subparagraph;

29 (6) No slot machines are located within the off-track betting or simulcast racing  
30 facility. For the purposes of this subparagraph, an off-track betting facility or a  
31 simulcast racing facility must be in a separately enclosed area, whether stand-  
32 alone or within another facility, that is accessible by either an interior or exterior  
33 door; and

34 (7) The designated smoking area is located entirely within a separately enclosed  
35 area of an off-track betting facility or simulcast racing facility and proper signs  
36 are mounted to the exterior of the designated smoking area indicating that use of  
37 that area is for off-track betting and simulcast racing patrons only.

38 This subsection does not apply to the smoking of marijuana.

39 **Sec. 2. 28-B MRSA §1501, sub-§2, ¶B**, as enacted by PL 2017, c. 409, Pt. A,  
40 §6, is amended to read:

1 B. A person 21 years of age or older may not consume marijuana or marijuana  
2 products:

3 (1) If that person is the operator of a vehicle on a public way or a passenger in  
4 the vehicle. As used in this subparagraph, "vehicle" has the same meaning as in  
5 Title 29-A, section 101, subsection 91;

6 (2) In a private residence or on private property used as a day care or baby-  
7 sitting service during the hours in which the residence or property is being  
8 operated as a day care or baby-sitting service;

9 (3) By means of smoking the marijuana or marijuana product in a designated  
10 smoking area as provided under the Workplace Smoking Act of 1985; or

11 (4) By means of smoking the marijuana or marijuana product in a public place or  
12 in a public area where smoking is prohibited under Title 22, chapter 262-;

13 (5) By means of smoking the marijuana or marijuana product in a private  
14 residence or on private property in the presence of a person under 18 years of  
15 age; or

16 (6) By means of smoking the marijuana or marijuana product in a vehicle in  
17 which a person under 18 years of age is present. As used in this subparagraph,  
18 "vehicle" has the same meaning as in Title 29-A, section 101, subsection 91.

19 **SUMMARY**

20 This bill expands the restrictions on where marijuana may be smoked to include:

- 21 1. Areas in which tobacco smoking is prohibited;
- 22 2. In a private residence or on private property when a person under 18 years of age is  
23 present; and
- 24 3. In a vehicle in which a person under 18 years of age is present.