

MAINE STATE LEGISLATURE

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2 Date: 4/1/23

MINORITY

(Filing No. S-630)

3 HEALTH AND HUMAN SERVICES

4 Reproduced and distributed under the direction of the Secretary of the Senate.

5 STATE OF MAINE
6 SENATE
7 131ST LEGISLATURE
8 SECOND REGULAR SESSION

9 COMMITTEE AMENDMENT "A" to S.P. 785, L.D. 1923, "An Act to Provide for
10 Licensing of and Tax Collection from Remote Retail Sellers of Pipe Tobacco and Premium
11 Cigars"

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

13 **'An Act to Clarify Licensing and Tax Collection Regarding Remote Retail Sellers of
14 Premium Cigars'**

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

17 **'Sec. 1. 22 MRSA §1551, sub-§3-A,** as enacted by PL 2003, c. 444, §1, is amended
18 to read:

19 **3-A. Tobacco retailer.** "Tobacco retailer" or "retailer" means a person located within
20 or outside the State who sells tobacco products to a person in the State for personal
21 consumption. "Tobacco retailer" or "retailer" does not include a remote retail seller located
22 outside the State.

23 **Sec. 2. 22 MRSA §1551, sub-§6** is enacted to read:

24 **6. Remote retail sale.** "Remote retail sale" has the same meaning as in Title 36,
25 section 4401, subsection 4-B.

26 **Sec. 3. 22 MRSA §1551, sub-§7** is enacted to read:

27 **7. Remote retail seller.** "Remote retail seller" has the same meaning as in Title 36,
28 section 4401, subsection 4-C.

29 **Sec. 4. 22 MRSA §1555-B, sub-§1,** as amended by PL 2017, c. 308, §6, is further
30 amended to read:

31 **1. Retail sales.** Tobacco products, other than premium cigars sold by remote retail
32 sale, may be sold at retail only in a direct, face-to-face exchange in which the purchaser
33 may be clearly identified. For direct, face-to-face sales, employees who sell tobacco
34 products must be at least 17 years of age. An employee who is 17 years of age or older and

COMMITTEE AMENDMENT



under 21 years of age may sell tobacco products only in the presence of an employee who is 21 years of age or older and is in a supervisory capacity.

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Sec. 5. 22 MRSA §1555-C, as amended by PL 2009, c. 398, §3 and affected by §6 and amended by c. 652, Pt. A, §30, is repealed.

Sec. 6. 22 MRSA §1555-D, first ¶, as amended by PL 2009, c. 398, §4 and affected by §6, is further amended to read:

A person may not knowingly transport or cause to be delivered to a person in this State a tobacco product purchased from a person who is not licensed as a tobacco retailer in this State or a remote retail seller, except that this provision does not apply to the transportation or delivery of tobacco products to a licensed tobacco distributor or tobacco retailer or from a remote retail seller to a consumer.

Sec. 7. 22 MRSA §1555-G is enacted to read:

§1555-G. Age verification for sales of premium cigars

1. Requirements. A person accepting an order for a remote retail sale of premium cigars, including, but not limited to, remote retail sellers, shall perform age verification through an independent, 3rd-party age verification service that compares information available from a commercially available database or aggregate of databases that are regularly used by government agencies and businesses for the purpose of age and identity verification of the personal information entered by an individual during the ordering process that establishes that the individual is 21 years of age or older.

2. Penalties. A person that violates this section commits a civil violation for which a fine of not less than \$50 and not more than \$1,500 may be adjudged for each violation. A person that violates this section after having been previously adjudicated as violating this section commits a civil violation for which a fine of not less than \$1,000 and not more than \$5,000 may be adjudged.

3. Enforcement. The Attorney General may bring an action to enforce this section in District Court or Superior Court and may seek injunctive relief, including a preliminary or final injunction, and fines, penalties and equitable relief and may seek to prevent or restrain actions in violation of this section by a person or a person controlling that person.

Sec. 8. 36 MRSA §4402, sub-§1, as amended by PL 2023, c. 441, Pt. E, §10 and affected by §28, is further amended to read:

1. Generally. Every distributor or remote retail seller shall obtain a license from the State Tax Assessor before engaging in business. A retailer required to be licensed as a distributor ~~or remote retail seller~~ pursuant to this chapter that is required to hold a current retail tobacco license issued under Title 22, chapter 262-A, subchapter 1 must hold that license as a condition for licensure under this chapter. A license issued pursuant to this section may not be transferred to any other person. A license issued pursuant to this section is not a license within the meaning of that term in the Maine Administrative Procedure Act.'

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

COMMITTEE AMENDMENT

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SUMMARY

This amendment, which is the minority report of the committee, replaces the bill and changes the title. The amendment removes from the bill all references to pipe tobacco. It also removes provisions related to tax collection that were enacted by Public Law 2023, chapter 441. The amendment includes definitions of "remote retail sale" and "remote retail seller" in the laws regarding retail tobacco licenses. It clarifies that the sale of premium cigars online is legal and not required to be face-to-face. It updates the requirements for age verification by remote sellers of premium cigars to account for online sales. It eliminates the requirement for an out-of-state retail seller of premium cigars to be licensed by the Department of Health and Human Services.

FISCAL NOTE REQUIRED

(See attached)



131st MAINE LEGISLATURE

LD 1923

LR 1465(02)

An Act to Provide for Licensing of and Tax Collection from Remote Retail Sellers of Pipe Tobacco and Premium Cigars

Fiscal Note for Bill as Amended by Committee Amendment "A" (S-630)
Committee: Health and Human Services
Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund
Minor revenue increase - General Fund
Minor revenue increase – Other Special Revenue Funds

Correctional and Judicial Impact Statements

The additional workload associated with the minimal number of new cases filed in the court system does not require additional funding at this time. The collection of additional fines will increase General Fund or other dedicated revenue by minor amounts.

Fiscal Detail and Notes

Any additional costs to the Office of the Attorney General associated with enforcement are anticipated to be minor and can be absorbed within existing budgeted resources.