

# MAINE STATE LEGISLATURE

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**LAWS**  
OF THE  
**STATE OF MAINE**

AS PASSED BY THE

ONE HUNDRED AND TWELFTH LEGISLATURE

**FIRST REGULAR SESSION**

December 5, 1984 to June 20, 1985

Chapters 1-384

PUBLISHED BY THE REVISOR OF STATUTES IN ACCORDANCE WITH  
MAINE REVISED STATUTES ANNOTATED, TITLE 3, SECTION 163-A,  
SUBSECTION 4.

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J.S. McCarthy Co., Inc.  
Augusta, Maine  
1986

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**PUBLIC LAWS**  
OF THE  
**STATE OF MAINE**

AS PASSED AT THE  
FIRST REGULAR SESSION

of the  
ONE HUNDRED AND TWELFTH LEGISLATURE

1985

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Personal Services	\$ 9,340	\$ 9,340
All Other	<u>290,660</u>	<u>335,660</u>
This allocation is to provide for 2 seasonal legal research- ers.		
Total	\$300,000	\$345,000

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

Effective April 25, 1985.

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## CHAPTER 126

H.P. 235 - L.D. 276

### AN ACT to Establish Policies Governing Smoking in Places of Work.

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

22 MRSA §1580-A is enacted to read:

§1580-A. Smoking in places of employment

1. Title. This law shall be known as the "Workplace Smoking Act of 1985."

2. Definitions. As used in this section, unless the context indicates otherwise, the following terms have the following meanings.

A. "Business facility" means a structurally enclosed location or portion thereof at which employees perform services for their employer. A business facility shall not include any workplace or portion of a workplace which also serves as the employee's or employer's personal residence.

B. "Employee" means a person who performs a service for wages or other remuneration under a contract of hire, written or oral, expressed or implied. Employee includes a person employed by the State or a political subdivision of the State.

C. "Employer" means a person who has one or more employees. Employer includes an agent of an employer and the State or a political subdivision of the State.

D. "Smoking" means carrying or having in one's possession a lighted cigarette, cigar, pipe or other object giving off or containing any substance giving off tobacco smoke.

3. Policy; notice. Each employer shall establish, or may negotiate through the collective bargaining process, a written policy concerning smoking and nonsmoking by employees in that portion of any business facility for which he is responsible. In order to protect the employer and employees from the detrimental effects of smoking by others, the policy shall prohibit smoking except in designated smoking areas. The policy may prohibit smoking throughout the business facility. The employer shall post and supervise the implementation of the policy. The employer shall provide a copy of this policy to any employee upon request. Nothing in this section may affect the right of any employer to establish policies concerning smoking and nonsmoking by members of the public who have access to the business facility. Nothing in this section may be construed to subject an employer to any additional liability, other than liability which may exist by law, for harm to an employee from smoking by others in any business facility covered by this section.

The Bureau of Health shall accept inquiries from employers and employees and shall, when requested, assist employers in developing a policy.

4. Violations. Failure to establish, post or supervise the implementation of a policy is a civil violation for which a fine of not more than \$100 may be adjudged. The Bureau of Health shall have authority to enforce provisions of this section.

5. Civil remedies. Nothing in the section may be construed as precluding any person from pursuing, in any court of competent jurisdiction, any civil remedy that person may have at law or in equity for harm occasioned to that person from smoking by others in any business facility covered by this section.

6. Discharge, discipline or discrimination against employees. It is unlawful for any employer to discharge, discipline or otherwise discriminate against any of its employees because that employee

has assisted in the supervision or enforcement of this section.

7. Application. This section does not apply to any business facility where policies concerning smoking have been mutually agreed upon by employer and all the employees.

8. Effective date. This section shall take effect January 1, 1986.

Effective September 19, 1985.

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## CHAPTER 127

H.P. 316 - L.D. 405

### AN ACT to Make Permanent the Special Fuel Tax Act.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, legislative action is necessary before July 1, 1985 in order to insure continued and efficient administration of the Special Fuel Tax Act which became effective October 1, 1983; and

Whereas, the Special Fuel Tax Act has increased the accountability of special fuels in this State, thereby controlling fuel tax evasion; and

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

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

Sec. 1. PL 1983, c. 94, Pt. D, §9 is repealed.

Sec. 2. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.