

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE

SECOND SPECIAL SESSION
September 5, 1996 to September 7, 1996

ONE HUNDRED AND EIGHTEENTH LEGISLATURE

FIRST REGULAR SESSION
December 4, 1996 to March 27, 1997

FIRST SPECIAL SESSION
March 27, 1997 to June 20, 1997

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 26, 1997

FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 19, 1997

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

J.S. McCarthy Company
Augusta, Maine
1997

and approval by the Governor, for the fiscal years ending June 30, 1998 and June 30, 1999, the 41 positions authorized in Private and Special Law 1995, chapter 71. It is the intent of the Legislature that these positions terminate on June 30, 1999.

See title page for effective date.

CHAPTER 560

H.P. 1357 - L.D. 1904

An Act to Discourage Smoking, Provide Tax Relief and Improve the Health of Maine Citizens

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

PART A

Sec. A-1. 22 MRSA §1546 is enacted to read:

§1546. Tobacco Tax Relief Fund

1. Tobacco Tax Relief Fund established. The Tobacco Tax Relief Fund, referred to in this section as "the fund," is established as part of a program to address urgent tax relief needs of citizens of the State. Expenditures from the fund must be made as provided in this section.

2. Transfers to fund. Beginning November 1, 1997, the State Controller shall transfer to the fund money representing 37 mills per cigarette from the tax levied under Title 36, section 4365.

3. Payments from fund. After depositing funds under subsection 2, the State Controller shall make the following payments in the following order:

A. The State Controller shall transfer to the department for the Tobacco Prevention and Control Program established in section 272 funds sufficient for all allocations from the fund; and

B. No other funds may be expended without the recommendations of the joint standing committee of the Legislature having jurisdiction over tax matters and enacted by the full Legislature.

4. Nonlapsing fund. Any unexpended balance in the fund may not lapse, but must be carried forward to be used pursuant to subsection 3.

5. Transfer to General Fund. The State Controller shall transfer into the General Fund the revenues necessary to maintain the level of cigarette tax revenue at the level that was budgeted for the General Fund in fiscal years 1997-98 and 1998-99.

Beginning in fiscal year 1999-2000, the State Controller shall transfer to the General Fund the revenues necessary to maintain the level of cigarette tax revenue in the previous year less 3%. The Treasurer of State shall annually review the recommendations of the Consensus Revenue Forecasting Committee to determine whether any change in the reduction rate is required and, if so, shall change the rate accordingly.

Sec. A-2. 36 MRSA §4365, as repealed and replaced by PL 1997, c. 458, §6, is amended by adding a new 2nd paragraph to read:

Beginning November 1, 1997, as a public health measure, the tax imposed under this section is 37 mills per cigarette. The tax imposed pursuant to this section is dedicated to the Tobacco Tax Relief Fund established in Title 22, section 1546.

Sec. A-3. 36 MRSA §4365-D is enacted to read:

§4365-D. Rate of tax beginning November 1, 1997

Beginning November 1, 1997, the following provisions apply to cigarettes held for resale on that date.

1. Stamped rate. Cigarettes stamped at the rate of 18.5 mills per cigarette and held for resale after October 31, 1997 are subject to tax at the rate of 37 mills per cigarette.

2. Liability. A person possessing cigarettes for resale is liable for the difference between the tax rate of 37 mills per cigarette and the tax rate of 18.5 mills per cigarette in effect before November 1, 1997. Stamps indicating payment of the tax imposed by this section must be affixed to all packages of cigarettes held for resale as of November 1, 1997, except that cigarettes held in vending machines as of that date do not require that stamp.

3. Vending machines. Notwithstanding any other provision of this chapter, it is presumed that all cigarette vending machines are filled to capacity on November 1, 1997 and the tax imposed by this section must be reported on that basis. A credit against this inventory tax must be allowed for cigarettes stamped at the 37 mill rate placed in vending machines before November 1, 1997.

4. Payment. Payment of the tax imposed by this section must be made to the State Tax Assessor by February 1, 1998, accompanied by forms prescribed by the assessor and must be credited to the Tobacco Tax Relief Fund established in Title 22, section 1546.

Sec. A-4. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Part.

	1997-98	1998-99
ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF		
Bureau of Taxation		
Positions - Legislative Count	(1,000)	(1,000)
Personal Services	\$15,903	\$32,904
All Other	38,920	53,440
Capital Expenditures	10,000	
Provides funds for one Revenue Agent position, effective January 1, 1998, one contract investigator and related administrative expenses to administer and enforce the cigarette tax laws.		
DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES		
TOTAL	\$64,823	\$86,344

Sec. A-5. Effective date. This Part takes effect October 1, 1997.

PART B

Sec. B-1. Maine Commission on Children's Health Care established. The Maine Commission on Children's Health Care, referred to in this Part as the "commission," is established.

Sec. B-2. Membership. The commission consists of 16 members as follows:

1. The following 2 commissioners:
 - A. The Commissioner of Human Services, or the commissioner's designee; and
 - B. The Commissioner of Professional and Financial Regulation, or the commissioner's designee;
2. Seven public members, 3 appointed by the Governor, 2 appointed by the President of the Senate and 2 appointed by the Speaker of the House of Representatives; and
3. Seven Legislators of whom 4 represent the majority party and 3 represent the minority party. Of the 7 Legislators, at least 2 may be members of the Joint Standing Committee on Health and Human Services, 2 may be members of the Joint Standing

Committee on Banking and Insurance and 2 may be members of the Joint Standing Committee on Appropriations and Financial Affairs. The legislative members must be appointed jointly by the President of the Senate and the Speaker of the House of Representatives.

The chair of the commission must be selected jointly from among the members by the President of the Senate, the Speaker of the House of Representatives and the Governor.

Sec. B-3. Appointments. All appointments must be made no later than 15 days following the effective date of this Part. The appointing authorities shall notify the Executive Director of the Legislative Council upon making their appointments. When the appointment of all members is complete, the Executive Director of the Legislative Council shall call and convene the first meeting of the commission no later than October 10, 1997.

Sec. B-4. Duties. The commission shall assess the current health needs of the children of this State and develop a series of recommendations to maximize the fulfillment of those needs. The commission shall:

1. Assess the best and latest available data regarding children's health insurance in the State, including the number of children under 18 years of age who lack health insurance;
2. Examine the costs and benefits of Medicaid expansion with pending federal changes;
3. Examine the benefits and detriments of accepting a block grant that would expand children's health access; and
4. Examine the advantages and disadvantages of alternative health services and financing mechanisms of children's health services.

Sec. B-5. Staff assistance. The commission may request staffing and clerical assistance from the State Planning Office and the Legislative Council.

Sec. B-6. Compensation. Commission members who are Legislators are entitled to receive the legislative per diem, as defined in the Maine Revised Statutes, Title 3, section 2, and reimbursement for travel and other necessary expenses for each day's attendance at meetings of the commission. Other members of the commission are not entitled to compensation or reimbursement for expenses.

Sec. B-7. Report. The commission shall submit its recommendations, with any necessary implementing legislation, to the Governor and the Legislature by December 15, 1997. The Joint

Standing Committee on Health and Human Services may report out legislation based on the report of the commission.

Sec. B-8. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Part.

1997-98

LEGISLATURE

Maine Commission on Children's Health Care

Personal Services	\$1,540
All Other	1,900
Provides funds for the per diem and expenses of legislative members and miscellaneous costs, including printing of the Maine Commission on Children's Health Care.	

LEGISLATURE

TOTAL \$3,440

PART C

Sec. C-1. Children's Health Reserve Account established. The Children's Health Reserve Account, referred to in this Part as the "account," is established as an Other Special Revenue account that may not lapse. The following funds must be transferred into the account.

1. Excess General Fund revenue; transfer of funds. Notwithstanding any other provision of law, the State Controller shall transfer an amount not to exceed \$6,200,000 in excess of the base General Fund revenue estimates for fiscal year 1997-98 for inheritance and estate tax to the Children's Health Reserve Account as Other Special Revenue in the Department of Administrative and Financial Services no later than June 30, 1998. These funds may be transferred and made available by financial order, upon recommendation of the State Budget Officer and approval of the Governor, to be used for children's health services.

2. Abandoned Property Fund; transfer of funds. Notwithstanding any other provision of law, the State Controller is authorized to transfer \$500,000 in fiscal year 1997-98 and \$500,000 in fiscal year 1998-99 from the Abandoned Property Fund to the Children's Health Reserve Account as Other Special Revenue no later than June 30th of each fiscal year.

These transfers are to be made after the Abandoned Property Fund transfers to the General Fund, as included in the last accepted revenue estimate for the 1998-1999 biennium, have been made.

3. Department of Human Services; transfer of funds. The Department of Human Services shall seek reimbursement of expenditures under Aid to Families with Dependent Children, Title IV-A of the Social Security Act in the amount of \$800,000 in fiscal year 1997-98 to be credited to the Children's Health Reserve Account as Other Special Revenue no later than June 30, 1998.

Sec. C-2. Use of funds. Funds from the account must be used to match available state and federal funds for the purpose of meeting recommendations of the Maine Commission on Children's Health Care as enacted by the Legislature.

Sec. C-3. Additional funds. If the funds in the account are insufficient to meet the requirement of section 2 of this Part, the Governor shall include in the Governor's recommendations to the Joint Standing Committee on Appropriations and Financial Affairs, in the budget submitted in the Second Regular Session of the 118th Legislature, any necessary additional funds to fulfill the recommendations of the Maine Commission on Children's Health Care.

PART D

Sec. D-1. 5 MRSA §12004-I, sub-§36-D is enacted to read:

<u>36-D.</u>	<u>Tobacco</u>	<u>Expenses/</u>	<u>22 MRSA</u>
<u>Human</u>	<u>Prevention</u>	<u>Legislative</u>	<u>§272</u>
<u>Services</u>	<u>and Control</u>	<u>Per Diem</u>	
	<u>Advisory</u>	<u>for Non-</u>	
	<u>Council</u>	<u>salaried</u>	
		<u>Employee</u>	
		<u>Members</u>	

Sec. D-2. 22 MRSA c. 102 is enacted to read:

CHAPTER 102

TOBACCO TAX AND HEALTH PROTECTION

§271. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Bureau. "Bureau" means the Bureau of Health.

2. Advisory council. "Advisory council" means the Tobacco Prevention and Control Advisory Council.

3. Program. "Program" means the Tobacco Prevention and Control Program.

4. Tobacco products. "Tobacco products" means any form of tobacco and any material or device used in the smoking, chewing or other form of tobacco consumption, including cigarette papers and pipes.

§272. Tobacco Prevention and Control Program

1. Program established. The Tobacco Prevention and Control Program is established in the bureau. The purposes of the program are to prevent the State's youths from ever using tobacco products and to assist youths and adults who currently smoke cigarettes and use other tobacco products to discontinue that use. The program includes the following components:

A. An ongoing, major media campaign to:

- (1) Educate the public about the health hazards, costs and other relevant facts surrounding the use of tobacco products;
- (2) Encourage young people not to begin using tobacco products;
- (3) Motivate the users of tobacco products to discontinue smoking; and
- (4) Encourage public acceptance of smoke-free environments;

B. Grants for funding community-based programs aimed at tobacco prevention and control, including funding of tobacco prevention and control education for those school administrative units that choose to offer such programs to primary, middle and high school students; for community-based enforcement of state tobacco control laws, including sales to minors and for cessation services;

C. Procedures for monitoring and evaluating the prevention and control program, including:

- (1) Monitoring and maintaining the program's effectiveness through an evaluation of each component; and
- (2) Assessing the prevalence of the use of tobacco products and knowledge about and attitudes towards such use on a statewide and community basis; and

D. In conjunction with law enforcement and other state and federal agencies, increased law enforcement efforts to increase compliance with laws regarding the transportation, distribution and sale of cigarettes and tobacco products.

The bureau shall administer the program with the review and advice provided by the council in subsection 2 and may contract for professional services to carry out the program.

2. Tobacco Prevention and Control Advisory Council. The Tobacco Prevention and Control Advisory Council is established under Title 5, section 12004-I, subsection 36-D to review the program. The advisory council shall provide advice to the bureau in carrying out its duties under this section and ensure coordination of the program with relevant nonprofit and community agencies and the Department of Education, the Department of Mental Health, Mental Retardation and Substance Abuse Services, the Office of Substance Abuse and other relevant state agencies. The advisory council consists of 9 members, appointed as follows:

A. Two public health officials, appointed by the Governor;

B. Two representatives of nonprofit organizations involved in seeking to reduce the use of tobacco products in the State, with one representative appointed by the President of the Senate and one representative appointed by the Speaker of the House of Representatives;

C. A person who designs and implements issue-oriented public health media campaigns, appointed by the Governor;

D. Two persons involved in designing and implementing community-based education or cessation programs for the prevention of tobacco products use, one to focus on adults, appointed by the President of the Senate, and one to focus on youth, appointed by the Speaker of the House of Representatives; and

E. Two members of the public, appointed jointly by the President of the Senate and the Speaker of the House of Representatives in consultation with the leaders of the minority political party.

Appointments to the advisory council must be made by October 15, 1997. Members serve for 3-year terms and may be reappointed. When the appointment of all members is complete, the Governor or the Governor's designee shall convene the first meeting of the advisory council no later than November 15, 1997. The advisory council shall choose a chair from among its members and establish its procedure for reaching decisions. The bureau shall provide staff assistance to the advisory council. The advisory council shall report annually on the program to the Governor and the Legislature by December 1st and include any recommendations or proposed legislation to further the purposes of the program.

The appointing authority shall fill a vacancy on the advisory council for the remainder of the vacant term. Each member who is not a salaried employee is entitled to compensation as provided in Title 5, section 12004-I, subsection 36-D, following approval of expenses by the Director of the Bureau of Health.

Sec. D-3. Allocation. The following funds are allocated from Other Special Revenue to carry out the purposes of this Part.

	1997-98	1998-99
HUMAN SERVICES, DEPARTMENT OF		
Bureau of Health		
All Other	\$3,500,000	\$3,500,000
Provides funds from the Tobacco Tax Relief Fund to support the Tobacco Prevention and Control Program.		

PART E

Sec. E-1. Task Force on Improving Access to Prescription Drugs for the Elderly established. The Task Force on Improving Access to Prescription Drugs for the Elderly, referred to in this Part as the "task force," is established.

Sec. E-2. Membership. The task force consists of 9 members appointed as follows:

1. Three members, appointed by the President of the Senate;
2. Three members, appointed by the Speaker of the House of Representatives; and
3. Three members, appointed by the Governor.

The chair of the task force must be selected jointly from the members by the President of the Senate, the Speaker of the House of Representatives and the Governor.

Sec. E-3. Appointments. All appointments must be made no later than 30 days following the effective date of this Part. The appointing authorities shall notify the Executive Director of the Legislative Council upon making their appointments. When the appointment of all members is complete, the Executive Director of the Legislative Council shall call and convene the first meeting of the task force no later than October 10, 1997.

Sec. E-4. Duties. The task force shall determine and recommend methods on improving access to prescription drugs for the State's elderly citizens.

Sec. E-5. Staff assistance. The task force may request staffing and clerical assistance from the Legislative Council.

Sec. E-6. Compensation. Members of the task force who are Legislators are entitled to receive the legislative per diem, as defined in the Maine Revised Statutes, Title 3, section 2, and reimbursement for travel and other necessary expenses for each day's attendance at meetings of the task force. Other members of the task force are not entitled to compensation or reimbursement for expenses.

Sec. E-7. Report. The task force shall submit its recommendations, with any necessary implementing legislation, to the Governor and the Legislature by January 15, 1998. The Joint Standing Committee on Health and Human Services may report out legislation based on the report of the task force.

Sec. E-8. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Part.

	1997-98
LEGISLATURE	
Task Force on Improving Access to Prescription Drugs for the Elderly	
Personal Services	\$1,320
All Other	1,700
Provides funds for the per diem and expenses of legislative members and for miscellaneous costs, including printing of the Task Force on Improving Access to Prescription Drugs for the Elderly.	
LEGISLATURE	
TOTAL	\$3,020

PART F

Sec. F-1. Health Care Fund for Maine Citizens established. The Health Care Fund for Maine Citizens, referred to in this Part as the "fund," is established. Any unexpended balance in the fund may not lapse, but must be carried forward to be used pursuant to section 2 of this Part.

Sec. F-2. Tobacco suit award or settlement. Any award or settlement amount received by the State from a tobacco company pursuant to the

action brought by the State against cigarette manufacturers or any other funds received as a result of any action involving the tobacco industry must be deposited into the Health Care Fund for Maine Citizens, an Other Special Revenue account that may not lapse. Notwithstanding any other provision of law to the contrary, the Attorney General's Office may recover the costs of bringing the action upon recommendation of the Legislature.

Sec. F-3. Contingent effective date. This Part does not take effect unless the State receives funds pursuant to section 2 of this Part.

See title page for effective date, unless otherwise indicated.

CHAPTER 561

S.P. 88 - L.D. 268

An Act to Authorize 2 General Fund Bond Issues in the Amount of \$13,000,000 to Construct Water Pollution Control Facilities, to Close and Clean Up Municipal Solid Waste Landfills, to Clean Up Tire Stockpiles, to Mitigate Storm Water Pollution through a Comprehensive Watershed Protection Program and to Make Drinking Water Improvements

Preamble. Two thirds of both Houses of the Legislature deeming it necessary in accordance with the Constitution of Maine, Article IX, Section 14, to authorize the issuance of bonds on behalf of the State of Maine to provide funds to construct water pollution control facilities, to clean up tire stockpiles and to make drinking water improvements and to provide funds to close and clean up municipal solid waste landfills and to mitigate storm water pollution through a comprehensive watershed protection program.

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

PART A

Sec. A-1. Authorization of bonds to provide for funds to construct water pollution control facilities, to clean up tire stockpiles and to make drinking water improvements. The Treasurer of State is authorized, under the direction of the Governor, to issue bonds in the name and on behalf of the State in an amount not exceeding \$7,000,000 to raise funds to construct water pollution control facilities, to clean up tire stockpiles and to make drinking water improvements as authorized by

section 6. The bonds are a pledge of the full faith and credit of the State. The bonds may not run for a period longer than 5 years from the date of the original issue of the bonds. At the discretion of the Treasurer of State, with the approval of the Governor, any issuance of bonds may contain a call feature.

Sec. A-2. Records of bonds issued to be kept by the Treasurer of State. The Treasurer of State shall keep an account of each bond showing the number of the bond, the name of the successful bidder to whom sold, the amount received for the bond, the date of sale and the date when payable.

Sec. A-3. Sale; how negotiated; proceeds appropriated. The Treasurer of State may negotiate the sale of the bonds by direction of the Governor, but no bond may be loaned, pledged or hypothecated on behalf of the State. The proceeds of the sale of the bonds, which must be held by the Treasurer of State and paid by the Treasurer of State upon warrants drawn by the State Controller, are appropriated solely for the purposes set forth in this Act. Any unencumbered balances remaining at the completion of the project in section 6 lapse to the debt service account established for the retirement of these bonds.

Sec. A-4. Interest and debt retirement. The Treasurer of State shall pay interest due or accruing on any bonds issued under this Act and all sums coming due for payment of bonds at maturity.

Sec. A-5. Disbursement of bond proceeds. The proceeds of the bonds must be expended as set out in section 6 under the direction and supervision of the Department of Environmental Protection and the Department of Human Services.

Sec. A-6. Allocations from General Fund bond issue; to construct water pollution control facilities, to clean up tire stockpiles and make drinking water improvements. The proceeds of the sale of bonds must be expended as designated in the following schedule.

1997-98

ENVIRONMENTAL PROTECTION, DEPARTMENT OF

Construction of water pollution control facilities to provide the state match for \$12,500,000 in federal funds	\$4,500,000
Cleanup of tire stockpiles to protect the public health and safety and the environment	\$2,000,000