

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-SECOND LEGISLATURE

SECOND SPECIAL SESSION
July 29, 2005

SECOND REGULAR SESSION
January 4, 2006 to May 24, 2006

THE GENERAL EFFECTIVE DATE FOR
SECOND SPECIAL SESSION
NON-EMERGENCY LAWS IS
OCTOBER 28, 2005

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
AUGUST 23, 2006

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

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Lewiston, Maine
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parel; shoes; building materials; gas and electricity for light, heat and power; ice; fuel of all kinds; and fertilizer and fertilizer ingredients; together with tools, utensils, implements, machinery and equipment required for the actual production or manufacture of the same. "Necessities" includes any other vital or necessary good or service except those:

(1) Subject to continuous maximum price regulation under the provisions of any state or federal law;

(2) As to which the State's authority is preempted; or

(3) Furnished or provided by:

(a) Insurers; or

(b) Nonprofit hospitals, medical service organizations or health maintenance organizations authorized to transact business within the State pursuant to Title 24 and Title 24-A.

D. "Unconscionable price" means a price that is actionable under this section. There is a rebuttable presumption that a price is unconscionable when it exceeds by more than 15% the sum of:

(1) The price at which similar goods or services were offered for sale or sold by that person immediately prior to the beginning date of the abnormal market disruption. If that person did not offer such goods or services immediately prior to the abnormal market disruption, then the price is the price at which similar goods or services were offered for sale or sold by another person similarly situated prior to the abnormal market disruption; and

(2) The increased cost calculated according to the method used by that person prior to the abnormal market disruption.

2. Declaration. Whenever it appears upon due inquiry and consultation with the Attorney General that an abnormal market disruption exists or that there is a substantial likelihood that an abnormal market disruption is imminent, the Governor may, in the Governor's sole discretion and after considering whether the declaration of an abnormal market disruption itself will disrupt supplies for affected necessities, declare an abnormal market disruption.

A. A declaration made under this subsection must specify:

(1) The beginning date of the abnormal market disruption;

(2) The particular necessity, necessities or categories of necessities that are affected by the abnormal market disruption and made subject to the provisions of subsections 3 and 4; and

(3) The levels of trade or commerce that are affected by the abnormal market disruption and made subject to the provisions of subsections 3 and 4.

B. A declaration of abnormal market disruption under this subsection expires when the Governor declares it expired or 60 days from the date of its issuance, whichever is sooner. The declaration of abnormal market disruption may be modified by the Governor at any time.

C. The Governor shall publish decisions under this subsection in a manner reasonably calculated to give affected persons adequate notice.

D. Any person may petition the Governor regarding the Governor's decisions under this subsection.

3. Profiteering prohibited. After the Governor has declared an abnormal market disruption and before the declaration of the abnormal market disruption expires, a person may not sell or offer for sale necessities at an unconscionable price.

4. Civil violation. A violation of subsection 3 is a civil violation that constitutes and may be prosecuted as an unfair act or practice in the conduct of trade or commerce pursuant to Title 5, section 207, except that the provisions of Title 5, section 213 do not apply. The declaration of an abnormal market disruption creates a rebuttable presumption that the disruption occurred and existed from the beginning date in the declaration to the date of its expiration.

See title page for effective date.

CHAPTER 581

H.P. 1342 - L.D. 1901

An Act To Amend the Law Regarding Smoking in Private Clubs

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

Sec. 1. 22 MRSA §1580-A, sub-§2, ¶C-2 is enacted to read:

C-2. "Qualifying club" means a veterans' service organization chartered under 36 United States Code, Subtitle II, Part B (2004) that is not open to the public or any other club that was not open to the public and that was in operation prior to January 1, 2004.

Sec. 2. 22 MRSA §1580-A, sub-§7, as amended by PL 2005, c. 338, §6, is further amended to read:

7. Application. This section does not apply to a business facility that is a veterans' service organization chartered under 36 United States Code, Subtitle II, Part B (2004) that is not open to the public or to any other club that was not open to the public and that was in operation prior to January 1, 2004, if policies concerning smoking have been mutually agreed upon by the employer and all the employees and the veterans' service organization or the club:

A. Has written procedures ensuring that only the employer and employees, members and invited guests accompanied by a member are allowed entry to the premises; and

B. Demonstrates by a written secret ballot vote taken at least once every 3 years that a majority of the members have voted to allow smoking. The date of the vote must be announced to all members at least 14 days prior to the vote. All ballots cast in the vote must be kept on file for at least 3 years and made available to the Bureau of Health upon request.

This subsection is repealed August 1, 2008.

Sec. 3. 22 MRSA §1580-A, sub-§9 is enacted to read:

9. Exception. Beginning August 1, 2006, and notwithstanding any provision to the contrary in this section, a qualifying club may allow smoking in its business facility in accordance with the following provisions.

A. Policies concerning smoking must have been mutually agreed upon by the employer and all the employees.

B. The qualifying club must have met the requirements of this paragraph.

(1) The qualifying club must have written policies allowing onto the premises only the employer and employees, members and invited guests accompanied by a member.

(2) A vote in favor of smoking has been conducted according to the following provisions:

(a) The qualifying club must provide all members notice of the date of the vote at least 30 days prior to the vote and an opportunity for an absentee ballot. Information designed to influence the vote of the member may not be provided with the notice and the absentee ballot;

(b) Members may not be subjected to undue influence regarding the vote;

(c) A majority of all valid ballots received must be in favor of smoking; and

(d) The ballot and procedures for voting and making available, collecting and counting absentee ballots must meet the requirements established by rule adopted by the Maine Center for Disease Control and Prevention.

(3) The qualifying club must have provided written notice to the Maine Center for Disease Control and Prevention of the results of the vote within 30 days of the vote.

C. The qualifying club may allow smoking under authority of this subsection for no longer than 3 years from the date of the vote.

D. The qualifying club may revote under this subsection at any time.

E. The qualifying club must have retained all ballots for at least 3 years and make them available to the Maine Center for Disease Control and Prevention upon request.

F. The Maine Center for Disease Control and Prevention shall adopt rules to implement this subsection. Rules adopted pursuant to this subparagraph are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 4. Transition. The provisions of the Maine Revised Statutes, Title 22, section 1580-A, subsection 9 apply to all votes to allow smoking in a qualifying club as defined in section 1580-A, subsection 2, paragraph C-2, except that a qualifying club that held a vote in favor of smoking under authority of Title 22, section 1580-A, subsection 7 between July 1, 2005 and August 1, 2006 may allow smoking under authority of that vote until August 1, 2008.

See title page for effective date.
