

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE

SECOND REGULAR SESSION
January 6, 2010 to April 12, 2010

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JULY 12, 2010

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

Augusta, Maine
2010

matter of this section and allow for submittal of oral and written comment.

See title page for effective date.

CHAPTER 605

S.P. 598 - L.D. 1561

An Act To Regulate the Use of Automated License Plate Recognition Systems

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

Sec. 1. 29-A MRSA §2117-A is enacted to read:

§2117-A. Use of automated license plate recognition systems

1. Definitions. As used in this section, unless the context otherwise indicates, "automated license plate recognition system" means a system of one or more mobile or fixed high-speed cameras combined with computer algorithms to convert images of registration plates into computer-readable data. "Automated license plate recognition system" does not include a photo-monitoring system, as defined in Title 23, section 1980, subsection 2-A, paragraph B, subparagraph (4), when used by the Maine Turnpike Authority or a law enforcement agency for toll enforcement purposes.

2. Prohibition. Except as otherwise provided in subsection 3, a person may not use an automated license plate recognition system.

3. Exception. Subsection 2 does not apply to:

A. The Department of Transportation for the purposes of protecting public safety and transportation infrastructure;

B. The Department of Public Safety, Bureau of State Police for the purposes of commercial motor vehicle screening and inspection; and

C. Any state, county or municipal law enforcement agency when providing public safety, conducting criminal investigations and ensuring compliance with local, state and federal laws. For purposes of this paragraph, an automated license plate recognition system may use only information entered by a law enforcement officer as defined by Title 17-A, section 2, subsection 17 and based on specific and articulable facts of a concern for safety, wrongdoing or a criminal investigation or pursuant to a civil order or records from

the National Crime Information Center database or an official published law enforcement bulletin.

An authorized user under this subsection of an automated license plate recognition system may use an automated license plate recognition system only for the official and legitimate purposes of the user's employer.

4. Confidentiality. Data collected or retained through the use of an automated license plate recognition system in accordance with subsection 3 are confidential under Title 1, chapter 13 and are available for use only by a law enforcement agency in carrying out its functions or by an agency collecting information under subsection 3 for its intended purpose and any related civil or criminal proceeding.

A law enforcement agency may publish and release as public information summary reports using aggregate data that do not reveal the activities of an individual or firm and may share commercial motor vehicle screening data with the Federal Motor Carrier Safety Administration for regulatory compliance purposes.

5. Data retention. Data collected or retained through the use of an automated license plate recognition system in accordance with subsection 3 that are not considered intelligence and investigative information as defined by Title 16, section 611, subsection 8, or data collected for the purposes of commercial motor vehicle screening, may not be stored for more than 21 days.

6. Penalty. Violation of this section is a Class E crime.

Sec. 2. Working group to study the use of automated license plate recognition systems. The Secretary of State shall establish a working group to study and assess potential issues relating to the use of automated license plate recognition systems by law enforcement agencies and other authorized agencies. In addition to the Secretary of State, the working group must include, but is not limited to, representatives of the Department of Public Safety, Bureau of State Police, representatives of local and county law enforcement, representatives of the Department of Transportation, representatives of the Maine Turnpike Authority and representatives of organizations or individuals representing privacy and constitutional interests.

The working group report under section 3 must include a review of a September 2009 report, completed by an international association of chiefs of police that studied the privacy impact of enhanced collection, analysis and dissemination of license plate data made possible by automated license plate recognition system technology. The working group report must include model policy or draft legislation, either developed by the working group or by an association

representing users of automated license plate recognition systems.

Sec. 3. Report. The working group under section 2 shall submit a report including its findings and recommendations to the joint standing committee of the Legislature having jurisdiction over transportation matters no later than January 15, 2011.

See title page for effective date.

CHAPTER 606

H.P. 1086 - L.D. 1542

An Act To Make Maine's Laws Consistent with the Federal Family Smoking Prevention and Tobacco Control Act

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

Sec. 1. 22 MRSA §1560-D, as amended by PL 2007, c. 612, §1, is further amended to read:

§1560-D. Flavored cigars

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

A. "Characterizing flavor" means a distinguishable taste or aroma of candy, chocolate, vanilla, fruit, berry, nut, herb, spice, honey or an alcoholic drink that is imparted to tobacco or tobacco smoke either prior to or during consumption; ~~other than a taste or aroma from tobacco, menthol, clove, coffee, nuts or peppers.~~ "Characterizing flavor" does not include a taste or aroma from tobacco. A cigar is deemed to have a characterizing flavor if the cigar is advertised or marketed as having or producing the taste or aroma of candy, chocolate, vanilla, fruit, berry, nut, herb, spice, honey or an alcoholic drink.

B. "Component part" includes but is not limited to the tobacco, filter and paper in a ~~cigarette or~~ cigar.

C. "Constituent" means any ingredient, substance, chemical or compound, other than tobacco, water or reconstituted tobacco sheet, that is added by the manufacturer to the tobacco, paper or filter of a ~~cigarette or~~ cigar during the processing, manufacture or packing of the ~~cigarette or~~ cigar. "Constituent" includes a smoke constituent.

D. "Flavored cigar" means a cigar or any component part ~~thereof~~ of the cigar that contains a constituent that imparts a characterizing flavor.

~~E. "Flavored cigarette" means a cigarette or any component part thereof that contains a constituent that imparts a characterizing flavor.~~

E-1. "Premium cigar" means a cigar that weighs more than 3 pounds per 1,000 cigars and is wrapped in whole tobacco leaf.

F. "Smoke constituent" means any chemical or chemical compound in mainstream or sidestream tobacco smoke that either transfers from any component of the ~~cigarette or~~ cigar to the smoke or that is formed by the combustion or heating of tobacco, additives or other component of the tobacco product.

2. Prohibition on sale or distribution of flavored cigars. ~~Beginning July 1, 2009~~ Except as provided in subsection 5-A, a person may not sell or distribute or offer to sell or distribute in this State any flavored ~~cigarette or~~ flavored cigar unless: the cigar is a premium cigar.

~~A. The flavored cigarette or flavored cigar was first on the market prior to January 1, 1985, based on a statement to that effect filed with the Attorney General by the current manufacturer and verified by the Attorney General.~~

~~B. The flavored cigarette or flavored cigar is exempt under subsection 5; or~~

~~C. The sale is allowed under the transition provisions of subsection 7.~~

3. Violation. A person who violates this section commits a civil violation for which fines may be imposed under subsection 4.

4. Fines. The fines that apply to violations of this section are as set out in this subsection.

A. A person who violates subsection 2 ~~or 6~~ commits a civil violation for which a fine of \$1,000 may be adjudged.

B. A person who violates subsection 2 ~~or 6~~ after having previously been convicted of a violation of ~~the same that~~ subsection commits a civil violation for which a fine of \$5,000 may be adjudged.

~~**5. Exemptions.** For flavored cigarettes and flavored cigars that were first on the market after January 1, 1985, the Attorney General shall establish and administer a process by rule for granting exemptions based on a determination by the Attorney General that the characterizing flavor is not one known to appeal or likely to appeal to youth.~~

~~A. After an exemption has been granted for a flavored cigarette or flavored cigar under this subsection, a person or entity to whom an exemption has been granted has an affirmative duty to inform the Attorney General at the time that a material change is made in the characterizing flavor of the~~