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Public Law
123rd Legislature
First Regular Session

Chapter 467
S.P. 475 - L.D. 1361

**An Act Concerning Certain Flavored
Cigarettes and Flavored Cigars and Hard Snuff**

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

Sec. 1. 22 MRSA §1556-A, sub-§1, as amended by PL 1999, c. 616, §2, is further amended to read:

1. Contract officers. The authority of contract officers hired under this chapter is limited to enforcement of this Aetchapter and Title 36, section 4366-C. Authorization to enforce this chapter is granted by the Commissioner of Public Safety, by terms mutually agreed upon between the department and the Department of Public Safety. Contract officers must have an appropriate background in law enforcement. Contract officers are exempt from ongoing training requirements except as otherwise determined by the Commissioner of Public Safety. These contract officers are not considered law enforcement officers for the purposes of enforcing the Maine Juvenile Code.

Sec. 2. 22 MRSA §1560-A is enacted to read:

§ 1560-A. Hard snuff

1. Hard snuff defined. As used in this section, unless the context otherwise indicates, "hard snuff" means a smokeless, dissolvable tobacco product in lozenge, bit or tablet form that contains as an ingredient compressed, powdered tobacco with nicotine, that is intended for human consumption and that is not regulated as a food or drug or approved as nicotine replacement therapy.

2. Prohibition. A person may not sell, furnish, give away or offer to sell, furnish or give away hard snuff in this State.

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 commits a civil violation for which a fine of \$500 may be adjudged.

B. A person who violates subsection 2 after having previously been adjudicated of a violation of subsection 2 commits a civil violation for which a fine of \$1,000 may be adjudged.

C. A person who violates subsection 2 after having previously been adjudicated of a violation of subsection 2 more than once commits a civil violation for which a fine of \$5,000 may be adjudged.

Sec. 3. 22 MRSA c. 262-A, sub-c. 5 is enacted to read:

SUBCHAPTER 5

FLAVORED CIGARETTES AND FLAVORED CIGARS

§ 1560-D. Flavored cigarettes and 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 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.

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 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.

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 product. Beginning July 1, 2009, a person may not sell or distribute or offer to sell or distribute in this State any flavored cigarette or flavored cigar unless:

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 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 and the associated packaging, promotion and brand style do not directly or indirectly target youth or encourage the initiation of smoking.

6. Tobacco distributors. Beginning on July 1, 2009, a tobacco distributor may not purchase or accept for sale new stock of flavored cigarettes and flavored cigars except for flavored cigarettes or flavored cigars that are exempt under subsection 5.

7. Transition. Notwithstanding the prohibitions of subsection 2, from July 1, 2009 to December 31, 2009, a tobacco distributor or retailer may sell flavored cigarettes and flavored cigars that the distributor or retailer held in stock prior to July 1, 2009.

8. Website information. To the extent that resources permit, the Attorney General shall maintain on a publicly accessible website a list of flavored cigarettes and flavored cigars that are authorized for distribution and sale in the State.

9. Rulemaking. No later than January 15, 2008, the Attorney General shall adopt rules to implement this section. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

10. Transfers of funds. Notwithstanding any other provision of law, for fiscal years beginning on or after July 1, 2009 the State Controller shall transfer \$92,660 no later than June 30, 2010 and \$145,147 no later than June 30, 2011 from the Fund for a Healthy Maine to General Fund undedicated revenue.

For fiscal years beginning on or after July 1, 2011 the State Controller in consultation with the State Tax Assessor shall determine the General Fund revenue loss resulting from this section and transfer that amount at least annually from the Fund for a Healthy Maine to General Fund undedicated revenue.

Sec. 4. Report. The Attorney General shall report to the Joint Standing Committee on Health and Human Services on the preliminary implementation of this Act no later than February 1, 2008. After receipt and review of the report, the joint standing committee may report out legislation to the Second Regular Session of the 123rd Legislature.

Sec. 5. Maine Revised Statutes headnote amended; revision clause. In the Maine Revised Statutes, Title 22, chapter 262-A, subchapter 4, in the subchapter headnote, the words "nicotine water" are amended to read "nicotine-containing substances" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

Effective September 20, 2007