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An Act Regarding Flavored Cigarettes and Cigars

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

Whereas, the First Regular Session of the 123rd Legislature enacted into law, as the Maine Revised Statutes, Title 22, section 1560-D, a ban on certain flavored cigarettes and cigars and authorized the Attorney General to adopt major substantive rules to implement the law; and

Whereas, in the process of adopting major substantive rules to implement the new law the Attorney General determined that amendment to Title 22, section 1560-D would strengthen the law and provide additional clarity that will help in enforcement of the law and in the exemption process; 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. 22 MRSA §1560-D, sub-§5, as enacted by PL 2007, c. 467, §3, is amended to read:

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~~ is not one known to appeal or likely to appeal to youth or encourage the initiation of smoking.

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 flavored cigarette or flavored cigar. A violation of the duty to inform imposed by this paragraph constitutes a civil violation for which a fine of not more than \$10,000 may be adjudged.

B. The Attorney General may revoke an exemption granted under this subsection if the Attorney General determines that a material change has been made to the product's characterizing flavor.

Sec. 2. Emergency rulemaking. The Attorney General shall amend Chapter 10, Rules for Exemptions to the Ban on Flavored Cigarettes and Cigars to conform to the changes in section 1 of this Act. Rules adopted pursuant to this section are major substantive rules as defined in the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A and may be adopted on an emergency basis in order to avoid a threat to the public health and safety.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

SUMMARY

This bill is an emergency bill. The bill makes changes to the criteria for granting exemptions to the ban on flavored cigarettes and cigars first on the market after January 1, 1985. The bill imposes upon the person or entity to whom an exemption has been granted the affirmative duty to notify the Attorney General of a material change in the characterizing flavor of flavored cigarettes and cigars and designates a violation of this requirement a civil violation for which a fine of \$10,000 may be adjudged. The bill authorizes the Attorney General to revoke an exemption if the Attorney General determines that a material change has been made to the product's characterizing flavor. The bill authorizes the adoption of rules on an emergency basis to conform existing rules to the requirements of the bill.

FISCAL NOTE REQUIRED

(See attached)