

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-FIVE

H.P. 1297 - L.D. 1938

An Act Regarding the Regulation of Tobacco

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

Sec. 1. 10 MRSA §1202, sub-§2, ¶D is amended to read:

D. Sales made by a cigarette distributor to a licensed wholesale dealer ~~or to the operator of 15 or more vending machines shall not be~~ are not subject to a markup of 2% as stated in paragraph C, but such sales ~~shall be~~ are subject to full trade discount only.

Sec. 2. 22 MRSA §1541, sub-§1-A, as enacted by PL 2015, c. 318, §1, is amended to read:

1-A. Electronic smoking device. "Electronic smoking device" means a device used to deliver nicotine or any other substance intended for human consumption that may be used by a person ~~to simulate smoking~~ through inhalation of vapor or aerosol from the device, including, without limitation, a device manufactured, distributed, marketed or sold as an electronic cigarette, electronic cigar, electronic pipe, electronic hookah or so-called vape pen.

Sec. 3. 22 MRSA §1542, sub-§2, ¶H, as enacted by PL 1993, c. 342, §1 and affected by §9, is repealed.

Sec. 4. 22 MRSA §1551-A, sub-§1, as enacted by PL 1995, c. 470, §9 and affected by §19, is amended to read:

1. Retail tobacco license. It is unlawful for any person, partnership or corporation that engages in retail sales, ~~including retail sales through vending machines or in free distribution of tobacco products,~~ to sell, keep for sale or give away in the course of trade any tobacco products to anyone without first obtaining a retail tobacco license from the department, in accordance with this chapter. The department may not issue a license under this chapter that permits the retail sale of tobacco products through vending machines.

Sec. 5. 22 MRSA §1552, sub-§3, as amended by PL 2005, c. 145, §1, is further amended to read:

3. Multiple licenses. Except as provided in subsection 3-A, a licensee applying for licenses to operate more than one premises ~~or more than one vending machine~~ shall obtain

a separate license for each premises ~~and each machine~~ and shall pay the fee prescribed for each premises ~~and each machine~~.

Sec. 6. 22 MRSA §1552, sub-§3-A, as amended by PL 2009, c. 199, §3, is further amended to read:

3-A. Seasonal mobile tobacco vendor license. An applicant who is a seasonal mobile tobacco vendor may purchase a single annual license authorizing that vendor to operate at 2 or more agricultural fairs, festivals or exhibitions held during the agricultural fair season. A license issued under this subsection must clearly specify the name and location of each fair, festival or exhibition at which the licensee is authorized to operate and, for each location, the specific dates ~~and number of machines~~ for which the licensee is authorized. A licensee may not operate at any agricultural fair, festival or ~~exhibit~~ exhibition except as specifically provided in that license. A seasonal mobile tobacco vendor license expires upon the conclusion of the agricultural fairs, festivals or exhibitions for which it was issued. Upon issuing a license under this subsection, the department shall immediately provide the information required by this subsection to the Office of the Attorney General for purposes of inspection and enforcement.

Sec. 7. 22 MRSA §1553-A, as amended by PL 2017, c. 308, §5, is repealed.

Sec. 8. 22 MRSA §1554-B, sub-§1, as enacted by PL 2003, c. 452, Pt. K, §6 and affected by Pt. X, §2, is amended to read:

1. License required. A person may not engage in retail tobacco sales ~~or in free distribution of tobacco products~~ in the ordinary course of trade in this State without a valid license issued under subchapter 1.

Sec. 9. 22 MRSA §1555-B, sub-§2, as amended by PL 2017, c. 308, §6, is further amended to read:

2. Sales to persons who have not attained 21 years of age prohibited. A person may not sell, or furnish, ~~give away~~ or offer to sell, or furnish ~~or give away~~, a tobacco product to any person who has not attained 21 years of age, unless the person has attained 18 years of age as of July 1, 2018. Tobacco products may not be sold at retail to any person who has not attained 30 years of age unless the seller first verifies that person's age by means of reliable photographic identification containing the person's date of birth. That a person appeared to be 30 years of age or older does not constitute a defense to a violation of this section.

Sec. 10. 22 MRSA §1555-B, sub-§3, as enacted by PL 1997, c. 305, §5, is repealed.

Sec. 11. 22 MRSA §1555-B, sub-§10, as amended by PL 2017, c. 308, §6, is further amended to read:

10. Affirmative defense. It is an affirmative defense to prosecution for a violation of subsection 1, 2 or 4 that the defendant sold, or furnished, ~~gave away~~ or offered to sell, or furnish ~~or give away~~, a tobacco product in violation of subsection 5-A in reasonable reliance upon a fraudulent proof of age presented by the purchaser.

Sec. 12. 22 MRSA §1555-B, sub-§12 is enacted to read:

12. Prohibition on giving away a tobacco product. A tobacco retailer or tobacco distributor may not give away a tobacco product.

Sec. 13. 22 MRSA §1558, sub-§5, ¶B, as enacted by PL 1995, c. 470, §9 and affected by §19 and amended by PL 1999, c. 547, Pt. B, §78 and affected by §80, is further amended to read:

B. If a licensee is interested directly or indirectly in more than one license, the District Court may order that a revocation apply to any of those premises ~~or machines~~.

Sec. 14. 22 MRSA §1580-A, sub-§2, ¶D, as enacted by PL 1985, c. 126, is amended to read:

D. "Smoking" means carrying or having in one's possession a lighted ~~or heated~~ cigarette, cigar, ~~or pipe or other object giving off or containing any substance giving off tobacco smoke~~ a lighted or heated tobacco or other plant product intended for human consumption through inhalation whether natural or synthetic in any manner or in any form. "Smoking" includes the use of an electronic smoking device as defined in section 1541, subsection 1-A.

Sec. 15. 36 MRSA §4362-A, sub-§4, as repealed and replaced by PL 2003, c. 452, Pt. U, §9 and affected by Pt. X, §2, is amended to read:

4. Penalties. The following penalties apply to violations of this section.

A. A distributor who imports into this State any cigarettes without holding a distributor's license issued by the assessor pursuant to this section commits a civil violation for which a fine of not less than ~~\$250~~ \$500 and not more than ~~\$500~~ \$1,000 must be adjudged.

B. A distributor who violates paragraph A after having been previously adjudicated as violating paragraph A commits a civil violation for which a fine of not less than ~~\$500~~ \$1,000 and not more than ~~\$1,000~~ \$2,000 must be adjudged for each subsequent violation.

C. A distributor who sells at wholesale, offers for sale at wholesale or possesses with intent to sell at wholesale any cigarettes without holding a distributor's license issued by the assessor pursuant to this section commits a civil violation for which a fine of not less than ~~\$250~~ \$500 and not more than ~~\$500~~ \$1,000 must be adjudged.

D. A distributor who violates paragraph C after having been previously adjudicated as violating paragraph C commits a civil violation for which a fine of not less than ~~\$500~~ \$1,000 and not more than ~~\$1,000~~ \$2,000 must be adjudged for each subsequent violation.

Sec. 16. 36 MRSA §4365-F, sub-§2, as enacted by PL 2005, c. 457, Pt. AA, §3 and affected by §8, is amended to read:

2. Liability. A person possessing cigarettes for resale is liable for the difference between the tax rate of 100 mills per cigarette and the tax rate of 50 mills per cigarette in effect before September 19, 2005. Stamps indicating payment of the tax imposed by this section must be affixed to all packages of cigarettes held for resale as of September 19, 2005, ~~except that cigarettes held in vending machines as of that date do not require that stamp.~~

Sec. 17. 36 MRSA §4365-F, sub-§3, as enacted by PL 2005, c. 457, Pt. AA, §3 and affected by §8, is repealed.

Sec. 18. 36 MRSA §4401, sub-§2-A, as enacted by PL 2019, c. 530, Pt. A, §1 and affected by §7, is amended to read:

2-A. Electronic smoking device. "Electronic smoking device" means a device used to deliver nicotine or any other substance intended for human consumption that may be used by a person to simulate smoking through inhalation of vapor or aerosol from the device, including, without limitation, a device manufactured, distributed, marketed or sold as an electronic cigarette, electronic cigar, electronic pipe, electronic hookah or so-called vape pen.

Sec. 19. 36 MRSA §4401, sub-§4, as enacted by PL 1985, c. 783, §16, is amended to read:

4. Place of business. "Place of business" means any place where tobacco products are sold or where tobacco products are manufactured, stored, or kept for the purpose of sale or consumption, including any vessel, vehicle, airplane, or train ~~or vending machines~~.

Sec. 20. Effective date. This Act takes effect January 5, 2026.