

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-SIX

—
S.P. 832 - L.D. 2134

An Act to Create an Exception to the Prohibition of Tobacco Sales in Retail Establishments Containing Pharmacies for Certain Small Grocery Stores

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

Whereas, Public Law 2025, chapter 493 takes effect April 1, 2026, which is earlier than 90 days after the statutory adjournment date of the Second Regular Session of the 132nd Legislature; and

Whereas, the pharmacies and grocery stores that are affected by this legislation are already in business, and their licenses are renewed on April 1st of each year; and

Whereas, this legislation must be in effect by the effective date of Public Law 2025, chapter 493; 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 §1551-A, as amended by PL 2025, c. 367, §4 and affected by §20 and amended by c. 493, §2 and affected by §4, is further amended by amending the section headnote to read:

§1551-A. Retail tobacco sales license required

Sec. 2. 22 MRSA §1551-A, sub-§6, as enacted by PL 2025, c. 493, §2 and affected by §4, is amended to read:

6. Pharmacies and retail establishments with a pharmacy ineligible for retail tobacco license; civil penalty; transfer of funds. This subsection governs pharmacies and retail establishments containing a pharmacy.

A. A pharmacy is ineligible for a retail tobacco license. A pharmacy that engages in retail sales, ~~including retail sales through vending machines or in free distribution of~~

~~tobacco products, and sells, to anyone or keeps for sale or gives away in the course of trade any tobacco products to anyone~~ commits a civil violation for which a fine of not more than \$2,000 may be adjudged. Each day a pharmacy is in violation of this paragraph constitutes a separate offense.

B. ~~A~~ Except as provided in subsection 7, a retail establishment containing a pharmacy is ineligible for a retail tobacco license. A retail establishment containing a pharmacy that engages in retail sales, including retail sales through vending machines or in free distribution of tobacco products, and sells, to anyone or keeps for sale or gives away in the course of trade any tobacco products to anyone commits a civil violation for which a fine of not more than \$2,000 may be adjudged. Each day a retail establishment containing a pharmacy is in violation of this paragraph constitutes a separate offense.

Sec. 3. 22 MRSA §1551-A, sub-§7 is enacted to read:

7. Exception to prohibition on license for retail establishments with pharmacy.

Subsection 6, paragraph B does not apply to a retail establishment containing a pharmacy if the following conditions are satisfied:

A. The retail establishment has no more than 26,000 square feet of indoor customer-accessible sales area at the location for which the retail establishment is seeking a retail tobacco license;

B. The retail establishment is operated primarily as a grocery store;

C. The pharmacy located on the premises of the retail establishment operates in a separately demised, leased space under a written lease and holds a separate pharmacy license;

D. The pharmacy was established by lease agreement within the retail establishment at the same geographic location prior to July 7, 2025;

E. All tobacco sales made by the retail establishment occur outside the pharmacy's leased premises, through the retail establishment's separate point-of-sale system and from the retail establishment's separate inventory; and

F. The retail establishment complies with all other provisions of this chapter.

For the purposes of this subsection, "customer-accessible sales area" means the total floor area open to customers for display and sale of merchandise. "Customer-accessible sales area" does not include stockrooms, offices, restrooms, mechanical rooms or the pharmacy's demised premises.

For the purposes of this subsection, "grocery store" means a retail food store that offers for sale a variety of foods for home preparation and consumption, including perishable items, and derives a substantial portion of sales from food.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect April 1, 2026.