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An Act To Prevent Youth Tobacco Use

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

Whereas, tobacco use is the leading cause of preventable death in the United States and in the State; and

Whereas, youth use rates for cigarettes have declined in the State since 2001, but youth use rates for noncigarette tobacco products have increased and adolescent smokeless tobacco users are more likely than nonusers to become adult cigarette smokers; and

Whereas, excise taxes on tobacco products are currently applied unevenly across products, creating a market condition that creates lower relative prices for certain noncigarette tobacco products; and

Whereas, increasing tobacco prices is one of the most effective ways to prevent and reduce tobacco use; and

Whereas, it is imperative that this legislation take effect immediately to prevent the increase of tobacco use by the State's youth; 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. 36 MRSA §4401, sub-§1-B is enacted to read:

1-B. Cigar. "Cigar" means a tobacco product that consists of:

A. A roll of tobacco wrapped in leaf tobacco; or

B. A roll of tobacco wrapped in a substance other than leaf tobacco and that is not defined as a cigarette under section 4361, subsection 1-A or as a little cigar.

Sec. 2. 36 MRSA §4401, sub-§§2-A and 2-B are enacted to read:

2-A. Little cigar. "Little cigar" means a roll of tobacco wrapped in a reconstituted tobacco sheet or any other substance containing tobacco, other than leaf tobacco, that is not a cigarette as defined in section 4361, subsection 1-A and that:

A. Has a typical cigarette size and shape with a cellulose acetate or other cigarette-type integrated filter; or

B. Is marketed in a traditional cigarette-type package or a package that bears a product designation or tax classification specified in 27 Code of Federal Regulations, Section 40.214(c) (2011).

For purposes of this subsection, "leaf tobacco" means a section cut from a whole tobacco leaf that has not been processed further before use.

2-B. Loose tobacco. "Loose tobacco" means any unwrapped tobacco sold or otherwise intended or expected to be smoked, including roll-your-own tobacco and pipe tobacco.

Sec. 3. 36 MRSA §4401, sub-§§7-A and 7-B are enacted to read:

7-A. Single-unit tobacco product. "Single-unit tobacco product" means a tobacco product other than cigarettes or cigars that is offered in discrete single-use tablets, lozenges, pouches, pills or other single-dose or single-use units or in packages of such single-use units.

7-B. Smokeless tobacco. "Smokeless tobacco" means a tobacco product or product derived from tobacco not intended for smoking that is intended or expected to be used for oral consumption, including pulverized or shredded tobacco or a blend containing tobacco that is not a single-unit tobacco product. "Smokeless tobacco" does not include a product that has been approved by the United States Food and Drug Administration for sale as a tobacco use cessation product or for other medical purposes and is being marketed and sold solely for that approved purpose.

Sec. 4. 36 MRSA §4401, sub-§9, as amended by PL 2005, c. 627, §4, is further amended to read:

9. Tobacco products. "Tobacco products" means products containing, made or derived from tobacco that are intended for human consumption by any means, or any components, parts or accessories of tobacco products, including, but not limited to, cigars; little cigars; cheroots; stogies; periques, granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff; snuff flour; cavendish; plug and twist tobacco; finecut and other chewing tobaccos; loose tobacco; shorts; and refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking; but does not include tobacco products that are subject to the tax provided by chapter 703 or products that have been approved by the United States Food and Drug Administration for sale as tobacco use cessation products or for other medical purposes and are being marketed and sold solely for that approved purpose.

Sec. 5. 36 MRSA §4403, sub-§1, as repealed and replaced by PL 2009, c. 213, Pt. H, §1 and affected by §3, is repealed.

Sec. 6. 36 MRSA §4403, sub-§2, as amended by PL 2005, c. 627, §8, is repealed.

Sec. 7. 36 MRSA §4403, sub-§2-A is enacted to read:

2-A. Other tobacco. Beginning October 1, 2013, a tax is imposed on tobacco products at a tax rate based on the wholesale sales price of the tobacco products that is equivalent to the rate of tax imposed on a pack of 20 cigarettes in chapter 703 expressed as a percentage of the average wholesale sales price of a pack of 20 cigarettes as determined by the State Tax Assessor or, if the following rate is higher, at the following rate:

A. On cigars with a retail price of less than \$2.50 per cigar, the amount of the total tax on a pack of 20 cigarettes established by chapter 703 per package of 4 cigars, with a proportionate tax for any package or quantity of cigars consisting of fewer or more than 4 cigars;

B. On loose tobacco, the amount of the total tax on a pack of 20 cigarettes established by chapter 703 per 0.65 ounces;

C. On little cigars, the amount of the total tax per cigarette established by chapter 703 per little cigar; and

D. On single-unit tobacco products, the amount of the total tax per cigarette established by chapter 703 per single-dose or single-use unit of the single-unit tobacco product.

Sec. 8. 36 MRS §4403, sub-§5 is enacted to read:

5. Equivalence with cigarette tax. If the tax on cigarettes under chapter 703 is increased or decreased, the State Tax Assessor shall calculate a rate of tax on tobacco products under this section that is substantially equivalent to the new tax on 20 cigarettes.

Sec. 9. Appropriations and allocations. The following appropriations and allocations are made.

HEALTH AND HUMAN SERVICES, DEPARTMENT OF

Health - Bureau of 0143

Initiative: Provides funds for tobacco treatment counseling by a tobacco hotline.

OTHER SPECIAL REVENUE FUNDS	2013-14	2014-15
All Other	\$140,000	\$140,000
OTHER SPECIAL REVENUE FUNDS TOTAL	\$140,000	\$140,000

Sec. 10. Effective date. Those sections of this Act that repeal the Maine Revised Statutes, Title 36, section 4403, subsections 1 and 2 take effect October 1, 2013.

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

SUMMARY

This bill requires that all tobacco products be taxed at rates equivalent to the current tax on cigarettes. The bill provides an appropriations and allocations section to fund anticipated increased demand on the tobacco hotline for those people who are seeking to quit tobacco use.