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TAXATION

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
129TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT " " to H.P. 758, L.D. 1028, Bill, "An Act To Prevent and Reduce Tobacco Use with Adequate Funding and by Raising the Tax on Tobacco Products"

Amend the bill by striking out the title and substituting the following:

'An Act To Prevent and Reduce Tobacco Use with Adequate Funding and by Equalizing the Taxes on Tobacco Products'

Amend the bill by striking out everything after the enacting clause and inserting the following:

'Sec. 1. 36 MRSA §4401, sub-§§2-A, 2-B and 7-A are enacted 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.

2-B. Hookah. "Hookah" means a device used for smoking tobacco that consists of a tube connected to a container where the smoke is cooled by passing through water.

7-A. Smoking. "Smoking" includes carrying or having in one's possession a lighted or heated cigarette, cigar or pipe or a lighted or heated tobacco or 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.

Sec. 2. 36 MRSA §4401, sub-§9, as amended by PL 2005, c. 627, §4, is further amended to read:

9. Tobacco products. "Tobacco products" means cigars; cheroots; stogies; electronic smoking devices and liquids used in electronic smoking devices whether or not they contain nicotine; periques, granulated, plug cut, crimp cut, ready rubbed; and other smoking tobacco; snuff; snuff flour; snus; cavendish; plug and twist tobacco; finecut and

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1 other chewing tobaccos; shorts; refuse scraps, clippings, cuttings and sweepings of
2 tobacco; and other kinds and forms of tobacco, prepared in such manner as to be suitable
3 for chewing or smoking in a pipe or otherwise, or both for chewing and smoking; but
4 does not include tobacco products that are subject to the tax provided by chapter 703
5 intended for human consumption or is likely to be consumed, whether smoked, heated,
6 chewed, absorbed, dissolved, inhaled or ingested by any other means. "Tobacco
7 products" does not include:

8 A. Products that are subject to the tax provided by chapter 703;

9 B. Drugs, devices or combination products authorized for sale by the United States
10 Department of Health and Human Services, Food and Drug Administration, as those
11 terms are defined in the Federal Food, Drug, and Cosmetic Act; or

12 C. Any product that contains adult use marijuana subject to tax under Title 28-B,
13 section 1001.

14 **Sec. 3. 36 MRSA §4403, sub-§1**, as repealed and replaced by PL 2009, c. 213,
15 Pt. H, §1 and affected by §3, is amended to read:

16 **1. Smokeless tobacco.** A tax is imposed on smokeless tobacco, including chewing
17 tobacco and snuff, at the rate of:

18 A. On amounts of smokeless tobacco packaged for sale to the consumer in a package
19 that contains one ounce or more of smokeless tobacco, \$2.02 per ounce and prorated;
20 and

21 B. On smokeless tobacco packaged for sale to the consumer in a package that
22 contains less than one ounce of smokeless tobacco, \$2.02 per package.

23 Beginning January 2, 2020, the tax rates in this subsection are subject to adjustment
24 pursuant to subsection 5.

25 **Sec. 4. 36 MRSA §4403, sub-§2**, as amended by PL 2005, c. 627, §8, is further
26 amended to read:

27 **2. Other tobacco.** A tax is imposed on cigars, pipe tobacco and other tobacco
28 intended for smoking at the rate of 20% of the wholesale sales price beginning October 1,
29 2005. Beginning January 2, 2020, a tax is imposed on all tobacco products, other than
30 those subject to tax under subsection 1, at the rate of 43% of the wholesale sales price.
31 Beginning January 2, 2020, the tax rate imposed pursuant to this subsection is subject to
32 adjustment pursuant to subsection 5.

33 **Sec. 5. 36 MRSA §4403, sub-§5** is enacted to read:

34 **5. Equivalence.** If the tax on cigarettes under chapter 703 is increased after January
35 2, 2020, the assessor shall calculate a rate of tax on other tobacco products under
36 subsections 1 and 2 that is equivalent to the same percentage change in the tax rate for
37 one cigarette. The adjusted rates calculated by the assessor take effect at the same time as
38 the increase in the tax on cigarettes.

39 **Sec. 6. Appropriations and allocations.** The following appropriations and
40 allocations are made.

41 **ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF**

1 **Revenue Services, Bureau of 0002**

2 Initiative: Provides funding for one Tax Examiner position and related costs to review
3 and process additional tobacco products tax returns.

4	GENERAL FUND	2019-20	2020-21
5	POSITIONS - LEGISLATIVE COUNT	1.000	1.000
6	Personal Services	\$65,492	\$85,661
7	All Other	\$12,089	\$2,700
8			
9	GENERAL FUND TOTAL	<u>\$77,581</u>	<u>\$88,361</u>

10 **ADMINISTRATIVE AND FINANCIAL**
11 **SERVICES, DEPARTMENT OF**
12 **DEPARTMENT TOTALS**

13		2019-20	2020-21
14	GENERAL FUND	\$77,581	\$88,361
15			
16	DEPARTMENT TOTAL - ALL FUNDS	<u>\$77,581</u>	<u>\$88,361</u>

17 **HEALTH AND HUMAN SERVICES, DEPARTMENT OF**
18 **Maine Center for Disease Control and Prevention 0143**

19 Initiative: Appropriates funds for evidence-based tobacco use prevention and cessation, in
20 accordance with the United States Health and Human Services, Centers for Disease
21 Control and Prevention best practices.

22	GENERAL FUND	2019-20	2020-21
23	All Other	\$5,100,000	\$5,100,000
24			
25	GENERAL FUND TOTAL	<u>\$5,100,000</u>	<u>\$5,100,000</u>

26 **Medical Care - Payments to Providers 0147**

27 Initiative: Appropriates and allocates funds for tobacco use cessation medications and
28 counseling provided to MaineCare members.

29	GENERAL FUND	2019-20	2020-21
30	All Other	\$1,000,000	\$750,000
31			
32	GENERAL FUND TOTAL	<u>\$1,000,000</u>	<u>\$750,000</u>

1	FEDERAL EXPENDITURES FUND	2019-20	2020-21
2	All Other	\$1,776,235	\$1,332,177
3			
4	FEDERAL EXPENDITURES FUND TOTAL	<u>\$1,776,235</u>	<u>\$1,332,177</u>

5	HEALTH AND HUMAN SERVICES,		
6	DEPARTMENT OF		
7	DEPARTMENT TOTALS	2019-20	2020-21
8			
9	GENERAL FUND	\$6,100,000	\$5,850,000
10	FEDERAL EXPENDITURES FUND	\$1,776,235	\$1,332,177
11			
12	DEPARTMENT TOTAL - ALL FUNDS	<u>\$7,876,235</u>	<u>\$7,182,177</u>

13	SECTION TOTALS	2019-20	2020-21
14			
15	GENERAL FUND	\$6,177,581	\$5,938,361
16	FEDERAL EXPENDITURES FUND	\$1,776,235	\$1,332,177
17			
18	SECTION TOTAL - ALL FUNDS	<u>\$7,953,816</u>	<u>\$7,270,538</u>

19 **Sec. 7. Effective date.** Those sections of this Act that amend the Maine Revised
 20 Statutes, Title 36, section 4401, subsection 9 and that enact Title 36, section 4401,
 21 subsections 2-A, 2-B and 7-A take effect January 2, 2020.'

22 Amend the bill by relettering or renumbering any nonconsecutive Part letter or
 23 section number to read consecutively.

24 **SUMMARY**

25 This amendment strikes the bill and instead increases the tax on tobacco products,
 26 other than cigarettes, to 43% of the wholesale sales price, beginning January 2, 2020, and
 27 includes electronic smoking devices and liquids used in electronic smoking devices in the
 28 definition of "tobacco products." The amendment provides that, if the tax on cigarettes is
 29 increased after January 2, 2020, the tax on smokeless tobacco and other tobacco products
 30 will be adjusted by a rate that is equivalent to the percentage change in the tax rate for
 31 one cigarette.

32 The amendment provides ongoing funding of \$5,100,000 in each year of the
 33 biennium to the Department of Health and Human Services, Maine Center for Disease
 34 Control and Prevention for tobacco use prevention and cessation in order to align with the

1 United States Department of Health and Human Services, Centers for Disease Control
2 and Prevention recommendations. The bill also provides \$1,000,000 in fiscal year 2019-
3 20 and \$750,000 in fiscal year 2020-21 for tobacco use cessation medications and
4 counseling for MaineCare members.

5 **FISCAL NOTE REQUIRED**

6 **(See attached)**