

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

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

**'An Act Concerning Certain Flavored
Cigarettes and Flavored Cigars and Hard Snuff'**

Amend the bill by inserting after section 1 the following:

'**Sec. 2. 22 MRSA §1560-A** is enacted to read:

§ 1560-A. Hard snuff

1. Hard snuff defined. As used in this section, unless the context otherwise indicates, "hard snuff" means a smokeless, dissolvable tobacco product in lozenge, bit or tablet form that contains as an ingredient compressed, powdered tobacco with nicotine, that is intended for human consumption and that is not regulated as a food or drug or approved as nicotine replacement therapy.

2. Prohibition. A person may not sell, furnish, give away or offer to sell, furnish or give away hard snuff in this State.

3. Violation. A person who violates this section commits a civil violation for which fines may be imposed under subsection 4.

4. Fines. The fines that apply to violations of this section are as set out in this subsection.

A. A person who violates subsection 2 commits a civil violation for which a fine of \$500 may be adjudged.

B. A person who violates subsection 2 after having previously been adjudicated of a violation of subsection 2 commits a civil violation for which a fine of \$1,000 may be adjudged.

C. A person who violates subsection 2 after having previously been adjudicated of a violation of subsection 2 more than once commits a civil violation for which a fine of \$5,000 may be adjudged.'

Amend the bill by striking out sections 2 and 3 and inserting the following:

'**Sec. 2. 22 MRSA c. 262-A, sub-c. 5** is enacted to read:

SUBCHAPTER 5

FLAVORED CIGARETTES AND FLAVORED CIGARS

§ 1560-D. Flavored cigarettes and flavored cigars

1. Definitions. As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

A. "Characterizing flavor" means a distinguishable taste or aroma that is imparted to tobacco or tobacco smoke either prior to or during consumption, other than a taste or aroma from tobacco, menthol, clove, coffee, nuts or peppers.

B. "Component part" includes but is not limited to the tobacco, filter and paper in a cigarette or cigar.

C. "Constituent" means any ingredient, substance, chemical or compound, other than tobacco, water or reconstituted tobacco sheet, that is added by the manufacturer to the tobacco, paper or filter of a cigarette or cigar during the processing, manufacture or packing of the cigarette or cigar. "Constituent" includes a smoke constituent.

D. "Flavored cigar" means a cigar or any component part thereof that contains a constituent that imparts a characterizing flavor.

E. "Flavored cigarette" means a cigarette or any component part thereof that contains a constituent that imparts a characterizing flavor.

F. "Smoke constituent" means any chemical or chemical compound in mainstream or sidestream tobacco smoke that either transfers from any component of the cigarette or cigar to the smoke or that is formed by the combustion or heating of tobacco, additives or other component of the tobacco product.

2. Prohibition on sale or distribution of product. Beginning July 1, 2009, a person may not sell or distribute or offer to sell or distribute in this State any flavored cigarette or flavored cigar unless:

A. The manufacturer has filed with the Attorney General a statement that the flavored cigarette or flavored cigar was first on the market prior to January 1, 1985, and that statement has been accepted by the Attorney General;

B. The flavored cigarette or flavored cigar is exempt under subsection 5; or

C. The sale is allowed under the transition provisions of subsection 7.

3. Violation. A person who violates this section commits a civil violation for which fines may be imposed under subsection 4.

4. Fines. The fines that apply to violations of this section are as set out in this subsection.

A. A person who violates subsection 2 or 6 commits a civil violation for which a fine of \$1,000 may be adjudged.

B. A person who violates subsection 2 or 6 after having previously been convicted of a violation of the same subsection commits a civil violation for which a fine of \$5,000 may be adjudged.

5. Exemptions. The Attorney General shall adopt rules to establish a process for granting exemptions for flavored cigarettes and flavored cigars that were first on the market after January 1, 1985. In determining whether to grant an exemption, the Attorney General shall consider whether the manufacturer can demonstrate that the characterizing flavor does not directly or indirectly target youth and that the packaging and promotion of the product or brand style is not designed to encourage the initiation of smoking.

6. Tobacco distributors. Beginning on July 1, 2009, a tobacco distributor may not purchase or accept for sale new stock of flavored cigarettes and flavored cigars except for flavored cigarettes or flavored cigars that are exempt under subsection 5.

7. Transition. Notwithstanding the prohibitions of subsection 2, from July 1, 2009 to December 31, 2009, a tobacco distributor or retailer may sell flavored cigarettes and flavored cigars that the distributor or retailer held in stock prior to July 1, 2009.

8. Website information. To the extent that resources permit, the Attorney General shall maintain on a publicly accessible website a list of flavored cigarettes and flavored cigars that are authorized for distribution and sale in the State.

9. Rulemaking. The Attorney General may adopt rules to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 3. Maine Revised Statutes headnote amended; revision clause. In the Maine Revised Statutes, Title 22, chapter 262-A, subchapter 4, in the subchapter headnote, the words "nicotine water" are amended to read "nicotine-containing substances" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.'

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

SUMMARY

This amendment removes from the bill the provisions concerning promotional materials and provides a beginning date of July 1, 2009 for the restrictions on selling flavored cigarettes and cigars. The amendment provides a process for certain flavored cigarettes and cigars to be sold, including an exemption granted by the Attorney General. It restricts purchases of flavored cigarettes and cigars by tobacco distributors. It requires the Attorney General to maintain on a publicly accessible website a list of flavored cigarettes and cigars that are authorized for sale in the State. It provides a transition time period for flavored tobacco products held in stock before July 1, 2009. It also bans the sale of the smokeless tobacco product called "hard snuff."