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TOBACCO PREVENTION AND CONTROL IN MAINE

VOLUME II: 2009-

Maine's first law regarding smoking was enacted over 100 years ago. However, most legislation concerning smoking and public health has been passed since 1981, when smoking was restricted in public proceedings. Since that time, laws have been passed to reduce exposure to secondhand smoke; to reduce youth access to tobacco; to encourage smokers to quit and to prevent youth from starting by raising the price of cigarettes; and to establish a comprehensive tobacco prevention and control program that includes educating Maine citizens about the dangers of tobacco use and providing services to smokers who want to quit. What follows is the second volume of the evolution of tobacco prevention and control in Maine.

[NOTE: Where the date in the left column includes a month, that is the month when the law went into effect (usually 90 days after the end of the legislative session), **not the month when it was enacted or signed**. The specific effective date is noted in the text.]

124th legislature (1st Session)

- November, 2008* The Governor issued an executive order to curtail quarterly allotments in the General Fund accounts in the amount of \$79,750,233 due to projected shortfalls associated with the economic recession. The order was rescinded as soon as the supplemental budget passed.
- January, 2009* A first supplemental budget was enacted on January 29, 2009¹. This budget allocated a total of \$5,252,296 from the FHM: \$5 million (which, through error, should have been allocated in FY08) and allocated an additional \$252,296 for personal services shortfalls in various pre-existing FHM programs: for the school nurse consultant, CDC staff, medical services and service center program lines. The school breakfast program was allocated \$11,000 as one time funding to upgrade software. The budget also authorized the State Budget Officer, from FY09 forward, to proportionately adjust funding in the ‘all other’ category to stay within resources available after actual revenues from MSA payments and other sources are known, notwithstanding approved legislative allocations.²
- January, 2009* An Order to Adopt Joint Rule 317 “Review of Provisions Affecting the Fund for a Healthy Maine” was adopted on 1/15/09.³ This joint order, requires that if a bill or resolve including a budget bill affects the FHM the committee of jurisdiction over that bill, if there is support from a majority of the committee, shall request that the HHS committee review and evaluate the proposal and report back to the committee of jurisdiction and to the appropriations and financial affairs joint standing committee.
- February, 2009* An Act to Prevent Teenage Substance Abuse and Suicide which would have taken \$60,000 from the FHM was voted ONTP unanimously in the HHS Committee and was placed in legislative files by the Senate.⁴
- March, 2009* An Act to Clarify Criminal Responsibility in the Sale of Alcohol and Tobacco to Minors was voted unanimously ONTP on March 12 by the Legal and Veteran Affairs Committee.⁵
- March, 2009* Resolve, Regarding Legislative Review of Portions of Chapter 10: Exemptions to the Ban on Flavored Cigarettes and Cigars, a Major Substantive Rule of the Office of the Attorney General, was enacted March 6.⁶

¹ PL 2009, c. 1 (emergency) (committee amendment A (Part H-2, Sec. 1 and Part B, Sec. 1 included indicated FHM allocations)

² Id, Part F of Committee Amendment A (H-2)

³ HP 74, LD 926 Item 1 and Item 2

⁴ LD 228

⁵ LD 514

⁶ LD 81, Resolve, PL 2009, c. 3 (3/6/09) (emergency) It was adopted by the Secretary of State and effective on April 18, 2009.

- April, 2009* An Act to Change Current Limits on Commercial Harness Racing Tracks would have allocated racino funds that currently go to the FHM to the General Fund died (placed in legislative files) April 15.⁷
- May, 2009* An Act to Protect Maine's State Parks and State Historic Sites (a Coalition supported bill in cooperation with the Department of Conservation) was enacted and became effective May 1.⁸ The Governor signed the bill ceremonially May 13. The bill prohibits smoking within 20 feet of a beach, playground, snack bar, group picnic shelter, business facility, enclosed area, public place or restroom in a state park or state historic site.
- May, 2009* An Act to Deter Initiation of Tobacco Use by Increasing the Tax on Tobacco Products⁹ (a Coalition supported bill) that would have increased the cigarette tax by \$1 and 'equalized' all other tobacco taxes to a \$3 per pack cigarette tax, was killed in the Taxation committee by unanimous vote and placed in legislative files May 18.
- May, 2009* An Act to Amend the Retail Tobacco and Liquor Licensing Laws (supported by the Coalition) was enacted on an emergency basis May 26.¹⁰
- May, 2009* A second supplemental budget was enacted and signed by the Governor 5/28.¹¹ This budget allocated \$62,739,042/\$60,779,270 for the FHM and \$15,764,633/\$14,989,649 for the tobacco program for FY10/11. Tobacco program funding: \$15,764,633/\$14,989,649 (direct tobacco funding @66%: \$10.3/\$9.6 million). This reflects a drop in allocations from FY09. However, the lower allocations represent re-projections of anticipated MSA payments, not diversion of FHM funds to the General Fund. It should be noted that the Dirigo Health plan allocation (\$4.7 million in FY10) is an ongoing diversion that has been incorporated into FHM program allocations. The budget bill also included a provision that created a weight based tax for smokeless tobacco rather than the current ad valorem (78% of wholesale price) system. The tax is now assessed at \$2.02 per ounce, prorated on amounts less than a full ounce and crates a minimum tax of \$2.02 per package on packages less than 1 ounce. This includes chewing tobacco and snuff.
- May, 2009* An Act to Reduce the Cost of Health Insurance, LD 1091¹² which had a provision that would have eliminated the ability of carriers to vary premium rates due to smoking status, among other things, was voted out of committee ONTP and died May 5.

⁷ LD 805

⁸ PI 2009, c. 65 (emergency)

⁹ LD 1347

¹⁰ LD 462, PL 2009, c. 199 (5/26/09) (emergency)

¹¹ LD 353, PL 2009, c. 213 (emergency); Part H: weight based tax provisions

¹² LD 1091

- May, 2009* An Act to Prohibit Smoking in Outdoor Eating Areas (Coalition supported) was enacted on May 14.¹³ There was a ceremonial signing by the Governor June 15, 2009. This law prohibits smoking in outdoor eating areas, meaning a patio, deck or other property that is partially enclosed or open to the sky permitted for outdoor eating or drinking as long as food or drink are served by the eating establishment on the premises for consumption by the public. The establishment must post signs and notify its patrons of the law and request that all persons within an outdoor eating area comply.
- June, 2009* An Act to Establish a Wellness Tax Credit died with a majority ONTP vote out of the Taxation Committee on June 2.¹⁴
- June, 2009* An Act to Clarify the Beano and Bingo Laws as They Apply to Federally Recognized Indian Tribes was enacted on June 10.¹⁵ This expanded the places where smoking indoors could be permitted if a high stakes beano/bingo game were conducted by the Maliseet tribe there.
- June, 2009* An Act to Strengthen the Workplace Smoking Laws and Other Laws Governing Smoking was signed into law June 8.¹⁶ This law eliminated the separate exemptions for hospitals, nursing homes and jury rooms and clarifies that smoking is prohibited in private multi-unit developments and in state licensed facilities during the period of time employees are working in those facilities.
- June, 2009* An Act to Fund the Screening and Early Detection Elements of the Statewide Cancer Plan attempted to appropriate FHM funds of \$2 million/\$2.5 million in the biennium and was voted out unanimous OTP-AM by the HHS committee; the Appropriations committee referred the bill to the HHS committee which approved it for carry over.¹⁷
- June, 2009* An Act to Prohibit the Delivery of Tobacco Products to Consumers to Prevent the Sale of Tobacco Products to Minors was enacted on June 12. The House and Senate passed the bill as amended by Senate Amendment B to Committee Amendment A and the Governor signed it on June 15.¹⁸ This bill prohibits the delivery of tobacco products including cigarettes, cigars other than ‘premium’ cigars and smokeless tobacco, to anyone other than licensed tobacco retailers or distributors (so, consumers (including minors) cannot have these products ordered through the internet or mail order delivered to their homes.) Premium cigars are defined as cigars that weigh more than 3 lbs. per 1,000 and are wrapped in whole tobacco leaf.

¹³ LD 820, as amended by committee amendment A; ,PL 2009, c. 140 (effective September 12, 2009—90 days from legislative adjournment of first regular session)

¹⁴ LD 590

¹⁵ LD 526

¹⁶ LD 1429, PL 2009, c. 300

¹⁷ LD 701

¹⁸ LD 1230, Pl 2009 c.398

- June, 2009* An Act to Prevent and Treat Cancer in Maine by Implementing Critical Portions of the Comprehensive Cancer Program using equalization excise tax increases to fund it, was reported out ONTP by the majority and OTP by a minority of 1 from the Taxation committee. The ONTP report was accepted by the House and Senate (bill died; was placed in legislative files) on June 3.¹⁹
- June, 2009* An Act to Establish and Promote Statewide Collaboration and Coordination in Public Health Activities and To Enact a Universal Wellness Initiative, was enacted June 3²⁰; An Act to Repeal Inactive Boards and Commissions came out of committee OTP-AM, the amendment deleted the repeal of the Partnership for a Tobacco-Free Maine Advisory Council.²¹
- June, 2009* An Act to Make Minor Substantive Changes to the Tax Laws (including tobacco excise tax laws), was signed into law June 12.²²
- June, 2009* A third supplemental budget (emergency) was signed by the Governor June 11.²³ This budget bill allocated an additional \$24 million from the Maine Budget Stabilization fund to the FY09 budget to cover shortfalls, also used \$1.6 million in unexpended funds to cover the anticipated shortfall and re-allocated \$3.6 million in General Fund revenue from the FY2010 budget to the Maine Stabilization Fund in FY2011. Part C specified that up to \$52 million in unexpended funds at year end of FY09 must be carried forward to fund appropriations in FY10.

¹⁹ LD 919

²⁰ LD 1363, PL 2009 c. 355

²¹ LD 1254; PL c. 369 (6/11/09)

²² LD 1401, PL 2009 c.361

²³ LD 1489, PL 2009, c. 371