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Date: (Filing No. S-)

HEALTH AND HUMAN SERVICES

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**STATE OF MAINE
SENATE
129TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to S.P. 364, L.D. 1190, Bill, “An Act To Prohibit the Sale and Distribution of Flavored Tobacco Products”

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

'An Act To Prohibit the Furnishing of Tobacco Products to Minors'

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

'Sec. 1. 17-A MRSA §554, sub-§1, ¶B, as amended by PL 2015, c. 358, §3, is further amended to read:

B. Knowingly sells, furnishes, gives away or offers to sell, furnish or give away to a child under 16 years of age any intoxicating liquor, ~~cigarettes~~, tobacco product as defined in Title 22, section 1551, subsection 3, air rifles, gunpowder, smokeless powder or ammunition for firearms. Violation of this paragraph is a Class D crime;

Sec. 2. 17-A MRSA §554, sub-§2, ¶A, as amended by PL 2015, c. 358, §3, is further amended to read:

A. The defendant was the parent, foster parent, guardian or other similar person responsible for the long-term general care and welfare of the child under 16 years of age who furnished the child ~~cigarettes~~, any tobacco product as defined in Title 22, section 1551, subsection 3 or a reasonable amount of intoxicating liquor in the actor's home and presence;

Sec. 3. 22 MRSA §1580-F is enacted to read:

§1580-F. Furnishing or allowing consumption of tobacco products by certain persons prohibited

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

1 A. "Minor" means a person who has not reached the age of 21 years, unless the
2 person has attained 18 years of age as of July 1, 2018.

3 B. "Tobacco product" has the same meaning as in section 1551, subsection 3.

4 **2. Offense.** Except as provided in subsection 3, a person who is 21 years of age or
5 older may not knowingly:

6 A. Procure, or in any way aid or assist in procuring, furnish, give, sell or deliver a
7 tobacco product for or to a minor. The following penalties apply to violations of this
8 paragraph.

9 (1) A person who violates this paragraph commits a Class D crime.

10 (2) A person who violates this paragraph commits a Class D crime for which a
11 fine of not less than \$500 may be imposed, none of which may be suspended, if
12 the violation involves a minor who is less than 18 years of age.

13 (3) A person who violates this paragraph after having been previously convicted
14 of violating this paragraph or paragraph B within a 6-year period commits a Class
15 D crime for which a fine of not less than \$1,000 may be imposed, none of which
16 may be suspended.

17 (4) A person who violates this paragraph after having been previously convicted
18 of violating this paragraph or paragraph B 2 or more times within a 6-year period
19 commits a Class D crime for which a fine of not less than \$1,500 may be
20 imposed, none of which may be suspended; or

21 B. Allow a minor under that person's control or in a place under that person's control
22 to possess or consume a tobacco product. The following penalties apply to violations
23 of this paragraph.

24 (1) A person who violates this paragraph commits a Class D crime.

25 (2) A person who violates this paragraph commits a Class D crime for which a
26 fine of not less than \$1,000 may be imposed, none of which may be suspended, if
27 the violation involves a minor who is less than 18 years of age.

28 (3) A person who violates this paragraph after having been previously convicted
29 of violating this paragraph or paragraph A within a 6-year period commits a
30 Class D crime for which a fine of not less than \$2,000 may be imposed, none of
31 which may be suspended.

32 **3. Exceptions.** This section does not apply to a licensee under chapter 262-A or an
33 agent of that licensee in the scope of employment.'

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

36 **SUMMARY**

37 This amendment replaces the bill. It provides that it is a Class D crime for a person
38 who is 21 years of age or older to procure, furnish, give, sell or deliver a tobacco product

COMMITTEE AMENDMENT

1 to a minor or allow a minor under that person's control or in a place under that person's
2 control to possess or consume a tobacco product. This provision does not apply to a
3 licensee under the Maine Revised Statutes, Title 22, chapter 262-A or an agent of that
4 licensee in the scope of employment. Current law provides that a person is guilty of
5 endangering the welfare of a child if the person knowingly sells, furnishes, gives away or
6 offers to sell, furnish or give away cigarettes to a child under 16 years of age. This
7 amendment instead makes the same conduct illegal with respect to a tobacco product.

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FISCAL NOTE REQUIRED

(See attached)