

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
124TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1292, L.D. 1805, Bill, "An Act To Correct Errors and Inconsistencies in the Laws of Maine "

Amend the bill by inserting before section 1 the following:

'PART A'

Amend the bill by striking out all of sections 13, 18 to 20, 23, 26, 38, 44, 45, 52, 53, 64 to 68, 72 and 76.

Amend the bill by inserting at the end before the emergency clause the following:

'PART B'

Sec. B-1. 7 MRSA §2902-B, sub-§2, as amended by PL 2005, c. 270, §3, is further amended to read:

2. Sale of unpasteurized milk or milk product at eating establishment. Except as provided in subsection 4- 5, a person may not sell unpasteurized milk or a product made from unpasteurized milk at an eating establishment as defined in Title 22, section 2491, subsection 7.

Sec. B-2. 14 MRSA §6030-C, sub-§1, as amended by PL 2009, c. 566, §18, is further amended to read:

1. Energy efficiency disclosure. A landlord or other person who on behalf of a landlord enters into a lease or tenancy at will agreement for residential property that will be used by a tenant or lessee as a primary residence shall provide to potential tenants or lessees a residential energy efficiency disclosure statement in accordance with Title 35-A, section 40006 10117, subsection 1 that includes, but is not limited to, information about the energy efficiency of the property.

Sec. B-3. Effective date. That section of this Part that amends the Maine Revised Statutes, Title 14, section 6030-C, subsection 1 takes effect July 1, 2010.

COMMITTEE AMENDMENT

1 **Sec. B-4. 14 MRSA §8109, sub-§1**, as amended by PL 1991, c. 780, Pt. Y, §114,
2 is further amended to read:

3 **1. Procedures for State.** The State has authority to settle claims filed against it
4 pursuant to ~~section 8104~~ sections 8104-A, 8104-B, 8104-C and 8104-D in accordance
5 with the following procedures.

6 A. Any agency may settle any claim for an amount of \$1,500 or less when such
7 settlement is approved by the appropriate department or agency head in accordance
8 with rules adopted by the Commissioner of Administrative and Financial Services.

9 B. Any other claim may be settled when such settlement is approved by the head of
10 the department or agency against which the claim is filed, the Commissioner of
11 Administrative and Financial Services and the Attorney General.

12 **Sec. B-5. 14 MRSA §8109, sub-§2**, as amended by PL 1977, c. 78, §116, is
13 further amended to read:

14 **2. Procedures for political subdivisions.** Any political subdivision may settle
15 claims filed against it pursuant to ~~section 8104~~ sections 8104-A, 8104-B, 8104-C and
16 8104-D in accordance with procedures duly promulgated by its governing body.

17 **Sec. B-6. 22 MRSA §2383, sub-§1**, as amended by IB 2009, c. 1, §3 and PL
18 2009, c. 67, §3, is repealed and the following enacted in its place:

19 **1. Marijuana.** Except as provided in chapter 558-C, a person may not possess
20 marijuana.

21 A. A person who possesses a usable amount of marijuana commits a civil violation
22 for which a fine of not less than \$350 and not more than \$600 must be adjudged for
23 possession of up to 1 1/4 ounces of marijuana and a fine of not less than \$700 and not
24 more than \$1,000 must be adjudged for possession of over 1 1/4 ounces to 2 1/2
25 ounces of marijuana, none of which may be suspended.

26 **Sec. B-7. 24 MRSA §2961, sub-§3, ¶A**, as enacted by PL 1987, c. 646, §§6 and
27 14, is amended to read:

28 A. The court, considering the factors established in Maine ~~Bar Rule 3~~ Rules of
29 Professional Conduct, Rule 1.5 as guides in determining the reasonableness of a fee,
30 finds that the fees permitted by subsection 1 are inadequate to compensate the
31 attorney reasonably for the attorney's services; and

32 **Sec. B-8. 36 MRSA §3203-C**, as amended by PL 2009, c. 496, §20, is further
33 amended to read:

34 **§3203-C. Inventory tax**

35 On the date that any increase in the rate of tax imposed under this chapter takes
36 effect, an inventory tax is imposed upon all distillates that are held in inventory by a
37 supplier, wholesaler or retail dealer as of the end of the day prior to that date on which the
38 tax imposed by section 3203, ~~section~~ subsection 1-B has been paid. The inventory tax is
39 computed by multiplying the number of gallons of tax-paid fuel held in inventory by the
40 difference between the tax rate already paid and the new tax rate. Suppliers, wholesalers
41 and retail dealers that hold such tax-paid inventory shall make payment of the inventory

1 tax on or before the 15th day of the next calendar month, accompanied by a form
2 prescribed and furnished by the State Tax Assessor. In the event of a decrease in the tax
3 rate, the supplier, wholesaler or retail dealer is entitled to a refund or credit, which must
4 be claimed on a form designed and furnished by the assessor.

5 **Sec. B-9. Retroactivity.** That section of this Part that amends the Maine Revised
6 Statutes, Title 36, section 3203-C applies retroactively to July 18, 2008.

7 **Sec. B-10. 36 MRSA §3321, sub-§1,** as amended by PL 2009, c. 413, Pt. W, §4
8 and affected by §6 and amended by c. 434, §59, is repealed and the following enacted in
9 its place:

10 1. **Generally.** Beginning in 2003, and each calendar year thereafter, the excise tax
11 imposed upon internal combustion engine fuel pursuant to section 2903, subsection 1 and
12 the excise tax imposed upon distillates pursuant to section 3203, subsections 1 and 1-B
13 are subject to an annual rate of adjustment pursuant to this section. On or about February
14 15th of each year, the State Tax Assessor shall calculate the adjusted rates by multiplying
15 the rates in effect on the calculation date by an inflation index computed as provided in
16 subsection 2. The adjusted rates must then be rounded to the nearest 1/10 of a cent and
17 become effective on the first day of July immediately following the calculation. The
18 assessor shall publish the annually adjusted fuel tax rates and shall provide all necessary
19 forms and reports.

20 **Sec. B-11. PL 2009, c. 571, Pt. PP, §2** is amended to read:

21 **Sec. PP-2. PL 2009, c. 414, Pt. D, §6** is amended to read:

22 **Sec. D-6. Allocations from General Fund bond issue.** The proceeds of the
23 sale of the bonds authorized under this Part must be expended as designated in the
24 following schedule.

25
26 **PUBLIC UTILITIES COMMISSION**

27
28 **Public Utilities Commission**

29 Provides funds for weatherization and \$12,000,000
30 energy efficiency programs for low and
31 middle income households and small
32 businesses. If the energy efficiency
33 programs of the commission are transferred
34 to another entity established by the
35 Legislature, the commission shall transfer
36 all unexpended funds to that entity.
37

38
39 **UNIVERSITY OF MAINE SYSTEM**

40
41 **University of Maine System**
42

1 Provides funds for energy and \$9,500,000
2 infrastructure upgrades at all campuses of
3 the University of Maine System.

4
5 **MAINE COMMUNITY COLLEGE**
6 **SYSTEM**

7
8 **Maine Community College System**

9
10 Provides funds for energy and \$5,000,000
11 infrastructure upgrades at all campuses of
12 the Maine Community College System.

13
14 **MAINE MARITIME ACADEMY**

15
16 **Maine Maritime Academy**

17
18 Provides funds for energy and \$1,000,000
19 infrastructure upgrades at the Maine
20 Maritime Academy.

21
22 ~~DEPARTMENT OF~~
23 ~~ADMINISTRATIVE AND FINANCIAL~~
24 ~~SERVICES~~
25 UNIVERSITY OF MAINE SYSTEM

26
27 **Maine Marine Wind Energy**
28 **Demonstration Site Fund**

29
30 Provides funds for research, development \$6,000,000
31 and product innovation associated with
32 developing one or more ocean wind energy
33 demonstration sites.

34
35 **PART C**

36 **Sec. C-1. 12 MRSA §6536**, as amended by PL 2009, c. 213, Pt. G, §12 and
37 repealed by c. 396, §4, is repealed.

38 **Sec. C-2. 17 MRSA §1834, sub-§3**, as enacted by PL 2009, c. 487, Pt. A, §2, is
39 amended to read:

40 **3. Operation of electronic video machines.** The fee for a game of chance license to
41 operate an electronic video machine in accordance with section 1832, subsection 8 is \$15

1 for each week computed on a Monday to Sunday basis or for a portion of a week. The
2 fee for a license issued for a calendar month is \$60.

3 The Chief of the State Police may issue any combination of weekly or monthly licenses
4 for the operation of electronic video machines. A license or combination of licenses to
5 operate an authorized electronic video machine may ~~not exceed~~ be issued for a period of
6 6 up to 12 months.

7 **Sec. C-3. 17 MRSA §1835, sub-§1, ¶B**, as enacted by PL 2009, c. 487, Pt. A,
8 §2, is amended to read:

9 B. Licensed card games that award part or all of the entry fees paid to participate in
10 the game as prize money and in which no money or thing of value is wagered except
11 for the entry fee are limited to a \$5 daily entry fee and no more than 40 50 players at
12 any one time at any one location.

13 **Sec. C-4. Effective date.** Those sections of this Part that amend the Maine
14 Revised Statutes, Title 17, section 1834, subsection 3 and section 1835, subsection 1,
15 paragraph B take effect 90 days after the adjournment of the Second Regular Session of
16 the 124th Legislature.

17 **Sec. C-5. 29-A MRSA §2083, sub-§2**, as amended by PL 2009, c. 50, §3 and c.
18 55, §4, is repealed and the following enacted in its place:

19 **2. Compliance.** An operator of a motorcycle or a parent or guardian may not allow
20 a passenger under the age of 18 years to ride in violation of this section.

21 **Sec. C-6. PL 2009, c. 344, Pt. D, §15, sub-§3** is amended to read:

22 **3. Licenses.** ~~With the exception of temporary licenses for delivery and plant~~
23 ~~operators, licenses~~ Licenses issued by the Oil and Solid Fuel Board and the Propane and
24 Natural Gas Board remain valid upon the effective date of this Act. ~~Applicants for~~
25 ~~temporary delivery and plant operator licenses who apply after the effective date of this~~
26 ~~Act will be required to obtain a technician license with the appropriate authority.~~
27 ~~Temporary licenses for delivery and plant operators issued prior to the effective date of~~
28 ~~this Act remain valid until the expiration date and may not be reissued.~~

29 **Sec. C-7. Retroactivity.** That section of this Part that amends Public Law 2009,
30 chapter 344, Part D, section 15, subsection 3 applies retroactively to January 1, 2010.

31 **Sec. C-8. PL 2009, c. 496, §30** is amended to read:

32 **Sec. 30. Contingent retroactive effective date.** That section of this Act that
33 amends the Maine Revised Statutes, Title 36, section 1752, subsection 14, paragraph B,
34 as amended by Public Law 2007, chapter 627, section 43, ~~takes effect~~ applies
35 retroactively to August 1, 2008 only if Public Law 2009, chapter 382 is not ratified by a
36 majority of the electors voting on that measure pursuant to the Constitution of Maine,
37 Article IV, Section 17.

38 **Sec. C-9. PL 2009, c. 496, §31** is amended to read:

39 **Sec. 31. Contingent retroactive effective date.** That section of this Act that
40 amends the Maine Revised Statutes, Title 36, section 1752, subsection 14, paragraph B,
41 as amended by Public Law 2009, chapter 382, Part B, section 17 and affected by section

52, ~~takes effect~~ applies retroactively to August 1, 2008 only if Public Law 2009, chapter 382 is ratified by a majority of the electors voting on that measure pursuant to the Constitution of Maine, Article IV, Section 17.

PART D

Sec. D-1. 30-A MRSA §5250-J, sub-§3-A, as enacted by PL 2009, c. 461, §17, is further amended to read:

3-A. Pine Tree Development Zone classification; tier 1 locations. Beginning January 1, 2009, the department shall classify the following ~~units of local government~~ on an annual basis as tier 1 locations:

A. From January 1, 2009 to December 31, 2009, all units of local government; ~~and~~

B. Beginning January 1, 2010, a unit of local government that is contained in a county other than Cumberland County or York County, as well as a unit of local government that is contained in Cumberland County or York County with a municipal unemployment rate that is 15% higher than its labor market unemployment rate, based upon data published by the Department of Labor from the last completed calendar year;

C. A unit of local government that has been designated by the department as a participating municipality in the Pine Tree Development Zone program as of December 31, 2008;

D. Property within a military redevelopment zone as long as the property is classified by the department no later than December 31, 2018; and

E. Washington County and the Downeast region, including 2 pilot projects to be established by the commissioner:

(1) A pilot project for the property of the former Cutler naval computer and telecommunications station, which may be excluded from the qualified business definitions established under section 5250-I, subsections 16 and 17 if a for-profit business is engaged in, or will engage in, tourism development including recreational tourism, experiential tourism, hotel development and resort facility development; and

(2) A pilot project that allows seasonal employees in seasonal industries based on natural resources to be considered qualified Pine Tree Development Zone employees for the purposes of section 5250-I, subsection 18.

~~A unit of local government that has been designated by the department as a participating municipality in the Pine Tree Development Zone program as of December 31, 2008 will be classified as a tier 1 location.~~

~~Property within a military redevelopment zone as long as the property is classified by the department no later than December 31, 2018.~~

Sec. D-2. Retroactivity. That section of this Part that amends the Maine Revised Statutes, Title 30-A, section 5250-J, subsection 3-A applies retroactively to September 12, 2009.

PART E

1
2 **Sec. E-1. 22 MRSA §1066, sub-§2, ¶B**, as enacted by PL 2009, c. 595, §2, is
3 amended to read:

4 B. "Assessed entity" means a health insurance carrier ~~licensed under Title 24-A~~ or a
5 3rd-party administrator registered under Title 24-A.

6 **Sec. E-2. 22 MRSA §1066, sub-§2, ¶E**, as enacted by PL 2009, c. 595, §2, is
7 amended to read:

8 E. "Covered life months" means the number of months during a calendar year that a
9 person is covered under a health insurance plan provided or administered by a ~~health~~
10 ~~insurance carrier~~ an assessed entity.

11 **Sec. E-3. Effective date.** Those sections of this Part that amend the Maine
12 Revised Statutes, Title 22, section 1066, subsection 2, paragraphs B and E take effect 90
13 days after the adjournment of the Second Regular Session of the 124th Legislature.'

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

16 SUMMARY

17 This amendment designates the substance of the bill as Part A and then adds
18 additional Parts. Part B contains additional technical corrections. Parts C, D and E
19 contain amendments that are or could be considered to make substantive changes.

20 Sections 18 to 20 and 64 to 66 are deleted from the bill and added with changes to
21 Part B.

22 Section 53 is deleted from the bill and is added with changes in Part C.

23 Section 13 is deleted from the bill because the needed correction was made in Public
24 Law 2009, chapter 561.

25 Section 23 is deleted from the bill because Public Law 2009, chapter 571, Part E
26 repeals and replaces Title 20-A, section 15689, subsection 1, paragraph B and resolves
27 the conflict.

28 Section 26 is deleted from the bill because Public Law 2009, chapter 524, section 8
29 repeals and replaces Title 21-A, section 1056-B, first paragraph and resolves the conflict.

30 Section 38 is deleted from the bill because Public Law 2009, chapter 546, section 2
31 repeals and replaces Title 22, section 7301, subsection 2, paragraph F and resolves the
32 conflict.

33 Sections 44 and 45 are deleted from the bill because Public Law 2009, chapter 551,
34 sections 7 and 8 amend Title 25, section 2468, subsection 2 and subsection 4 respectively,
35 and resolve the errors.

36 Section 52 is deleted from the bill because Public Law 2009, chapter 510, section 7
37 reallocates Title 28-A, section 1207 to section 1208, resolving the conflict.

2013

COMMITTEE AMENDMENT "A" to H.P. 1292, L.D. 1805

1 Sections 67 and 68 are deleted from the bill because Public Law 2009, chapter 496,
2 sections 21 and 22 repeal and replace Title 36, section 5122, subsection 1, paragraph Z
3 and subsection 2, paragraph AA respectively and resolve the conflicts.

4 Section 72 is deleted from the bill because Public Law 2009, chapter 496, section 23
5 repeals and replaces Title 36, section 5200-A, subsection 2, paragraph R and resolves the
6 conflict.

7 Section 76 is deleted from the bill because Public Law 2009, chapter 496, section 29
8 repeals and replaces Title 36, section 6754, subsection 1, paragraph D and resolves the
9 conflict.

10 Part B makes the following technical corrections.

11 Section 1 corrects an internal cross-reference concerning the sale of unpasteurized
12 milk or milk products in the Maine Revised Statutes, Title 7, section 2902-B, subsection
13 2.

14 Sections 2 and 3 correct a cross-reference in the landlord-tenant laws to the
15 Efficiency Maine Trust Act with regard to rental properties. The same provision of law
16 was amended by Public Law 2009, chapter 566. This correction amends the law as
17 amended by chapter 566 and makes the correction take effect July 1, 2010, the effective
18 date of the Efficiency Maine Trust Act.

19 Sections 4 and 5 amend Title 14, section 8109, subsections 1 and 2 to correct cross-
20 references within the Maine Tort Claims Act.

21 Section 6 corrects a conflict created by Public Law 2009, chapter 67 and Initiated Bill
22 2009, chapter 1, which affected the same provision of law, by incorporating the changes
23 made by both laws. Title 22, section 2383 governs the prohibition and penalties for the
24 civil violation of possession of marijuana.

25 Section 7 replaces an obsolete cross-reference to the Maine Bar Rules in the Maine
26 Health Security Act with the appropriate cross-reference to the Maine Rules of
27 Professional Conduct.

28 Section 64 of the bill proposed to correct a conflict in the law concerning a specific
29 inventory tax, but did not include the complete necessary cross-reference. Public Law
30 2009, chapter 496 also corrected the conflict, but contains a clerical error. Section 8
31 corrects the error in chapter 496. Section 9 makes the correction effective retroactively to
32 July 18, 2008.

33 Section 66 of the bill corrected a conflict in the law concerning the indexing of motor
34 fuel tax rates, but it did not include the complete necessary cross-references. Section 10
35 includes the cross-references to the appropriate subsections.

36 Section 11 corrects a formatting error in Public Law 2009, chapter 571, Part PP,
37 section 2. Part PP changes the disbursement of bonds proceeds concerning different
38 energy projects, which were approved by Public Law 2009, chapter 414. Committee
39 Amendment "A" to L.D. 1671 correctly repealed references to the Department of
40 Administrative and Financial Services in Part D, sections 5 and 6 of Public Law 2009,
41 chapter 414. Section 6 was also amended to provide that the Maine Marine Wind Energy
42 Demonstration Site Fund is under the University of Maine System. The chaptered law

1 did not incorporate the formatting used to denote the change from "Department of
2 Administrative and Financial Services" to "University of Maine System."

3 Part C makes the following changes that are substantive or may be considered
4 substantive.

5 Section 1 corrects a conflict created when Public Law 2009, chapter 396 repealed
6 Title 12, section 6536 and chapter 213 amended section 6536, subsection 4. This section
7 corrects the conflict by repealing the section.

8 Section 2 amends the license term for a game of chance license to operate an
9 electronic video machine from a period not to exceed 6 months to a period of up to 12
10 months. The 12-month maximum is consistent with the other license terms in the
11 recodified chapter of the games of chance laws as enacted by Public Law 2009, chapter
12 487. Section 4 makes the correction take effect 90 days after the adjournment of the
13 Second Regular Session of the 124th Legislature.

14 Section 3 amends the games of chance laws concerning the maximum number of
15 players in a licensed card game in one location at any one time to be consistent with the
16 changes made in Public Law 2009, chapter 224. Chapter 224 increased the number from
17 40 to 50. Public Law 2009, chapter 487 recodified the games of chance laws in 2010 and
18 inadvertently did not incorporate the change made by chapter 224. Section 3 amends the
19 recodified law to incorporate the 50-player maximum. Section 4 makes the correction
20 take effect 90 days after the adjournment of the Second Regular Session of the 124th
21 Legislature.

22 Section 5 repeals and replaces current law concerning the use of helmets by
23 passengers on motorcycles and autocycles to delete the application of the law to
24 passengers of autocycles. Autocycle passengers were not intended to be included in
25 Public Law 2009, chapter 55.

26 Section 6 corrects an inconsistency between the new language in the statute
27 concerning temporary licenses for delivery and plant operators and the unallocated
28 transition language as enacted by Public Law 2009, chapter 334. Section 7 makes the
29 correction apply retroactively to the effective date of chapter 334, which is January 1,
30 2010.

31 Sections 8 and 9 correct the contingent effective date sections in Public Law 2009,
32 chapter 496. In Public Law 2009, chapter 496, sections 30 and 31 provide for a
33 contingent effective date, based on a pending people's veto referendum. However, the
34 law should have provided for a contingent retroactive effective date since it is correcting
35 a definition that is already in effect. The premium imposed on bulk motor vehicle oil
36 changed from a per oil change surcharge to a surcharge on bulk motor vehicle oil,
37 beginning August 1, 2008. If the change is not made, the surcharge is not excluded from
38 the definition of "sale price" for the period of time between August 1, 2008 and when
39 Public Law 2009, chapter 496 takes effect.

40 Part D corrects two problems created by Public Law 2009, chapter 461 concerning
41 Pine Tree Development Zones.

42 Public Law 2009, chapter 461 repealed Title 30-A, section 5250-J, subsection 1.
43 Paragraph D of that subsection provided authorization for pilot projects in Washington

2009

1 County and the Downeast region and its repeal was inadvertent. This section includes
2 the provisions of former paragraph D as a new paragraph E of subsection 3-A. This is a
3 substantive change.

4 Public Law 2009, chapter 461 created "tier 1 locations" in Title 30-A, section 5250-J,
5 subsection 3-A. There were slight format and wording errors with the descriptions of
6 units of local government designated as participating municipalities and the description of
7 property within a military redevelopment zone. Section 1 corrects those errors.

8 Section 2 makes these changes take effect retroactively to the date that Public Law
9 2009, chapter 461 took effect, September 12, 2009.

10 Part E corrects definitions in the new law creating the Universal Childhood
11 Immunization Program, enacted by Public Law 2009, chapter 595.

12 Section 1 amends the definition of "assessed entity" to remove the reference to a
13 health insurance carrier as "licensed under Title 24-A." In this new section of law,
14 "health insurance carrier" is defined more broadly, including health maintenance
15 organizations, administrators of preferred provider arrangements, fraternal benefit
16 societies, nonprofit hospital or medical service corporations, multiple-employer welfare
17 arrangements and self-insured employers. This is done, with the agreement of these
18 entities, to include the broadest possible grouping of entities providing health coverage.

19 Public Law 2009, chapter 595 defines "covered life months" by referencing health
20 insurance plans provided by a health insurance carrier. This reference is inconsistent with
21 the rest of the Act because it is too narrow. Section 2 revises the definition to include
22 health insurance plans "provided or administered by an assessed entity." This is done to
23 include all health insurance carriers and 3rd-party administrators.

24 Section 3 provides that all of Part E takes effect 90 days after the adjournment of the
25 Second Regular Session of the 124th Legislature, which is when Public Law 2009,
26 chapter 595 takes effect.