

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTIETH LEGISLATURE**

**SECOND REGULAR SESSION**  
**January 2, 2002 to April 25, 2002**

**THE GENERAL EFFECTIVE DATE FOR**  
**SECOND REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**JULY 25, 2002**

**PUBLISHED BY THE REVISOR OF STATUTES**  
**IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,**  
**TITLE 3, SECTION 163-A, SUBSECTION 4.**

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**J.S. McCarthy Company**  
**Augusta, Maine**  
**2002**

**Sec. 2. 5 MRSA §12004-G, sub-§30-B** is enacted to read:

<u>30-B.</u>	<u>Maine</u>	<u>Expenses</u>	<u>5 MRSA</u>
<u>Public</u>	<u>Library of</u>	<u>Only</u>	<u>§1890-K</u>
<u>Information</u>	<u>Geographic</u>		
	<u>Information</u>		
	<u>Board</u>		

See title page for effective date.

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## CHAPTER 650

S.P. 777 - L.D. 2113

### An Act to Improve Access to Prescription Drugs for Persons who are Elderly or Disabled

**Emergency preamble.** Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

**Whereas,** the inability of persons who are elderly and disabled to purchase prescription drugs is a risk to the health of those persons and a detriment to the families, communities and businesses of this State; and

**Whereas,** the availability of prescription drugs for this population will strengthen the State as a whole; and

**Whereas,** a Medicaid waiver could offer the State the opportunity to match state funds with federal funds and thereby expand the prescription drug program for elderly and disabled persons beginning as soon as a waiver is granted; and

**Whereas,** in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

**Be it enacted by the People of the State of Maine as follows:**

**Sec. 1. 22 MRSA §3174-G, sub-§1-A,** as amended by PL 1999, c. 790, Pt. A, §25, is repealed.

**Sec. 2. 22 MRSA §3174-G, sub-§1-B,** as amended by PL 1999, c. 731, Pt. KK, §1, is further amended to read:

**1-B. Funding.** State funds necessary to implement subsection ~~1-A~~ 1-C must include General Fund appropriations and Other Special Revenue allocations from the Fund for a Healthy Maine to the elderly low-cost drug program operated pursuant to section 254,

including rebates received in that program from pharmaceutical manufacturers, that are no longer needed in that program as a result of the Medicaid waiver obtained pursuant to subsection ~~1-A~~ 1-C.

**Sec. 3. 22 MRSA §3174-G, sub-§1-C** is enacted to read:

**1-C. Prescription drug waiver program.** Except as provided in paragraph G, the department shall apply to the federal Centers for Medicare and Medicaid Services for a waiver or amend a pending or current waiver under the Medicaid program authorizing the department to use federal matching dollars to enhance the prescription drug benefits available to persons who qualify for the elderly low-cost drug program established under section 254. The program created pursuant to the waiver is the prescription drug waiver program, referred to in this subsection as the "program."

A. As funds permit, the department has the authority to establish income eligibility levels for the program up to and including 200% of the federal nonfarm income official poverty level, except that for individuals in households that spend at least 40% of income on unreimbursed direct medical expenses for prescription medications, the income eligibility level is increased by 25%.

B. To the extent reasonably achievable under the federal waiver process, the program must include the full range of prescription drugs provided under the Medicaid program on the effective date of this subsection and must limit copayments and cost sharing for participants. If cost sharing above the nominal cost sharing for the Medicaid program is determined to be necessary, the department may use a sliding scale to minimize the financial burden on lower-income participants.

C. Coverage under the program may not be less beneficial to persons who meet the qualifications of section 254 than the coverage available under that section on September 30, 2001.

D. In determining enrollee benefits under the program, to the extent possible, the department shall give equitable treatment to coverage of prescription medications for cancer, Alzheimer's disease and behavioral health.

E. The department is authorized to provide funding for the program by using funds appropriated or allocated to provide prescription drugs under sections 254 and 258.

F. The department is authorized to amend the waiver or adjust program requirements as neces-

sary to take advantage of enhanced federal matching funds that may become available.

G. If, upon thorough analysis, the department determines that a waiver under this subsection is not feasible or would not significantly benefit participants in the elderly low-cost drug program, the department may decide not to pursue the waiver. Within 30 days of a decision not to proceed with a waiver and before taking action on that decision, the department shall report to the joint standing committee of the Legislature having jurisdiction over health and human services matters and shall provide a detailed analysis of the reasons for reaching that decision.

**Sec. 4. Report.** The Department of Human Services shall report to the joint standing committee of the Legislature having jurisdiction over health and human services matters regarding the status of the waiver request pursuant to the Maine Revised Statutes, Title 22, section 3174-G, subsection 1-C on or before January 12, 2003. The report must include information on cost sharing, including copayments, under the waiver program and on benefits for enrollees in the program.

**Emergency clause.** In view of the emergency cited in the preamble, this Act takes effect when approved.

Effective April 9, 2002.

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**CHAPTER 651**

**S.P. 779 - L.D. 2119**

**An Act Relating to Subdivision Review and Title Search Procedures**

**Be it enacted by the People of the State of Maine as follows:**

**Sec. 1. 30-A MRSA §4401, sub-§4, ¶C,** as enacted by PL 1989, c. 104, Pt. A, §45 and Pt. C, §10 and amended by c. 326, §1, is further amended to read:

C. A lot of 40 or more acres ~~shall not~~ must be counted as a lot, except:

~~(1) When the lot or parcel from which it was divided is located entirely or partially within any shoreland area as defined in Title 38, section 435, or a municipality's shoreland zoning ordinance; or~~

(2) When a municipality has, by ordinance, or the municipal reviewing authority has, by regulation, elected not to count lots of 40 or more acres as lots for the purposes of this

subchapter when the parcel of land being divided is located entirely outside any shoreland area as defined in Title 38, section 435, or a municipality's shoreland zoning ordinance.

**Sec. 2. 30-A MRSA §4401, sub-§4, ¶H,** as repealed and replaced by PL 2001, c. 359, §4 and affected by §8 and affected by c. 523, §§1 and 2, is repealed.

**Sec. 3. 30-A MRSA §4401, sub-§4, ¶H-1** is enacted to read:

H-1. This subchapter may not be construed to prevent a municipality from enacting an ordinance under its home rule authority that:

(1) Expands the definition of "subdivision" to include the division of a structure for commercial or industrial use; or

(2) Otherwise regulates land use activities.

A municipality may not enact an ordinance that expands the definition of "subdivision" except as provided in this subchapter. A municipality that has a definition of "subdivision" that conflicts with the requirements of this subsection at the time this paragraph takes effect shall comply with this subsection no later than January 1, 2006. Such a municipality must file its conflicting definition at the county registry of deeds by June 30, 2003 for the definition to remain valid for the grace period ending January 1, 2006. A filing required under this paragraph must be collected and indexed in a separate book in the registry of deeds for the county in which the municipality is located.

See title page for effective date.

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**CHAPTER 652**

**S.P. 828 - L.D. 2210**

**An Act Relating to Tax Expenditure Review and Other Tax Reporting Requirements**

**Be it enacted by the People of the State of Maine as follows:**

**Sec. 1. 5 MRSA §1710-J,** as enacted by PL 1995, c. 368, Pt. J, §1, is amended to read:

**§1710-J. Access to information**

In order to assist the committee, the Department of Administrative and Financial Services shall provide information and data to the committee on request. The