

# MAINE STATE LEGISLATURE

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

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTIETH LEGISLATURE**

**FIRST SPECIAL SESSION**  
**November 13, 2002 to November 14, 2002**

**ONE HUNDRED AND TWENTY-FIRST LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 4, 2002 to June 14, 2003**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST SPECIAL SESSION**  
**NON-EMERGENCY LAWS IS**  
**FEBRUARY 13, 2003**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 13, 2003**

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

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**Penmor Lithographers**  
**Lewiston, Maine**  
**2003**

**Sec. 1. 32 MRSA §13781**, as amended by PL 1997, c. 245, §§13 and 14, is further amended to read:

**§13781. Generic and therapeutically equivalent substitution**

A written prescription issued by a practitioner in this State may contain a box in the lower right-hand corner of the prescription form. The following words must appear to the left of this box: "Any drug which is the generic and therapeutic equivalent of the drug specified above in this prescription ~~may~~ must be dispensed, provided that no check mark ( ) has been handwritten in the box in the lower right-hand corner."

Any pharmacist receiving a prescription in which no handwritten check mark ( ) is found in the box provided ~~may~~ shall substitute a generic and therapeutically equivalent drug for the drug specified on the prescription if the substituted drug is distributed by a business entity doing business in the United States that is subject to suit and the service of legal process in the United States and ~~that~~ the price of the substituted drug does not exceed the price of the drug specified by the practitioner; except that, when the cost of a prescription is to be reimbursed under the MaineCare program pursuant to Title 22, chapter 855, the pharmacist shall substitute a generic and therapeutically equivalent drug only when the Department of Human Services has determined that the substitute drug would be a more cost-effective alternative than the drug prescribed by the practitioner.

If a written prescription issued by a practitioner in this State does not contain the box described in this section, a pharmacist ~~may~~ shall substitute a generic and therapeutically equivalent drug for the drug specified on the prescription if the substituted drug is distributed by a business entity doing business in the United States that is subject to suit and the service of legal process in the United States and the price of the substituted drug does not exceed the price of the drug specified by the practitioner, unless a practitioner has handwritten on the prescription form, along with the practitioner's signature, "dispense as written," "DAW," "brand," "brand necessary" or "brand medically necessary-"; except that, when the cost of a prescription is to be reimbursed under the MaineCare program pursuant to Title 22, chapter 855, the pharmacist shall substitute a generic and therapeutically equivalent drug only when the Department of Human Services has determined that the substitute drug would be a more cost-effective alternative than the drug prescribed by the practitioner.

Any pharmacist who substitutes a generic and therapeutically equivalent drug under this section shall inform the person to whom the drug is dispensed of the substitution. When any substitution is made under this section, the pharmacist shall cause the name of the

generic and therapeutically equivalent drug, the name or abbreviation of the drug manufacturer or distributor of that substitute drug and all other information as required by section 13794 to appear on the container label of the drug dispensed.

This section does not apply to prescriptions ordered by practitioners for patients in hospitals when those prescriptions are filled by a hospital pharmacy or in any institution where a formulary system is established.

See title page for effective date.

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**CHAPTER 385**

**H.P. 1029 - L.D. 1402**

**An Act To Conform the Voting Members of Certain State Entities**

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

**Sec. 1. 10 MRSA §363, sub-§1-A**, as amended by PL 2003, c. 112, §1, is further amended to read:

**1-A. Procedure.** For each calendar year, the Legislature may establish a procedure for allocation of the entire amount of the state ceiling by allocating an amount of the state ceiling to the specific issuers designated in this section for further allocation by each specific issuer to itself or to other issuers for specific bond issues requiring an allocation of the state ceiling or for carryforward. This procedure supersedes the federal formula to the full extent that the United States Code, Title 26, authorizes the Legislature to vary the federal formula. Allocations may be reviewed by the Legislature periodically and unused allocations may be reallocated to other issuers; however, notwithstanding the existence of legislation allocating or reallocating all or any portion of the state ceiling, at any time during the period from September 1st to and including December 31st of any calendar year, and at any other time that the Legislature is not in session, a group consisting of a representative of each of the issuers specifically identified in subsections 4, 5, 6, 7, 8 and 8-A; and a representative of the Governor designated each year by the Governor may, by written agreement executed by no fewer than ~~4~~ 5 of the 6 voting representatives, allocate amounts not previously allocated and reallocate unused allocations from one of the specific issuers designated in this section to another specific issuer for further allocation or carryforward, with respect to the state ceiling for that calendar year only. In no event may any issuer have more than one vote. If an issuer is allocated a portion of the state ceiling in more than one category, the

written agreement must be executed by no fewer than 4 of the 6 voting representatives. ~~The issuer specifically identified in subsection 5 and a~~ A representative of the Department of Economic and Community Development designated each year by the Commissioner of Economic and Community Development shall participate as a nonvoting ~~members~~ member of the group of representatives described in this subsection with respect to agreements or recommendations for allocation or reallocation of the state ceiling. Except for records containing specific and identifiable personal information acquired from applicants for or recipients of financial assistance, the records of the group of representatives described in this subsection are public records and the meetings of the group of representatives described in this subsection are public proceedings within the meaning of Title 1, chapter 13, subchapter 1.

**Sec. 2. 20-A MRSA §11415, sub-§2**, as amended by PL 1999, c. 728, §13, is further amended to read:

**2. Qualifications.** Each member must be a resident of this State. One member must be the Treasurer of State, ex officio ~~and nonvoting~~, or the Treasurer of State's designee. Of the remaining 6 members to be appointed by the Governor, 3 members must be trustees, directors, officers or employees of institutions of higher education, one of whom must be from an institution not owned or operated by the State or any of its political subdivisions and one of whom must be from a technical college owned or operated by the State. Each member of the authority, before entering upon that member's duties, shall take and subscribe the oath or affirmation required by the Constitution of Maine, Article IX, Section 1. A record of each oath must be filed in the office of the Secretary of State. With the exception of a member serving in an ex officio capacity, a member of the authority may not at the same time serve as an officer, director or employee of a nonprofit corporation formed under section 11407 and former Title 20, section 2237, of the state agency designated as administrator of federal guaranteed student loan programs pursuant to chapter 417, subchapter ~~1~~ 1 or of any entity that has a contract to provide a significant level of administrative services to the authority, to a nonprofit corporation formed under section 11407 and former Title 20, section 2237 or to the state agency designated as administrator of federal guaranteed student loan programs pursuant to chapter 417, subchapter ~~1~~ 1.

See title page for effective date.

## CHAPTER 386

S.P. 542 - L.D. 1583

### An Act Concerning the Animal Health and Disease Control Laws

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

**Sec. 1. 7 MRSA §446**, as repealed and replaced by PL 1979, c. 672, Pt. A, §17, is amended to read:

#### **§446. Inspections**

The commissioner or ~~his~~ the commissioner's duly authorized agents may inspect any fruits, vegetables, poultry, eggs, farm products, ~~sardines~~ livestock or other commodities that are marked, branded or labeled in accordance with official grades or standards established and ~~promulgated~~ adopted by the commissioner for the purpose of determining and certifying the quality and condition thereof and other material facts relative thereto. Certificates issued in pursuance of that inspection and executed by the inspector ~~shall~~ must state the date and place of inspection, the grade, condition and approximate quality of the fruits, ~~vegetables~~ vegetables, poultry, eggs, farm products, ~~sardines~~ livestock or other commodities inspected and such other pertinent facts as the commissioner may require. Such a certificate relative to the condition or quality of the farm products ~~and sardines shall be~~ is prima facie evidence in all courts of the State of the facts required to be stated in the certificate.

**Sec. 2. 7 MRSA §§1309 and 1310** are enacted to read:

#### **§1309. Maine cattle health assurance program**

The commissioner shall develop a Maine cattle health assurance program to ensure the highest quality of products by encouraging all livestock producers in this State to use best management practices. The department shall develop a farm assessment plan that provides for on-site evaluations of farms to assess and suggest ways to improve the health of herds, protect the health and safety of herds from disease and protect farms from environmental liability.

The commissioner in consultation with the University of Maine Cooperative Extension, state and federal veterinarians and livestock producers in this State shall adopt rules for the administration of this section. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

#### **§1310. Cattle Health Assurance Program Fund**