

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-SECOND LEGISLATURE

FIRST REGULAR SESSION
December 1, 2004 to March 30, 2005

FIRST SPECIAL SESSION
April 4, 2005 to June 18, 2005

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 29, 2005

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 17, 2005

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

Penmor Lithographers
Lewiston, Maine
2005

pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A, is authorized.

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

Effective May 20, 2005.

CHAPTER 42

H.P. 775 - L.D. 1122

Resolve, To Establish the Wabanaki Trail

Sec. 1. Task force established to develop Wabanaki Trail. Resolved: That the Department of Economic and Community Development and its Office of Tourism, the Department of Transportation and the University of Maine System in conjunction with the Penobscot Nation shall constitute a task force, referred to in this resolve as "the task force," to jointly develop the Wabanaki Trail. The task force shall designate roads, routes and points of interest, create signage and create web-based maps that include old canoe trails on waterways. In developing the Wabanaki Trail, the task force shall consult the pamphlet "A Wabanaki Guide to Maine" published by the Maine Indian Basketmakers Alliance; and be it further

Sec. 2. Rules. Resolved: That the Department of Transportation may adopt rules to carry out the purposes of section 1. Rules adopted pursuant to this section are minor technical rules pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A; and be it further

Sec. 3. Report. Resolved: That the task force shall report to the Joint Standing Committee on Transportation on its progress in developing the Wabanaki Trail and any recommended legislation no later than December 7, 2005.

See title page for effective date.

CHAPTER 43

H.P. 487 - L.D. 667

Resolve, Regarding Nonnative Invasive Marine Species

Sec. 1. Nonnative invasive marine species. Resolved: That the State and all appropriate agencies of State Government shall participate in the development of state and regional strategies to prevent introduction of nonnative invasive marine species into the coastal waters of the State and the greater Gulf of

Maine ecosystem and to work to eliminate or mitigate the negative impact of the nonnative invasive marine species where introduced. All appropriate state agencies involved with managing or studying Maine's marine environment, its harvests and its related commerce are encouraged to prevent the introduction of nonnative invasive marine species and to work to eliminate or mitigate their negative impacts by continuing to develop science-based strategies and promoting collaborative problem solving with other appropriate agencies and governments, as determined appropriate by the Commissioner of Environmental Protection and the Commissioner of Marine Resources; and be it further

Sec. 2. Report. Resolved: That the Department of Marine Resources in consultation with the Department of Environmental Protection shall report to the Joint Standing Committee on Natural Resources and the Joint Standing Committee on Marine Resources by February 1, 2006 concerning the nature and extent of the problem of nonnative invasive marine species in Maine waters. The departments shall submit a brief summary of issues and efforts to control nonnative invasive marine species in the New England area, a description of the existing legal framework for regulation of ballast discharges, any recommendations for changes to Maine law to better address ballast discharges and other issues related to nonnative invasive marine species. The Joint Standing Committee on Natural Resources has the authority to report out a bill regarding nonnative invasive marine species to the Second Regular Session of the 122nd Legislature.

See title page for effective date.

CHAPTER 44

H.P. 546 - L.D. 769

Resolve, To Examine Smoking Cessation Programs for Maine's Youth

Sec. 1. Review and assessment. Resolved: That the Department of Health and Human Services shall review and assess the effectiveness of programs in the State that provide assistance to young people to help them quit using tobacco products. This review and assessment must be conducted within existing budgetary resources; and be it further

Sec. 2. Report. Resolved: That the Department of Health and Human Services shall submit its report by January 31, 2006 to the Joint Standing Committee on Health and Human Services. The report must include findings based upon the department's review and assessment of programs required

under section 1. The committee may submit a bill to the Second Regular Session of the 122nd Legislature based upon the department's report.

See title page for effective date.

CHAPTER 45

S.P. 278 - L.D. 839

Resolve, To Alleviate the Negative Impact of Certain Taxes on Hospitals and Private Nonmedical Institutions

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

Whereas, current law imposes a tax on hospitals in this State, regardless of the size of the hospitals or the amount of MaineCare revenue received by those hospitals; and

Whereas, this tax imposes a hardship on some hospitals, which may lead to the closure of, or the reduction of services provided by, those hospitals; 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

Sec. 1. Alleviating the impact of certain taxes. Resolved: That the Department of Health and Human Services and the Governor's Office of Health Policy and Finance shall review the impact of the hospital tax and the private nonmedical institution portion of the service provider tax on hospitals and private nonmedical institutions with the goal of alleviating the negative impact on those facilities. In conducting the review the department and the office shall consult with hospitals and private nonmedical institutions within the State, shall consider alternatives that comply with federal Medicaid law and regulation and shall consider submitting a state plan amendment. By September 1, 2005 the department and the office shall report to the Joint Standing Committee on Health and Human Services regarding the results of the review and any recommendations resulting from the review.

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

Effective May 25, 2005.

CHAPTER 46

H.P. 408 - L.D. 553

Resolve, Regarding Responsible Management of Point-of-sale Marketing Materials for Tobacco Products

Sec. 1. Responsible management of point-of-sale marketing materials for tobacco products. Resolved: That the Department of Health and Human Services, Bureau of Health shall develop an education and recognition program to encourage tobacco retailers to manage responsibly point-of-sale marketing materials for tobacco products. The bureau shall consult with the Office of the Attorney General to ensure that the program is consistent with state and federal law and to determine whether the program may be included in the "No Buts" program. The bureau shall develop educational materials regarding point-of-sale marketing that can be disseminated through the Healthy Maine Partnerships to local tobacco retailers. The education and recognition program must be developed in consultation with interested parties, including, but not limited to, representatives of convenience stores, large and small retailers and other interested parties. The education and recognition program must be voluntary and may not be punitive or interfere with a retailer's legal right to advertise tobacco products. By February 1, 2006, the bureau shall report to the Joint Standing Committee on Health and Human Services on its plans to implement the education and recognition program.

See title page for effective date.

CHAPTER 47

H.P. 1099 - L.D. 1561

Resolve, To Study the Feasibility of Establishing an Insurance Fraud Unit within the Bureau of Insurance

Sec. 1. Feasibility study; report. Resolved: That the Superintendent of Insurance shall study, in consultation with other state agencies and interested persons, the feasibility of establishing an organizational unit within the Department of Professional and Financial Regulation, Bureau of Insurance dedicated to the investigation, prosecution and prevention of insurance fraud, including, but not limited to, the fraudulent conduct of consumers, insurance producers and insurers. By December 5, 2005 the Superintendent of Insurance shall submit a report on the feasibility study to the Joint Standing Committee on Insurance and Financial Services. The report must include the superintendent's findings and