

# 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.**

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**Penmor Lithographers**  
**Lewiston, Maine**  
**2005**

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.

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## 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.

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## 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.

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## 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

recommendations, including any suggested legislation, regarding the feasibility of establishing, implementing and funding an insurance fraud unit. Following receipt and review of the report, the Joint Standing Committee on Insurance and Financial Services may report out a bill related to the report to the Second Regular Session of the 122nd Legislature.

See title page for effective date.

## CHAPTER 48

H.P. 1119 - L.D. 1583

### **Resolve, Directing the Department of Transportation To Strengthen Guardrails on Old County Road in Rockland and Thomaston**

**Sec. 1. Guardrails. Resolved:** That the Department of Transportation shall inspect the guardrails on Old County Road in Rockland and Thomaston and take action necessary to ensure that these guardrails meet current height and other standards of safety.

See title page for effective date.

## CHAPTER 49

H.P. 966 - L.D. 1389

### **Resolve, Regarding Legislative Review of Chapter 100: Enforcement Procedures, a Major Substantive Rule of the Maine Health Data Organization**

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

**Whereas,** the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A requires legislative authorization before major substantive agency rules may be finally adopted by the agency; and

**Whereas,** the above-named major substantive rule has been submitted to the Legislature for review; and

**Whereas,** immediate enactment of this resolve is necessary to record the Legislature's position on final adoption of the rule; 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 preserva-

tion of the public peace, health and safety; now, therefore, be it

**Sec. 1. Adoption. Resolved:** That final adoption of Chapter 100: Enforcement Procedures, a provisionally adopted major substantive rule of the Maine Health Data Organization that has been submitted to the Legislature for review 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 25, 2005.

## CHAPTER 50

S.P. 502 - L.D. 1477

### **Resolve, Preventing the Upstream Migration of Exotic Species past the Fish River Falls and into the Fish River Watershed**

**Sec. 1. Commissioner of Inland Fisheries and Wildlife to implement program. Resolved:** That the Commissioner of Inland Fisheries and Wildlife shall implement a program as funding from sources other than the General Fund become available to prevent the upstream migration of exotic species past the Fish River Falls and into the Fish River watershed in Aroostook County. Rules adopted pursuant to this resolve are major substantive rules pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A.

See title page for effective date.

## CHAPTER 51

H.P. 1129 - L.D. 1593

### **Resolve, Regarding Legislative Review of Portions of Chapter 750: Standardized Health Plans, a Major Substantive Rule of the Department of Professional and Financial Regulation, Bureau of Insurance**

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

**Whereas,** the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A requires legislative