

# MAINE STATE LEGISLATURE

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

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-THIRD LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 6, 2006 to June 21, 2007**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 20, 2007**

**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**  
**2007**

a manner consistent with a national fire incident reporting system.

Sec. 3. 25 MRSA §2452, 2nd ¶, as amended by PL 2003, c. 535, §3, is further amended to read:

Existing buildings licensed pursuant to Title 22, Subtitle 6 having more than 6 boarders, with the exception of board and care facilities and children's homes, must comply with any rules for residential-~~custodial~~ residential board and care facilities occupancies required by the Commissioner of Public Safety, except that such existing facilities of not more than 2 stories in height are not required to be fire resistive, protected or unprotected noncombustible, protected wood frame or heavy timber construction. Such existing facilities must be protected by a complete approved automatic sprinkler system and meet all other requirements of residential-~~custodial~~ residential board and care facilities occupancies as required by the Commissioner of Public Safety.

See title page for effective date.

CHAPTER 83

H.P. 198 - L.D. 227

An Act To Allow the Reimbursement of Motor Vehicle Excise Taxes in Certain Cases

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

Sec. 1. 36 MRSA §1482, sub-§5, ¶D, as amended by PL 1997, c. 175, §1, is repealed and the following enacted in its place:

D. If the credit available under this subsection exceeds the amount transferred to another vehicle, a municipality may choose, but is not required to refund the excess amount. If a municipality chooses to refund excess amounts it must do so in all instances where there is an excess amount.

See title page for effective date.

CHAPTER 84

S.P. 219 - L.D. 682

An Act To Allow Schools in the State To Self-insure for Fire, Property and Theft Insurance

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

Sec. 1. 5 MRSA §1737, sub-§4, as amended by PL 2003, c. 20, Pt. OO, §2 and affected by §4 and amended by c. 114, §2, is further amended to read:

4. **Directed services.** Notwithstanding the provisions of subsection 2, the director may provide insurance advice or services for family foster homes as defined in Title 22, section 8101, subsection 3; specialized children's homes, as defined in Title 22, section 8101, subsection 5; respite care providers as defined in Title 34-B, section 6201, subsection 2-A; the Casco Bay Island Transit District created by Private and Special Law 1981, chapter 22; the University of Maine System; the Maine Community College System; the Maine Maritime Academy; and the State's local workforce investment areas designated under the federal Workforce Investment Act of 1998, Public Law 105-220. The director may provide insurance services for public schools as defined in Title 20-A, section 1, subsection 24 if the provisions of subsection 2 are met. Notwithstanding subsection 2, the director may provide insurance advice for public schools.

See title page for effective date.

CHAPTER 85

S.P. 281 - L.D. 883

An Act To Allow a Self-pay Patient To Choose between Generic and Brand-name Medications

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

Sec. 1. 32 MRSA §13781, 2nd ¶, as amended by PL 2003, c. 384, §1 and c. 689, Pt. B, §6, is further amended to read:

Any Except with regard to a patient who is paying for a drug with the patient's own resources, any pharmacist receiving a prescription in which no handwritten check mark ( ) is found in the box provided 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; 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 Health and Human Services has determined that the substitute drug would be a more cost-effective alternative than the drug prescribed by the practitioner. Except for prescribed drugs listed under the Comprehensive Drug Abuse Prevention and

Control Act of 1970, 21 United States Code, Section 812, as amended, as Schedule II drugs, with regard to a patient who is paying for a drug with the patient's own resources, a pharmacist shall inquire about the patient's preference for either the brand-name drug or generic and therapeutically equivalent drug and dispense the drug that the patient prefers.

**Sec. 2. 32 MRSA §13781, 3rd ¶**, as amended by PL 2003, c. 384, §1 and c. 689, Pt. B, §6, is further amended to read:

¶ Except with regard to a patient who is paying for a drug with the patient's own resources, if a written prescription issued by a practitioner in this State does not contain the box described in this section, a pharmacist 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 Health and Human Services has determined that the substitute drug would be a more cost-effective alternative than the drug prescribed by the practitioner. Except for prescribed drugs listed under the Comprehensive Drug Abuse Prevention and Control Act of 1970, 21 United States Code, Section 812, as amended, as Schedule II drugs, with regard to a patient who is paying for a drug with the patient's own resources, a pharmacist shall inquire about the patient's preference for either the brand-name drug or generic and therapeutically equivalent drug and dispense the drug that the patient prefers.

See title page for effective date.

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**CHAPTER 86**

**S.P. 208 - L.D. 671**

**An Act To Amend the Laws  
Dealing with the Posting of Gas  
Prices**

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

**Sec. 1. 10 MRSA §1661-B, sub-§1**, as enacted by PL 1989, c. 83, §2, is amended to read:

**1. Posting required.** A retail seller of fuel to be used by vehicles on public highways shall ~~post the price~~ make clearly visible on each pump the price of the fuel available at that pump, either by posting a sign of no less than 64 square inches and in a manner that is clearly visible to a driver approaching the pump or by a price reading, digital or analog, built into the pump that must reflect the actual price of the fuel pumped. The pump must have a sign of no less than 64 square inches on it if either the price on the pump differs from the price posted on the roadside sign due to a difference in grade of fuel or service or the retailer does not have a roadside sign. On multi-grade pumps, the posted price ~~shall~~ must be for the lowest priced unleaded regular gasoline. The ~~sign should~~ posting must indicate the difference in price for full-service, mini-service and self-service if more than one grade of service is available at that pump.

See title page for effective date.

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**CHAPTER 87**

**S.P. 154 - L.D. 467**

**An Act Regarding the  
Protection and Advocacy  
Agency Advisory Council**

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

**Sec. 1. 5 MRSA §12004-I, sub-§47-A**, as repealed and replaced by PL 1995, c. 462, Pt. A, §9, is repealed.

See title page for effective date.

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**CHAPTER 88**

**H.P. 518 - L.D. 687**

**An Act To Clarify That a  
Financial Institution Must  
Recognize a Writ of Execution  
To Satisfy a Creditor's Claims  
to Business Accounts Held by  
That Financial Institution**

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

**Sec. 1. 9-B MRSA §427, sub-§10**, as amended by PL 2001, c. 211, §12, is repealed and the following enacted in its place:

**10. Adverse claim to deposit or account.** Except as provided in Title 11, section 4-405, in Title 14, section 4751 and in Title 18-A, sections 6-107 and 6-112, notice to a financial institution authorized to do business in this State of an adverse claim to a deposit