

# MAINE STATE LEGISLATURE

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

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-THIRD LEGISLATURE**

**SECOND REGULAR SESSION**  
**January 2, 2008 to March 31, 2008**

**FIRST SPECIAL SESSION**  
**April 1, 2008 to April 18, 2008**

**THE GENERAL EFFECTIVE DATE FOR**  
**SECOND REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**JUNE 30, 2008**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST SPECIAL SESSION**  
**NON-EMERGENCY LAWS IS**  
**JULY 18, 2008**

**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**  
**2008**

ing parameters or other information indicates potential noncompliance with an air emission standard or if there are more stringent federal requirements, the department may require additional stack tests.

**Sec. 7. Department of Environmental Protection to install air quality monitor in the Town of Bradley.** The Department of Environmental Protection, or its designee, shall install, maintain and oversee one or more air quality monitors in the Town of Bradley for a period of no less than one year and no more than 2 years unless a violation of the laws governing ambient air standards is identified through such a monitor.

**Sec. 8. Appropriations and allocations.** The following appropriations and allocations are made.

**ENVIRONMENTAL PROTECTION,  
DEPARTMENT OF**

**Maine Environmental Protection Fund 0421**

Initiative: Allocates funds for the installation and maintenance of air quality monitors in the Town of Bradley.

OTHER SPECIAL REVENUE FUNDS	2007-08	2008-09
Capital Expenditures	\$0	\$75,000
	\$0	\$75,000
OTHER SPECIAL REVENUE FUNDS TOTAL		

**Sec. 9. Effective date.** This Act takes effect November 1, 2008.

Effective November 1, 2008.

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**CHAPTER 590**

**H.P. 321 - L.D. 405**

**An Act Regarding MaineCare Pharmacy Professional Fees**

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

**Sec. 1. 22 MRSA §3194** is enacted to read:

**§3194. Report on cost of dispensing medication**

The Office of MaineCare Services within the department shall biennially review and report to the joint standing committee of the Legislature having jurisdiction over health and human services matters and the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs regarding the cost of dispensing a medication in the State. By July 1st of each even-numbered year, the

Office of MaineCare Services shall consider adjusting, through MaineCare rule amendment, the MaineCare pharmacy professional fee to reflect the cost of dispensing a medication in the State.

**Sec. 2. MaineCare pharmacy professional fees.** The Department of Health and Human Services, Office of MaineCare Services shall:

1. After implementation by the federal Centers for Medicare and Medicaid Services of the federal regulations setting new average manufacturer-price-based federal upper limits pursuant to the federal Deficit Reduction Act of 2005, review the projected impact of those regulations for fiscal years 2007-08 and 2008-09 on MaineCare pharmacy reimbursement for multiple source drugs. Within 90 days of implementation, the department shall report on the review to the joint standing committee of the Legislature having jurisdiction over health and human services matters; and

2. Within 15 days of the department's submitting the report under subsection 1 to the joint standing committee of the Legislature having jurisdiction over health and human services matters, adopt emergency rules that use any savings accruing to the MaineCare program from the new average manufacturer-price-based federal upper limits to adjust the professional fee paid to licensed pharmacies for dispensing multiple source drugs to MaineCare members. The purpose of this adjustment is to compensate pharmacies in the State for reimbursement projected to be lost throughout fiscal years 2007-08 and 2008-09 as a result of the new federal upper limits on MaineCare payments to pharmacies for multiple source drugs.

See title page for effective date.

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**CHAPTER 591**

**H.P. 1396 - L.D. 2012**

**An Act To Protect Children in Vehicles from Secondhand Smoke**

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

**Sec. 1. 22 MRSA §1549** is enacted to read:

**§1549. Smoking in vehicles when minor under 16 years of age is present**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Motor vehicle" has the same meaning as in Title 29-A, section 101, subsection 42.

B. "Smoking" means inhaling, exhaling, burning or carrying a lighted cigarette, cigar, pipe, weed, plant, regulated narcotic or other combustible substance.

2. Prohibition. Smoking is prohibited in a motor vehicle by the operator or a passenger when a person who has not attained 16 years of age is present in that motor vehicle, regardless of whether the motor vehicle's windows are open.

3. Prohibition on inspection or search. A motor vehicle, the contents of the motor vehicle or the operator or a passenger in the motor vehicle may not be inspected or searched solely because of a violation of this section.

4. Not a moving violation. A violation of this section is a not a moving violation as defined in Title 29-A, section 101, subsection 44.

5. Penalty; warning. Notwithstanding section 1545, penalties for violations of this section are as set out in this subsection.

A. From September 1, 2008 to August 31, 2009, a law enforcement officer shall give a written warning to an operator or passenger of a motor vehicle who is in violation of this section.

B. Beginning September 1, 2009, a person who violates this section commits a civil violation for which a fine of \$50 must be assessed, except that a law enforcement officer may give a written warning to the operator or a passenger of a motor vehicle who is in violation of this section.

**Sec. 2. Effective date.** This Act takes effect September 1, 2008.

Effective September 1, 2008.

**CHAPTER 592**

**S.P. 761 - L.D. 1967**

**An Act To Establish a Consumer Council System of Maine**

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

**Sec. 1. 5 MRSA §12004-I, sub-§60-B** is enacted to read:

**60-B.**

<u>Mental Health</u>	<u>Consumer Council System of Maine</u>	<u>Expenses and Legislative Per Diem</u>	<u>34-B MRSA §3611</u>
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**Sec. 2. 34-B MRSA §3611** is enacted to read:

**§3611. Consumer Council System of Maine**

In order to promote high-quality adult mental health services, the Consumer Council System of Maine, established in Title 5, section 12004-I, subsection 60-B and referred to in this section as "the council system," is established to provide an effective, independent consumer voice in an advisory capacity in the development of public policy and resource allocation. The council system consists of the Statewide Consumer Council established in subsection 6 and local councils.

1. Independent public instrumentality. The council system exists as an independent public instrumentality of the State to provide guidance and advice from consumers of adult mental health services provided or funded by the State regarding the delivery of effective and appropriate adult mental health services consistent with the State's comprehensive mental health services plan and to comply with the consent decree and incorporated settlement agreement in the case of Paul Bates, et al. v. Robert Glover, et al., Kennebec County Superior Court, Civil Action Docket No. CV-89-88 dated August 2, 1990.

2. Governmental functions; tort claims. Exercise of the powers conferred by this section is the performance of an essential governmental function. The council system must be considered as within the definition of "State" for the purposes of Title 14, section 8102, subsection 4. The council system is not considered an agency of the State for the purposes of budgeting, accounts and control, auditing, contracting and purchasing.

3. Duties. As pertains to the delivery of mental health services for adults, the council system shall:

A. Advise the department, the Governor and other state agencies. This duty includes advising the department on the review, analysis and evaluation of adult mental health programs, policies, procedures and service delivery systems administered or funded by the State and the hiring of personnel when appropriate;

B. Assist the department in program design and implementation, including assessment of the quality of services and delivery systems and prioritization of programming;

C. Provide consumers with a recognized mechanism for collaboration with State Government, including addressing issues with persons and entities that provide services through contracts with the department;

D. Provide input regarding programs, evaluation, public policy and resource allocation and address issues and concerns that arise at the local level;

E. Identify, research and respond to issues of importance to consumers, including requesting in-