

# MAINE STATE LEGISLATURE

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

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 1, 2010 to June 29, 2011**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 28, 2011**

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

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**Augusta, Maine**  
**2011**

applied pursuant to this section must be the highest rate that the state or province applies to nonadmitted insurance premiums taxed in that state or province.

**Sec. 14. 36 MRSA §2531** is enacted to read:

**§2531. Taxation of nonadmitted insurance coverage**

**1. Generally.** All gross direct insurance premiums and annuity considerations paid to insurers that do not have certificates of authority to do business in this State issued by the Superintendent of Insurance pursuant to Title 24-A are subject to taxation in accordance with this section if this State is the insured's home state, as defined in the federal Nonadmitted and Reinsurance Reform Act of 2010, Public Law 111-203, Section 527. This section does not apply to reinsurance premiums paid by an authorized domestic insurer.

**2. Rate and incidence of tax.** Except as otherwise provided in section 2519 or 2532, the rate of taxation is 3% of the premiums subject to tax under this section. For all coverage placed in accordance with Title 24-A, chapter 19, the tax must be paid by the surplus lines producer. For all other nonadmitted insurance, the tax must be paid by the insured.

**3. Returns.** Except as otherwise provided in accordance with a multistate agreement entered into pursuant to section 2532, every producer holding surplus lines authority in this State shall file a return and pay the tax due in accordance with section 2521-A and every insured subject to tax in accordance with this section shall file a return and pay the tax due subject to the same requirements as provided in section 2521-A. An insurance agency may elect to collect and pay the tax on surplus lines premiums on behalf of all of its employees who are surplus lines producers and file a single return.

**Sec. 15. 36 MRSA §2532** is enacted to read:

**§2532. Authority to enter into multistate agreement**

**1. Authority; multistate agreement.** The State Tax Assessor may, after consultation with the Department of Professional and Financial Regulation, Bureau of Insurance, enter into a multistate agreement, in accordance with the federal Nonadmitted and Reinsurance Reform Act of 2010, Public Law 111-203, Section 521, for the reporting of nonadmitted insurance premiums and the collection and allocation of nonadmitted insurance taxes. For any nonadmitted insurance premiums that are subject to taxation by this State and interstate allocation of taxes in accordance with the federal Nonadmitted and Reinsurance Reform Act of 2010, Public Law 111-203, Section 521, the rate of taxation on each participating state's share of the premium must be that state's applicable nonadmitted insurance premium tax rate.

**2. Fiscal analysis; consultation.** The State Tax Assessor may not enter into a multistate agreement pursuant to subsection 1 unless the assessor has:

**A.** Completed a fiscal analysis of the impact of the agreement that examines the expected effects on the State's gross receipt of premium tax; and

**B.** Concluded, after consultation with representatives of surplus lines insurers, admitted insurers and surplus lines producers, that entering into the agreement:

(1) Is in this State's financial best interest;

(2) Does not significantly increase administrative burden and cost to the State, surplus lines insurers and insureds; and

(3) Is consistent with the requirements of the federal Nonadmitted and Reinsurance Reform Act of 2010, Public Law 111-203.

**Sec. 16. Effective date.** This Act takes effect July 21, 2011, except that that section of this Act that enacts the Maine Revised Statutes, Title 36, section 2532 takes effect when approved.

**Sec. 17. Application.** This Act applies to taxes on all premiums received on or after July 1, 2011.

**Emergency clause.** In view of the emergency cited in the preamble, this legislation takes effect when approved, except as otherwise indicated.

Effective June 14, 2011, unless otherwise indicated.

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**CHAPTER 332**

**H.P. 181 - L.D. 228**

**An Act To Revise Notification Requirements for Pesticide Application**

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

**Sec. 1. 22 MRSA §1471-Z**, as amended by PL 2009, c. 584, §2, is repealed.

**Sec. 2. 22 MRSA §1471-AA**, as enacted by PL 2009, c. 584, §3, is repealed.

**Sec. 3. Directive to the Board of Pesticides Control regarding requests for notification of outdoor pesticide applications.** The Department of Agriculture, Food and Rural Resources, Board of Pesticides Control, referred to in this section as "the board," shall amend Rule Chapter 28, Section 1 to establish a distance from an aerial application of pesticides within which a person is entitled to receive notification of the application. The rule must allow an owner, lessee or other legal occupant of a sensitive area to make a request for notification and receive

notification of aerial applications of pesticides within 1,000 feet of the sensitive area.

For purposes of this section, "sensitive area" has the same meaning as in the board's Rule Chapter 10. Notwithstanding the Maine Revised Statutes, Title 7, section 610, subsection 6, paragraph B, the amendment to Rule Chapter 28 under this section is routine technical rulemaking as defined in Title 5, chapter 375, subchapter 2-A and must be adopted and in effect no later than January 1, 2012.

See title page for effective date.

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**CHAPTER 333**

**H.P. 645 - L.D. 878**

**An Act To Provide a  
Temporary License To  
Operate a Public Dance  
Establishment**

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

**Sec. 1. 8 MRSA §161, sub-§7** is enacted to read:

7. Temporary license. Following the transfer of ownership of a building used for public dances licensed under this section, a new owner that applies for a new dancing license for that building may simultaneously apply to the Commissioner of Public Safety for a temporary dancing license. The commissioner may issue a temporary dancing license, which is valid for a period of 60 days or until a decision is made on the application submitted pursuant to subsection 3, whichever is shorter. The fee for a temporary dancing license issued pursuant to this subsection is \$25.

See title page for effective date.

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**CHAPTER 334**

**H.P. 686 - L.D. 926**

**An Act To Increase the Credit  
Toward Payment of Fines  
Given for Jail Time**

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

**Sec. 1. 17-A MRSA §1304, sub-§3, ¶A**, as amended by PL 2009, c. 608, §11, is further amended to read:

A. Unless the offender shows by a preponderance of the evidence that the default was not attribut-

able to an intentional or knowing refusal to obey the court's order or to a failure on the offender's part to make a good faith effort to obtain the funds required for the payment, the court shall find that the default was unexcused and may:

(1) Commit the offender to the custody of the sheriff until all or a specified part of the fine is paid. The length of confinement in a county jail for unexcused default must be specified in the court's order and may not exceed one day for every ~~\$5~~ \$100 of unpaid fine or 6 months, whichever is shorter. An offender committed for nonpayment of a fine is given credit toward the payment of the fine for each day of confinement that the offender is in custody, at the rate specified in the court's order. The offender is also given credit for each day that the offender is detained as the result of an arrest warrant issued pursuant to this section. An offender is responsible for paying any fine remaining after receiving credit for confinement and detention. A default on the remaining fine is also governed by this section; or

(2) If the unexcused default relates to a fine imposed for a Class D or Class E crime, as authorized by chapter 53, order the offender to perform community service work, as authorized in chapter 54-C, until all or a specified part of the fine is paid. The number of hours of community service work must be specified in the court's order and may not exceed 8 hours for every \$25 of unpaid fine or one hundred 8-hour days, whichever is shorter. An offender ordered to perform community service work pursuant to this subparagraph is given credit toward the payment of the fine for each 8-hour day of community service work performed at the rate specified in the court's order. The offender is also given credit toward the payment of the fine for each day that the offender is detained as a result of an arrest warrant issued pursuant to this section at a rate specified in the court's order that is ~~not less than \$5~~ up to \$100 of unpaid fine per day of confinement. An offender is responsible for paying any fine remaining after receiving credit for any detention and for community service work performed. A default on the remaining fine is also governed by this section.

See title page for effective date.

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