

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.

Augusta, Maine
2011

the City of Calais as approved by the municipality.

See title page for effective date.

CHAPTER 411

H.P. 752 - L.D. 1016

An Act To Restore the Health Care Provider Tax to 6 Percent

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

Sec. 1. 36 MRSA §2872, sub-§1, ¶C, as amended by PL 2007, c. 539, Pt. X, §1, is further amended to read:

C. For whole or partial facility fiscal years beginning on or after July 1, 2003 and before January 1, 2008, the tax imposed against each residential treatment facility is equal to 6% of its annual gross patient services revenue for the corresponding whole or partial facility fiscal year; ~~and~~

Sec. 2. 36 MRSA §2872, sub-§1, ¶D, as enacted by PL 2007, c. 539, Pt. X, §1, is amended to read:

~~D. Beginning For whole or partial facility fiscal years beginning on or after January 1, 2008 for any partial facility fiscal year and for whole facility fiscal years beginning on or after January 1, 2008 and before October 1, 2011, the tax imposed against each residential treatment facility is equal to 5.5% of its annual gross patient services revenue for the corresponding whole or partial facility fiscal year; and~~

Sec. 3. 36 MRSA §2872, sub-§1, ¶E is enacted to read:

E. Beginning October 1, 2011 for any partial facility fiscal year and for whole facility fiscal years beginning on or after October 1, 2011, the tax imposed against each residential treatment facility is equal to 6% of its annual gross patient services revenue for the corresponding whole or partial facility fiscal year.

Sec. 4. 36 MRSA §2872, sub-§2, ¶C, as amended by PL 2007, c. 539, Pt. X, §2, is further amended to read:

C. For whole or partial facility fiscal years beginning on or after July 1, 2003 and before January 1, 2008, the tax imposed against each nursing home is equal to 6% of its annual net operating revenue for the corresponding whole or partial facility fiscal year; ~~and~~

Sec. 5. 36 MRSA §2872, sub-§2, ¶D, as enacted by PL 2007, c. 539, Pt. X, §2, is amended to read:

~~D. Beginning For whole or partial facility fiscal years beginning on or after January 1, 2008 for any partial facility fiscal year and for whole facility fiscal years beginning on or after January 1, 2008 and before October 1, 2011, the tax imposed against each nursing home is equal to 5.5% of its annual net operating revenue for the corresponding whole or partial facility fiscal year; and~~

Sec. 6. 36 MRSA §2872, sub-§2, ¶E is enacted to read:

E. Beginning October 1, 2011 for any partial facility fiscal year and for whole facility fiscal years beginning on or after October 1, 2011, the tax imposed against each nursing home is equal to 6% of its annual net operating revenue for the corresponding whole or partial facility fiscal year.

Sec. 7. 36 MRSA §2873, sub-§4, as enacted by PL 2001, c. 714, Pt. CC, §3 and affected by §8 and amended by PL 2003, c. 689, Pt. B, §§6 and 7, is further amended to read:

4. Application of revenues. Revenues derived by the tax imposed by this chapter must be credited to a General Fund suspense account. On the last day of each month, the State Controller shall make the following transfers:

A. All revenues received by the assessor during the month pursuant to this chapter from nursing homes net of refunds must be credited to the Nursing Facilities Other Special Revenue funds account in the Department of Health and Human Services. ~~The Commissioner of Health and Human Services is authorized to make revenue transfers from the Nursing Facilities Other Special Revenue funds account to the Medical Care—Payments to Providers Other Special Revenue funds account and the Long Term Care—Human Services Other Special Revenue funds account in amounts not to exceed legislative allocations in any fiscal year~~ Beginning October 1, 2011, the revenues received in each fiscal year that result from the increase in the tax rate from 5.5% to 6% pursuant to section 2872, subsection 1, paragraph E must be applied first to reimburse nursing homes for the MaineCare portion of the increased tax expense, and all remaining revenue resulting from the increase must be applied to provide cost-of-living increases to MaineCare reimbursement to nursing homes and to medical and remedial private nonmedical institutions that are reimbursed room and board costs and certain other allowable costs under rules adopted by the Department of Health and Human Services. These rules must use a methodology that provides a cost-of-

living increase that ensures that such nursing facilities and medical and remedial private non-medical institutions receive a share of the revenues through MaineCare reimbursement of allowable costs; and

B. All revenues received by the assessor during the month pursuant to this chapter from residential treatment facilities net of refunds must be credited to the Residential Treatment Facilities Assessment Other Special Revenue funds account in the Department of Health and Human Services. Beginning October 1, 2011, a percentage equal to the State's annual Federal Medical Assistance percentage of the revenues generated by the increase in the tax rate from 5.5% to 6% received by the assessor during the month must be credited to an Other Special Revenue Funds account in the Department of Health and Human Services, Developmental Services Waiver - Supports program and all revenues credited to that account must be applied to providing services to individuals on the waiting list for the community support benefit provided under a federal 1915(c) waiver under the MaineCare Benefits Manual, Chapter II, Section 29. The balance must be credited to an Other Special Revenue Funds account in the Department of Health and Human Services, Medicaid Services - Developmental Services program.

Notwithstanding the provisions of Public Law 2007, chapter 240, Part X, section 2, Public Law 2009, chapter 213, Part SSSS, section 1 or any other provision of law, any available balances in the accounts under this subsection may not be transferred between accounts by financial order or otherwise.

Sec. 8. Appropriations and allocations.

The following appropriations and allocations are made.

**HEALTH AND HUMAN SERVICES,
DEPARTMENT OF (FORMERLY DHS)**

Developmental Services Waiver - Supports Z006

Initiative: Allocates funds from the increase in the residential treatment facilities assessment to be used for services to individuals on the waiting list for the waiver.

FEDERAL EXPENDITURES FUND	2011-12	2012-13
All Other	\$139,230	\$184,225
FEDERAL EXPENDITURES FUND TOTAL	\$139,230	\$184,225
OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
All Other	\$80,376	\$106,948

OTHER SPECIAL REVENUE FUNDS TOTAL	\$80,376	\$106,948
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Medicaid Services - Developmental Services 0705

Initiative: Allocates funds for increased costs resulting from the increase in the residential treatment facilities assessment.

FEDERAL EXPENDITURES FUND	2011-12	2012-13
All Other	\$80,376	\$106,948
FEDERAL EXPENDITURES FUND TOTAL	\$80,376	\$106,948
OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
All Other	\$46,400	\$62,086
OTHER SPECIAL REVENUE FUNDS TOTAL	\$46,400	\$62,086

Nursing Facilities 0148

Initiative: Allocates funds for increased nursing facility costs resulting from the increase in the nursing facility tax.

FEDERAL EXPENDITURES FUND	2011-12	2012-13
All Other	\$1,400,717	\$1,863,793
FEDERAL EXPENDITURES FUND TOTAL	\$1,400,717	\$1,863,793
OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
All Other	\$517,514	\$692,470
OTHER SPECIAL REVENUE FUNDS TOTAL	\$517,514	\$692,470

Nursing Facilities 0148

Initiative: Allocates funds for cost-of-living increases to MaineCare reimbursement to nursing facilities and to medical and remedial private nonmedical institutions that are reimbursed room and board costs.

FEDERAL EXPENDITURES FUND	2011-12	2012-13
All Other	\$2,930,636	\$3,881,479

FEDERAL EXPENDITURES FUND TOTAL	\$2,930,636	\$3,881,479
OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
All Other	\$1,691,818	\$2,253,307
OTHER SPECIAL REVENUE FUNDS TOTAL	\$1,691,818	\$2,253,307
HEALTH AND HUMAN SERVICES, DEPARTMENT OF (FORMERLY DHS) DEPARTMENT TOTALS	2011-12	2012-13
FEDERAL EXPENDITURES FUND	\$4,550,959	\$6,036,445
OTHER SPECIAL REVENUE FUNDS	\$2,336,108	\$3,114,811
DEPARTMENT TOTAL - ALL FUNDS	\$6,887,067	\$9,151,256

See title page for effective date.

**CHAPTER 412
S.P. 436 - L.D. 1407**

**An Act To Establish the Maine
Wild Mushroom Harvesting
Certification Program**

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

Sec. 1. 5 MRSA §12004-I, sub-§47-H is enacted to read:

47-H.

Human Services: Public Health	Maine Wild Mushroom Harvesting Advisory Committee	Expenses Only	22 MRSA §2175
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Sec. 2. 22 MRSA §2175 is enacted to read:

§2175. Maine Wild Mushroom Harvesting Certification Program

1. Program established. The Maine Wild Mushroom Harvesting Certification Program is estab-

lished to ensure that properly trained persons harvest, broker and sell wild mushrooms in order to protect public health and the safety of the food supply. The program is administered by the Department of Health and Human Services for the purpose of establishing educational, training and certification requirements for persons who commercially harvest, broker and sell wild mushrooms in this State. The Commissioner of Health and Human Services shall certify persons duly qualified in the field of wild mushroom harvesting, brokering and selling in accordance with the recommendations of the Maine Wild Mushroom Harvesting Advisory Committee under subsection 5.

2. Certification of wild mushroom harvesters. The Commissioner of Health and Human Services, upon consultation with the Maine Wild Mushroom Harvesting Advisory Committee under subsection 5, shall certify persons, in accordance with the certification requirements developed by the committee pursuant to subsection 5, paragraph B, with appropriate mushroom harvesting, brokering and selling experience to sell, transfer or otherwise deliver wild mushrooms within the State. Certification is valid for a period not to exceed 5 years, unless the Department of Health and Human Services, by rule, establishes another certification period.

3. Refusal to certify; revocation of certification. The Department of Health and Human Services may decline to certify any person determined to lack appropriate experience or ability to safely harvest, broker or sell wild mushrooms, in accordance with recommendations of the Maine Wild Mushroom Harvesting Advisory Committee under subsection 5 and rules adopted by the Department of Health and Human Services pursuant to this section. The Department of Health and Human Services may revoke, in accordance with the Maine Administrative Procedure Act, the certification of any person in accordance with recommendations of the Maine Wild Mushroom Harvesting Advisory Committee and rules adopted by the Department of Health and Human Services pursuant to this section.

4. Registry. The Department of Health and Human Services shall maintain a registry of all applicants for certification and of all certificates issued by the Department of Health and Human Services under this section.

5. Maine Wild Mushroom Harvesting Advisory Committee. The Maine Wild Mushroom Harvesting Advisory Committee, as established in Title 5, section 12004-I, subsection 47-H, and referred to in this subsection as "the committee," is governed by the following provisions:

A. The committee consists of the following 12 members: