LAWS

OF THE

STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE

FIRST REGULAR SESSION
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TITLE 3, SECTION 163-A, SUBSECTION 4.

Augusta, Maine
2011

Sec. 1. Appropriations and allocations. The following appropriations and allocations are made.

DEVELOPMENT FOUNDATION, MAINE

Development Foundation 0198

Initiative: Provides ongoing funds to support the statewide Main Street programs administered by the Maine Downtown Center beginning in fiscal year 2012-13.

GENERAL FUND	2011-12	2012-13
All Other	$0	$25,000
GENERAL FUND TOTAL	$0	$25,000

See title page for effective date.

CHAPTER 460

S.P. 403 - L.D. 1300

An Act To Create a Consolidated Liquor License and Amend the Laws Governing Agency Liquor Stores

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

Sec. 1. 28-A MRSA §453-A, sub-§9 is enacted to read:

9. Exception. Notwithstanding section 453, subsection 2-C, paragraph A, the bureau may issue an agency liquor store license to an applicant that has not held a license to sell malt liquor and wine for off-premises consumption for one year if the applicant is a branch of a chain retailer of which one or more locations has held a license to sell spirits without violating the provisions of this Title and the applicant, if licensed, will enhance the revenue to the State from the sale of spirits.

Sec. 2. 28-A MRSA §1010-A is enacted to read:

§1010-A. Class VIII licenses

1. Types of liquor that may be sold. A Class VIII licensee may sell malt liquor, wine and spirits to be consumed off the premises where sold.

2. Fees. The fees for a Class VIII license are as follows:

A. Full-time, one year, after payment of the initial agency liquor store license fee under section 453-B, $775. The license may be prorated; and

B. A Class VIII license is not subject to the renewal fee under section 453-B.

3. Eligible premises. The following premises are eligible to obtain a Class VIII license:

A. Agency liquor store licensees with a qualifying stock of groceries, compatible merchandise or a combination of both.

Sec. 3. 28-A MRSA §1013 is enacted to read:

§1013. Underage drinking prevention

Beginning January 1, 2012, the bureau shall pay $75 from each license fee collected under section 1010-A to the Treasurer of State to be credited to the Department of Health and Human Services, Office of Substance Abuse for the purpose of prevention of consumption of liquor by minors.

Sec. 4. Appropriations and allocations. The following appropriations and allocations are made.

HEALTH AND HUMAN SERVICES, DEPARTMENT OF (FORMERLY BDS)

Office of Substance Abuse 0679

Initiative: Allocates funds for underage drinking prevention programs.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
All Other	$750	$750
OTHER SPECIAL REVENUE FUNDS TOTAL	$750	$750

See title page for effective date.

CHAPTER 461

H.P. 530 - L.D. 719

An Act To Make Certain Prescription Drug Disclosure Laws Consistent with Federal Law

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

Sec. 1. 22 MRSA §1711-E, sub-§1-B, ¶C, as enacted by PL 2007, c. 460, §1, is amended to read:

C. The provisions of this section are narrowly and carefully tailored to address the findings listed in subsection 1-A, to achieve the State's purposes listed in this subsection and in conjunction with the following efforts to advance the State's compelling interests:

(1) Prior authorization and drug utilization review in the MaineCare program under section 3174-M;

~~(2) Reporting of a broad array of prescription drug marketing costs under section 2698-A and subsequent reporting by the department to the Legislature and the Attorney General;~~

~~(3) Prescription drug price disclosure under section 2698-B;~~

(4) Generic and therapeutically equivalent substitution of prescription drugs under Title 32, section 13781; and

(5) Protection of patient prescription drug information held by health care practitioners under section 1711-C.

Sec. 2. 22 MRSA §2685, sub-§5, as enacted by PL 2007, c. 327, §1, is amended to read:

5. Funding. The program may be funded from the General Fund, from federal funds and from other special revenue funds. ~~One half of the funds collected under section 2700-A, subsection 4 annually must be allocated to the costs of the program.~~ 'Beginning April 1, 2012 each manufacturer of prescription drugs that are provided to Maine residents through the MaineCare program or the elderly low-cost drug program shall pay a fee of $500 per calendar year to the department to provide funding for the program. The program may accept funds from nongovernmental health access foundations, the Tobacco Manufacturers Act under chapter 263, subchapter 3, undesignated funds associated with pharmaceutical marketing and pricing practices acquired through litigation or action of the Office of the Attorney General and fees from subscriptions, contracts and agreements with private payors as established by rule. Savings achieved as a result of the program may be retained for operation of the program or paid into the General Fund, at the option of the department.

Sec. 3. 22 MRSA §2698-A, as amended by PL 2005, c. 286, §§1 and 2, is repealed.

Sec. 4. 22 MRSA §2698-B, as amended by PL 2005, c. 402, §§1 to 4, is repealed.

Sec. 5. 22 MRSA §2700-A, as amended by PL 2007, c. 327, §§2 and 3 and c. 362, §§1 and 2, is further amended to read:

§2700-A. Prohibitions

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

~~A. "Clinical trial" means a clinical investigation as defined by the federal Food and Drug Administration that involves any trial to test the safety or efficacy of a drug or biological product with one or more human subjects and that is intended to be submitted to, or held for inspection by, the federal Food and Drug Administration as part of an application for a research or marketing permit.~~

B. "Manufacturer of prescription drugs" or "manufacturer" means a manufacturer of prescription drugs or biological products or an affiliate of the manufacturer or a labeler that receives prescription drugs or biological products from a manufacturer or wholesaler and repackages those drugs or biological products for later retail sale and that has a labeler code from the federal Food and Drug Administration under 21 Code of Federal Regulations, 2027.20 (1999).

B-1. "Prescriber" means a person who is licensed, registered or otherwise authorized in the appropriate jurisdiction to prescribe and administer drugs in the course of professional practice.

C. "Regulated advertisement" means the presentation to the general public of a commercial message regarding a prescription drug or biological product by a manufacturer of prescription drugs that is:

(1) Broadcast on television or radio from a station that is physically located in the State;

(2) Broadcast over the Internet from a location in the State; or

(3) Printed in magazines or newspapers that are printed, distributed or sold in the State.

2. Regulated advertisement requirement. Beginning October 15, 2005, a manufacturer may not present or cause to be presented in the State a regulated advertisement, unless that advertisement meets the requirements concerning misbranded drugs and devices and prescription drug advertising of federal law and regulations under 21 United States Code, Sections 331 and 352(n) and 21 Code of Federal Regulations, Part 202 and state rules.

2-A. Software prohibition. Beginning January 1, 2008, a person may not sell or distribute in the State computer software that influences or attempts to influence a prescribing decision of a prescriber to prescribe a certain drug or that directs a patient to a certain pharmacy. Features of computer software that are prohibited include, but are not limited to, pop-up and other advertisements, instant messages and economic incentives that are triggered by or in specific response to a selection, act or other input or designation of pharmacy by the prescriber or an agent of the prescriber. This subsection does not apply to in-house equipment provided within a hospital for use by prescribers and the hospital pharmacy or to information provided to a prescriber about prescription drug formulary compliance, patient care management or pharmacy reimbursement.

~~**3. Disclosure of clinical trials of prescription drugs.** Beginning October 15, 2005, a manufacturer or labeler of prescription drugs that is required to report marketing costs for prescription drugs pursuant to section 2698-A shall post, with regard to those prescription drugs, on the publicly accessible Internet website of the federal National Institutes of Health or its successor agency or another publicly accessible website the following information concerning any clinical trial that the manufacturer conducted or sponsored on or after October 15, 2002:~~

~~A. The name of the entity that conducted or is conducting the clinical trial;~~

~~B. A summary of the purpose of the clinical trial;~~

~~C. The dates during which the trial has taken place; and~~

~~D. Information concerning the results of the clinical trial, including potential or actual adverse effects of the drug.~~

~~In order to satisfy the requirements of this subsection, the publicly accessible website and manner of posting must be acceptable to the department.~~

~~**4. Fees.** Beginning April 1, 2006, each manufacturer of prescription drugs that are provided to Maine residents through the MaineCare program under section 3174-G or the elderly low-cost drug program under section 254-D shall pay a fee of $1,000 per calendar year to the State. Fees collected under this subsection must be used to cover the cost of overseeing implementation of this section, including but not limited to maintaining links to publicly accessible websites to which manufacturers are posting clinical trial information under subsection 3 and other relevant sites, assessing whether and the extent to which Maine residents have been harmed by the use of a particular drug and undertaking the public education initiative under subsection 5 and the prescription drug academic detailing program under section 2685. One-half of the annual revenues from this subsection must be allocated to and used for the academic detailing program under section 2685. Revenues received under this subsection, with the exception of funding designated for the academic detailing program under section 2685, must be deposited into an Other Special Revenue Funds account to be used for the purposes of this subsection.~~

~~**5. Public education initiative.** The department shall undertake a public education initiative to inform residents of the State about clinical trials and drug safety information and shall coordinate the public education program with the prescription drug academic detailing program under section 2685.~~

~~**6. Penalties.** A violation of this section is a violation of the Maine Unfair Trade Practices Act. Each day a manufacturer is in violation of this chapter is considered a separate violation.~~

~~**7. Rulemaking.** The department may adopt rules to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.~~

Sec. 6. Appropriations and allocations. The following appropriations and allocations are made.

HEALTH AND HUMAN SERVICES, DEPARTMENT OF (FORMERLY DHS)

Bureau of Medical Services 0129

Initiative: Reduces funding as a result of reductions in the drug trial and drug marketing programs and fees, partially offset by the restoration of a $500 fee for the drug academic detailing program.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
All Other	($223,000)	($223,000)
OTHER SPECIAL REVENUE FUNDS TOTAL	($223,000)	($223,000)

See title page for effective date.

CHAPTER 462

H.P. 681 - L.D. 921

An Act To Clarify the Collection Process for the Commercial Forestry Excise Tax

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

Sec. 1. 36 MRSA §2726, sub-§4, as enacted by PL 1985, c. 514, §2, is amended to read:

4. Supplemental assessments. Supplemental assessments may be made in accordance with section 141-, subsection 1, except that the following limitations apply:

A. If a landowner who has failed to file a return under this chapter signs and files with the assessor an affidavit stating that the landowner did not know of the requirement to file a return under this chapter, a supplemental assessment may be made only for the 3 preceding years. Interest and penalties must be waived or abated if the tax is paid within 30 days after receipt of notice of the supplemental assessment as provided in a manner prescribed in section 111, subsection 2; and