

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE

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September 27, 2011

SECOND REGULAR SESSION
January 4, 2012 to May 31, 2012

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

Augusta, Maine
2012

"WARNING

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The message on the sign must be in black letters at least one inch in height and the sign or signs must be placed in a clearly visible location on or near the places where the agritourism professional conducts agritourism activities.

See title page for effective date.

CHAPTER 610**S.P. 601 - L.D. 1753****An Act To Improve
Transportation in the State**

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

PART A

Sec. A-1. 6 MRSA c. 4, as amended, is repealed.

Sec. A-2. 6 MRSA §102, sub-§2, ¶A, as enacted by PL 1977, c. 678, §33, is amended to read:

A. All aircarrier and commuter aircarrier airports, ~~as defined under chapter 4,~~ shall designate a person generally available who ~~shall have~~ has administrative responsibility for operation and management of the airport. All general aviation commercial airports, as defined under chapter 6, shall have at least a part-time airport manager.

Sec. A-3. 6 MRSA §102, sub-§2, ¶C, as enacted by PL 2007, c. 76, §1, is repealed.

Sec. A-4. 6 MRSA §202, sub-§5, as repealed and replaced by PL 1977, c. 678, §41 and amended by PL 1995, c. 504, Pt. B, §10, is repealed.

Sec. A-5. 6 MRSA §202, sub-§7, as amended by PL 1977, c. 678, §43, is repealed.

Sec. A-6. 6 MRSA c. 15, as amended, is repealed.

Sec. A-7. 36 MRSA §1482, sub-§1, ¶A, as amended by PL 2007, c. 627, §31, is further amended to read:

A. For the privilege of operating an aircraft within the State, each heavier-than-air aircraft or lighter-than-air aircraft operated in this State that

is owned or controlled by a resident of this State is subject to an excise tax computed as follows: 9 mills on each dollar of the maker's average equipped price for the first or current year of model; 7 mills for the 2nd year; 5 mills for the 3rd year; 4 mills for the 4th year; and 3 mills for the 5th and succeeding years. The minimum tax is \$10. Nonresidents of this State who operate aircraft within this State for compensation or hire ~~and are required to register under Title 6~~ must pay 1/12 of the tax amount computed as required in this paragraph for each calendar month or fraction thereof that the aircraft remains in the State.

Sec. A-8. 36 MRSA §1484, sub-§1, as amended by PL 2007, c. 627, §33, is further amended to read:

1. Aircraft. The excise tax on an aircraft must be paid to the ~~Department of Transportation. The Department of Transportation shall distribute the receipts from each excise tax payment to the~~ municipality where the aircraft is based except as follows.

A. If the aircraft is based at an airport owned by a county, the excise tax payments must be ~~distrib-~~ uted paid to that county.

B. If the aircraft is based at the Augusta State Airport, the excise tax payments must be ~~retained by the Department of Transportation paid to the~~ City of Augusta.

For the purposes of this subsection, an aircraft is deemed to be based at the location in the State where it has been hangared, parked, tied down or moored the most nights during the 30-day period of active flying preceding payment of the excise tax. If the aircraft has not been hangared, parked, tied down or moored at a location in the State during the 30-day period of active flying preceding payment, then the aircraft is deemed to be based at the location in the State where it will be hangared, parked, tied down or moored the most nights during the 30-day period of active flying next following payment of the excise tax.

Sec. A-9. 36 MRSA §1486, first ¶, as amended by PL 1995, c. 65, Pt. A, §139 and affected by §153 and Pt. C, §15, is further amended to read:

No vehicle may be registered under Title 29-A ~~or Title 6~~ until the excise tax or personal property tax or real estate tax has been paid in accordance with sections 1482 and 1484.

PART B

Sec. B-1. 23 MRSA §73, sub-§6, as enacted by PL 2007, c. 470, Pt. B, §1, is repealed.

Sec. B-2. 23 MRSA §73, sub-§7 is enacted to read:

7. Priorities, service levels, capital goals and reporting. The Department of Transportation shall

classify the State's public highways as Priority 1 to Priority 6 corridors using factors such as the federal functional classification system, regional economic significance, heavy haul truck use and relative regional traffic volumes. The department shall also establish customer service levels related to safety, condition and serviceability appropriate to the priority of the highway, resulting in a system that grades each highway as Excellent, Good, Fair, Poor or Unacceptable.

To provide a capital transportation program that is geographically balanced and that addresses urban and rural needs, the department shall include the following goals as part of its capital improvement plans and program delivery. The goals are to:

A. By 2022, improve all Priority 1 and Priority 2 corridors so that their safety, condition and serviceability customer service level equals Fair or better;

B. By 2027, improve all Priority 3 corridors so that their safety, condition and serviceability customer service level equals Fair or better;

C. By 2017, implement a pavement program for all Priority 4 corridors that maintains their ride quality customer service level at Fair or better;

D. Continue the light capital paving program on a 7-year cycle for Priority 5 corridors outside compact areas as defined in section 754; and

E. By 2015, develop and implement a similar asset priority and customer service level system of measurement for all major freight and passenger transportation assets owned or supported by the department, including capital goals.

The department shall report to the joint standing committee of the Legislature having jurisdiction over transportation matters by March 1st of each odd-numbered year quantifying progress realized and time that has elapsed since the goals were established. The department shall recommend any remedial actions, including additional funding or revisions to the goals, that the department determines to be necessary or appropriate.

Sec. B-3. 30-A MRSA §6006-G, sub-§1, as enacted by PL 2007, c. 470, Pt. D, §1, is amended to read:

1. Establishment; purposes. The TransCap Trust Fund, referred to in this section as "the fund," is established in the custody of the bank to provide transportation capital investment for the Department of Transportation and municipalities in accordance with this section. The purpose of the fund is to provide financial assistance for the planning, design, acquisition, reconstruction and rehabilitation of transportation capital improvements of all modes including improvements that will forward the capital goals set forth in Title 23, section 73, subsection 6 7.

Sec. B-4. 30-A MRSA §6006-G, sub-§4, ~~¶B~~, as enacted by PL 2007, c. 470, Pt. D, §1, is amended to read:

B. To guarantee or insure, directly or indirectly, the payment of notes or bonds issued or to be issued by the State for the purpose of financing capital improvements that will forward the capital goals set forth in Title 23, section 73, subsection 6 7;

PART C

Sec. C-1. 23 MRSA §1201, sub-§16-A, as repealed and replaced by PL 1983, c. 323, is repealed.

PART D

Sec. D-1. Legislative findings regarding Portsmouth-Kittery bridges. The Legislature makes the following findings.

1. Three bridges over the Piscataqua River connect Kittery, Maine with Portsmouth, New Hampshire: the Interstate 95 High Level Bridge, also known as the Piscataqua River Bridge; the Sarah Mildred Long Bridge, also known as the Long Bridge; and the Memorial Bridge.

A. The Piscataqua River Bridge, designated by the Department of Transportation as Bridge Number 6330, is a high-level, steel through truss with shared truss spans 1,334 feet long with 6 vehicle lanes. Completed in 1972, the Piscataqua River Bridge is the primary economic connection between Maine and New Hampshire, carrying approximately 75% of the traffic carried by all 3 bridges. The Piscataqua River Bridge is critical to the viability of the Maine Turnpike specifically and interstate commerce generally.

B. The Long Bridge, designated by the Department of Transportation as Bridge Number 3641, is a steel vertical lift bridge with deck truss, roadway, rail and approaches having a total span of approximately 2,800 feet. Completed in 1940, the Long Bridge carries the 2 vehicle lanes of the U.S. Route 1 bypass and serves as a critical backup route in the event of a disruption of service on the Piscataqua River Bridge. The Long Bridge carries the rail line used by the naval shipyard in Kittery and services heavy truck transit to and from the commercial service stations along the U.S. Route 1 bypass. Structural deterioration of the Long Bridge has resulted in limiting vehicle weight to 20 tons. The Long Bridge has a remaining life expectancy of 4 to 6 years.

C. The Memorial Bridge, designated by the Department of Transportation as Bridge Number 2546, is a steel vertical lift bridge with through truss approaches having a total truss span length of about 900 feet. Completed in 1923, the Memorial Bridge carries the 2 vehicle lanes of U.S.

Route 1 and links the thriving business, social, religious and arts communities of Kittery, Maine and Portsmouth, New Hampshire. The Memorial Bridge provides the only bicycle and pedestrian crossing over the Piscataqua River between Kittery and Portsmouth. Due to structural deterioration, the Memorial Bridge has been closed to vehicular traffic since July of 2011 and is currently undergoing replacement.

2. The capital improvement, maintenance and operations of these 3 bridges represent a significant financial challenge for the State of Maine and will affect the ability of the State to improve highways and bridges statewide.

3. In terms of importance to the economic well-being of the State of Maine, the Piscataqua River Bridge is first in priority, followed by the Long Bridge, followed by the Memorial Bridge, as the Memorial Bridge serves more local interests.

4. In the fall of 2010, a multi-year study of all connections between Kittery, Maine and Portsmouth, New Hampshire found, among other things, that 10 vehicle lanes crossing the Piscataqua River will be needed in 2035 based upon assumed growth rates in the Portsmouth-Kittery area. The study also found that all 3 bridge crossings are needed to serve all modes of transportation. During the study, various options were considered, including replacement of the Long Bridge as proposed by the Maine Department of Transportation and replacement of the Memorial Bridge and rehabilitation of the Long Bridge as proposed by the New Hampshire Department of Transportation.

5. On October 4, 2010, the Governor of Maine and the Governor of New Hampshire issued concurrent executive orders, Maine Executive Order number 04 FY11/12 and New Hampshire Executive Order number 2010-4, respectively, to create the Bi-State Bridge Funding Task Force. In order to seek a cooperative, comprehensive, sustainable, cost-effective and long-term solution that addresses all 3 bridges, the executive orders established a 6-member task force with 3 members from Maine and 3 members from New Hampshire. Members included the commissioners of transportation from both states and the chair of the Maine Turnpike Authority.

6. In a report dated December 15, 2010, the Bi-State Bridge Funding Task Force recommended: funding a \$90,000,000 replacement of the Memorial Bridge to commence in 2011; funding a \$110,000,000 rehabilitation of the Long Bridge to commence in 2016; revitalizing the Interstate Bridge Authority; and creating a sinking fund to be supported equally by Maine and New Hampshire, with the Maine Turnpike Authority assisting with the Maine share. The sinking fund would be managed by the Interstate Bridge Authority and would finance the operation, capital repair

and rehabilitation of the Piscataqua River Bridge and the Long Bridge.

7. In accordance with the Bi-State Bridge Funding Task Force report, Maine and New Hampshire entered into a memorandum of agreement regarding the 3 bridges on March 1, 2011. The purpose of the agreement was to: establish a cooperative, long-term understanding between Maine and New Hampshire regarding the 3 bridges; memorialize and forward the task force recommendations; determine respective responsibilities; secure a federal Transportation Investment Generating Economic Recovery grant for the Memorial Bridge project; and define and limit overall financial obligations of both states with respect to the 3 bridges.

8. The memorandum of agreement called for New Hampshire to be the lead on a \$90,000,000 replacement of the Memorial Bridge with construction to commence in 2011, Maine to be the lead on a \$110,000,000 rehabilitation of the Long Bridge with construction to commence in 2014 and the revitalized Interstate Bridge Authority to provide management of and sustainable funding for the Piscataqua River Bridge and the Long Bridge.

9. In accordance with the memorandum of agreement, on August 12, 2011, the Maine Department of Transportation executed a \$5,700,000 design contract for the rehabilitation of the Long Bridge. Approximately \$1,000,000 has been expended under this contract as of March 1, 2012. Based upon this work, including more detailed inspections, it has been determined by the department that the Long Bridge can be rehabilitated in accordance with the scope established in the memorandum of agreement.

10. The contract for the Memorial Bridge replacement received final approval by New Hampshire officials on December 14, 2011. Demolition of the Memorial Bridge has begun.

11. Concerns regarding maritime users and related future economic effects recently have risen to prominence for New Hampshire. New Hampshire Department of Transportation officials have stated that the scope of the rehabilitation of the Long Bridge described in the March 1, 2011 agreement is not acceptable and have requested that the Maine Department of Transportation investigate the cost of options to widen the navigational opening. These options include moving a lift span tower or replacing the entire bridge. Any of the options are beyond the scope of the rehabilitation described in the March 1, 2011 agreement and will cost tens of millions of additional dollars and likely delay start of construction to at least 2015.

12. On March 6, 2012, the New Hampshire Legislature's House Public Works and Highways Committee unanimously voted in favor of an amendment that provides that New Hampshire's share of the cost of

rehabilitating or reconstructing the Long Bridge over the Piscataqua River between Portsmouth, New Hampshire and Kittery, Maine is contingent upon the center lift span being of sufficient length to allow safe passage of the upcoming generation of cargo vessels to ensure the economic well-being of the Port of Portsmouth and the businesses utilizing this important shipping lane.

13. This shift in policy by New Hampshire officials represents a substantial change to the scope of work described in the March 1, 2011 memorandum of agreement, which will require reevaluation of costs and schedules and the likely renegotiation, revision or replacement of the memorandum of agreement.

14. The timely delivery of a new or rehabilitated Long Bridge is critical to Maine. The New Hampshire Department of Transportation lists the Long Bridge at the top of its "red list" of bridges in poor condition, indicating that the Long Bridge remains a top priority for New Hampshire as well.

15. At this time, the Maine Legislature cannot discern any significant economic benefit to the State from a wider navigational opening, but understands that New Hampshire policymakers now desire to improve maritime safety and ensure the economic well-being of the portion of the Port of Portsmouth located upriver of the Long Bridge.

16. The Maine Legislature desires to give policy direction that governs future renegotiation, agreements and possible future legislation to be proposed.

Sec. D-2. Revised agreement regarding 3 Portsmouth-Kittery bridges. Any revised or new agreement with New Hampshire regarding any or all of the 3 bridges referenced in section 1 must provide that the financial liability of the State of Maine will not be substantially greater than its liability under the terms of the March 1, 2011 memorandum of agreement. The financial liability of the Maine Turnpike Authority may not be substantially greater than its liability under the terms of the March 1, 2011 memorandum of agreement or the recommendations of the December 15, 2011 Bi-State Bridge Funding Task Force report.

Sec. D-3. Reestablishment of Maine-New Hampshire Interstate Bridge Authority; Maine Turnpike Authority transfer. The Department of Transportation shall develop proposed legislation to reestablish the Maine-New Hampshire Interstate Bridge Authority and implement the recommendations of the Bi-State Bridge Funding Task Force. The proposed legislation must authorize the Department of Transportation to transfer to the Maine Turnpike Authority the southerly 1.9 miles of Interstate 95 located in Kittery from a point near Spruce Creek to a point near the abutment of the Interstate 95 Piscataqua River Bridge and to use the proceeds of the

transfer for the Long Bridge project. The proposed legislation must include membership of a Maine Turnpike Authority official on the Interstate Bridge Authority and a sinking fund to be managed by the Interstate Bridge Authority for the maintenance, operation and capital improvement of the Piscataqua River Bridge and the Long Bridge as described in section 1.

Sec. D-4. Report and legislation. The Department of Transportation shall submit the proposed legislation developed pursuant to section 3 to the joint standing committee of the Legislature having jurisdiction over transportation matters no later than December 16, 2012. Following receipt and review of the proposed legislation, the joint standing committee may submit legislation to the First Regular Session of the 126th Legislature concerning the proposed legislation.

PART E

Sec. E-1. Bridge named. The Department of Transportation shall designate Bridge 3009 over the West Branch of the Penobscot River in the Town of Medway the Nicatou Bridge.

See title page for effective date.

CHAPTER 611

H.P. 1243 - L.D. 1691

An Act Related to Specialty Tiers in Prescription Medication Pricing

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

Sec. 1. 24-A MRS §4317-A is enacted to read:

§4317-A. Prescription drug coverage; out-of-pocket expenses for coinsurance

1. Out-of-pocket expenses for coinsurance within health plan's total limit. If a carrier that provides coverage for prescription drugs does not include prescription drugs subject to coinsurance under the total out-of-pocket limit for all benefits provided under a health plan, the carrier shall establish a separate out-of-pocket limit not to exceed \$3,500 per year for prescription drugs subject to coinsurance provided under a health plan to the extent not inconsistent with the federal Affordable Care Act.

2. Adjustment of out-of-pocket limits. A carrier may adjust an out-of-pocket limit, as long as any limit for prescription drugs for coinsurance does not exceed \$3,500, to minimize any premium increase that might otherwise result from the requirements of this section. Any adjustment made by a carrier pursuant to this subsection is considered a minor modification under section 2850-B.