

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-SIXTH LEGISLATURE

FIRST REGULAR SESSION
December 5, 2012 to July 10, 2013

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
OCTOBER 9, 2013

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

Augusta, Maine
2013

Sec. 2. Report. Resolved: That the Department of Agriculture, Conservation and Forestry and the University of Maine Cooperative Extension shall jointly submit a report, including findings and recommendations, on the pilot program designed under section 1 to the Joint Standing Committee on Education and Cultural Affairs no later than January 10, 2014. The joint standing committee may report out a bill related to the report to the Second Regular Session of the 126th Legislature.

See title page for effective date.

**CHAPTER 70
H.P. 828 - L.D. 1184**

**Resolve, Requiring
Rulemaking Regarding Special
Education Requirements and
Review of School
Administrative Units That Do
Not Operate Any Schools**

Sec. 1. Department of Education to adopt rules. Resolved: That the Department of Education shall amend its rules governing special education to establish a process for the department to review sending school units with respect to children with disabilities who reside within the sending school units who attend receiving schools. As used in this resolve, "sending school unit" means a school administrative unit that does not own, lease or otherwise operate any school. As used in this resolve, "receiving school" means a school administrative unit or private school that receives students from a sending school unit. The process must include:

1. A requirement that the department contact the superintendent of the sending school unit under review to request a list of students with disabilities and the receiving school each student attends;
2. A requirement that the department request the receiving school to submit information to the department in connection with the students who are from the sending school unit that is under review. The information must include, but is not limited to, individualized education programs, written notices, advanced written notices and evaluations. The rules must require the receiving school to submit the information requested by the department;
3. A method for the department to audit the information submitted by the receiving school and a procedure for the department to issue letters of findings and corrective action plans to the superintendent of the sending school unit. The rules must also include a requirement that the department send copies of letters of findings and corrective action plans to the

person in charge of special services for the receiving school;

4. A requirement that the sending school unit under review submit letters to the department indicating the sending school unit has authorized the receiving school to commit resources on behalf of the sending school unit and in furtherance of the sending school unit's policies for child find and referral as set forth in federal law; and

5. A requirement that the sending school unit under review recognize its responsibility for providing free appropriate public education and confirmation from the sending school unit that it will work with the receiving school to correct any findings outlined in letters of findings and corrective action plans.

Rules adopted pursuant to this section are major substantive rules as defined in the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A.

See title page for effective date.

**CHAPTER 71
S.P. 509 - L.D. 1415**

**Resolve, To Amend the Rules
Governing Events at Clubs
with a License To Sell Alcohol
for On-premises Consumption
with Catering Privileges**

Sec. 1. Department of Public Safety to amend rules governing events at clubs licensed for on-premises consumption of alcohol. Resolved: That the Department of Public Safety shall amend its rules to allow a group holding an event at a club licensed for on-premises consumption of alcohol with catering privileges to sell tickets at the door to members of that group at the time of the event as long as the membership can be verified. The rules must include a requirement that the licensee submit semi-annual reports listing all events held by groups at the licensed club, the number of group members who attended each event and how many tickets to each event were sold in advance; and be it further

Sec. 2. Events held at clubs licensed for on-premises consumption of alcohol; report. Resolved: That, by February 1, 2015, the division within the Department of Public Safety designated by the Commissioner of Public Safety to enforce the law relating to the manufacture, importation, storage, transportation and sale of all liquor and to administer those laws relating to licensing and collection of taxes on malt liquor and wine shall submit a report to the joint standing committee of the Legislature having jurisdiction over alcohol matters regarding reports received from clubs licensed for on-premises con-

sumption of alcohol with catering privileges submitted as required by rule and information about any enforcement or compliance issues related to events held by groups at these licensed clubs.

See title page for effective date.

CHAPTER 72

H.P. 833 - L.D. 1189

Resolve, Regarding Implementation of Cost-of-living Increases for Nursing Facilities

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, Public Law 2011, chapter 411 requires that funds received from an increased provider tax be applied to provide cost-of-living reimbursement to nursing homes and to medical and remedial private nonmedical institutions in accordance with rules adopted by the Department of Health and Human Services; and

Whereas, this legislation specifies that for the first year such an adjustment is made, reimbursement may be made to facilities that provided a cost-of-living increase to its frontline employees in certain prior years; and

Whereas, in order to ensure this legislation is enacted in sufficient time to apply to the first year such an adjustment is made, it must be enacted as an emergency measure; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore, be it

Sec. 1. Cost-of-living adjustment rules for fiscal year ending 2012. Resolved: That the Department of Health and Human Services shall amend its rules regarding the cost-of-living adjustment required pursuant to the Maine Revised Statutes, Title 22, section 1708, subsection 3, paragraph E as provided in this section. The rules must contain an annual inflation adjustment that, with regard to the cost-of-living adjustment for a nursing facility for its fiscal year ending in 2012, if the nursing facility would receive a downward adjustment in its otherwise applicable cost-of-living adjustment effective October 1, 2011 as a result of a finding by the department that it did not provide a wage increase to frontline employees as required by rule. The rules must provide for full pay-

ment if the nursing facility demonstrates to the satisfaction of the department by its first fiscal year ending after July 1, 2013 that the facility granted an equivalent wage increase since the previous cost-of-living adjustment. This section applies only to the extent approved by the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services. Notwithstanding any provision of law to the contrary, the rules may be adopted on an emergency basis. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

Effective June 28, 2013.

CHAPTER 73

H.P. 552 - L.D. 801

Resolve, To Extend the Deadline for the Department of Health and Human Services To Submit a Report on Persons with Intellectual Disabilities or Autism

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the Maine Revised Statutes, Title 34-B, section 5003-A, subsection 3 requires the Department of Health and Human Services to submit the 2013 system of care plan for persons with intellectual disabilities or autism; and

Whereas, the plan must be prepared once every 2 years no later than January 15th; and

Whereas, the Department of Health and Human Services needs additional time to fulfill the requirements of the Maine Revised Statutes, Title 34-B, section 5003-A, subsection 3; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore, be it

Sec. 1. Date extension. Resolved: That the deadline for the Department of Health and Human Services to submit its 2013 system of care plan for persons with intellectual disabilities or autism as described in the Maine Revised Statutes, Title 34-B, sec-