

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-EIGHTH LEGISLATURE

SECOND SPECIAL SESSION
June 19, 2018 to September 13, 2018

THE GENERAL EFFECTIVE DATE FOR
SECOND SPECIAL SESSION
NON-EMERGENCY LAWS IS
DECEMBER 13, 2018

ONE HUNDRED AND TWENTY-NINTH LEGISLATURE

FIRST REGULAR SESSION
December 5, 2018 to June 20, 2019

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 19, 2019

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

Augusta, Maine
2019

Whereas, the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A requires legislative authorization before major substantive agency rules may be finally adopted by the agency; and

Whereas, a major substantive rule has been submitted to the Legislature outside the legislative rule acceptance period; and

Whereas, immediate enactment of this resolve is necessary to record the Legislature's position on final adoption of the rule; 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. Adoption. Resolved: That final adoption of portions of Chapter 101: MaineCare Benefits Manual, Chapter III, Section 97: Private Non-Medical Institution Services and Appendices B, C, D, E and F, a provisionally adopted major substantive rule of the Department of Health and Human Services that has been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A outside the legislative rule acceptance period, is authorized.

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

Effective May 30, 2019.

CHAPTER 40
H.P. 1211 - L.D. 1696

Resolve, Regarding Legislative Review of Portions of Chapter 101: MaineCare Benefits Manual, Chapter III, Section 28: Allowances for Rehabilitative and Community Support Services for Children with Cognitive Impairments and Functional Limitations, a Late-filed Major Substantive Rule of the Department of Health and Human Services

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 5, chapter 375, subchapter 2-A requires legislative au-

thorization before major substantive agency rules may be finally adopted by the agency; and

Whereas, a major substantive rule has been submitted to the Legislature outside the legislative rule acceptance period; and

Whereas, immediate enactment of this resolve is necessary to record the Legislature's position on final adoption of the rule; 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. Adoption. Resolved: That final adoption of portions of Chapter 101: MaineCare Benefits Manual, Chapter III, Section 28: Allowances for Rehabilitative and Community Support Services for Children with Cognitive Impairments and Functional Limitations, a provisionally adopted major substantive rule of the Department of Health and Human Services that has been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A outside the legislative rule acceptance period, is authorized.

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

Effective May 30, 2019.

CHAPTER 41
H.P. 570 - L.D. 765

Resolve, To Review Asset Limits for Social Service Programs

Sec. 1. Department of Health and Human Services to examine asset limits. Resolved: That the Department of Health and Human Services shall convene a stakeholder group to examine the asset limits for eligibility that are applied to the elderly low-cost drug program pursuant to the Maine Revised Statutes, Title 22, section 254-D, the Medicare savings program established in department Rule Chapter 332, the Temporary Assistance for Needy Families program under Title 22, chapter 1053-B and the statewide food supplement program established in Title 22, section 3104 and under department Rule Chapter 301. The department and stakeholder group shall examine asset limits to determine if they meet the appropriate missions of the programs or present barriers and shall determine compliance with federal laws and guidelines. The department shall submit a report, no later than December 1, 2019, to the Joint Standing Committee on

Health and Human Services with its findings, legislative recommendations and any rulemaking activities related to asset limits. The committee is authorized to report out legislation relating to the report in the Second Regular Session of the 129th Legislature.

See title page for effective date.

CHAPTER 42

H.P. 1041 - L.D. 1431

Resolve, To Support Municipal Recycling Programs

Sec. 1. Development of product stewardship law for packaging. Resolved: That the Department of Environmental Protection shall develop legislation establishing an extended producer responsibility law for packaging in the State. The proposed legislation must, to the greatest extent practicable, adhere to the product stewardship framework law established in the Maine Revised Statutes, Title 38, chapter 18 and must include, but is not limited to:

1. A definition of "packaging" that covers, at a minimum, materials used to wrap or protect consumer goods, including food and personal care products, and containers and packaging used in the shipping, storage, protection and marketing of consumer products;

2. A definition of "producer" that clearly identifies the person ultimately financially responsible;

3. Exemptions for small producers and for product packaging that is already covered under Maine's beverage container redemption law;

4. An allowance for producers to voluntarily participate in the program if not required by the law;

5. Provisions for the establishment of a nonprofit stewardship organization of producers of packaging to support the State's municipal solid waste management programs. The agreement establishing the stewardship organization must require producers to:

A. Cover at least 80% of the cost of recycling packaging material sold in the State that is not readily recyclable;

B. Provide per capita reimbursement payments to municipalities for nonrecyclable packaging to help municipalities cover the cost of packaging needing disposal; and

C. Invest in waste reduction and recycling education and infrastructure;

6. A requirement that the stewardship organization establish an equitable funding scheme among covered producers that encourages better packaging design in which:

A. Producers pay higher fees for packaging materials sold into the market that are not readily recyclable, are made of multiple materials or are toxic, in order to discourage the creation of materials needing disposal; and

B. Producers pay lower fees for packaging materials sold into the market that are of higher value reusable components and that contain higher percentages of recycled content to ensure that the stewardship program supports a strong recycling economy;

7. A description of the preferred methods to be used for regular data collection and reporting and recycling rate and contamination calculations in order that:

A. There is transparency and accountability in assessing the success of the program;

B. The costs of collecting and reporting data are paid for by the stewardship organization; and

C. There is consistency with internationally accepted standards and there is sufficient information to evaluate the effectiveness of the program;

8. Creation of incentives for municipalities and producers to reach predetermined performance goals based on reporting and data collection as described in subsection 7; and

9. Establishment of a method by which producers can protect themselves against producers that fail to register with a program. These methods may include private right of action, requirements that online retailers of packaging be responsible for paying into a fund in support of the program if the products they sell are from producers who are not part of the stewardship program or other strategies that ensure fairness and full compliance.

Sec. 2. Proposed legislation. Resolved: That the Department of Environmental Protection shall submit proposed legislation pursuant to section 1 to the Joint Standing Committee on Environment and Natural Resources no later than December 16, 2019. The joint standing committee is authorized to report out a bill relating to the proposal to the Second Regular Session of the 129th Legislature.

See title page for effective date.
