

# MAINE STATE LEGISLATURE

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**STATE OF MAINE  
119TH LEGISLATURE**

**FIRST REGULAR SESSION**

**BILL SUMMARIES  
JOINT STANDING COMMITTEE  
ON  
JUDICIARY**

**JULY 1999**

**MEMBERS:**

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Sen. Sharon Anglin Treat  
Sen. John W. Benoit*

*Rep. Richard H. Thompson, Chair*

*Rep. Thomas Bull*

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**Staff:**

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**ONE HUNDRED NINETEENTH LEGISLATURE**  
**FIRST REGULAR SESSION**

**Summary Of Legislation Before The Joint Standing and Select Committees**  
**August 1999**

We are pleased to provide this summary of all bills that were considered by the Joint Standing and Select Committees of the Maine Legislature this past session. The document is a compilation of bill summaries which describe each bill and relevant amendments, as well as the final action taken. Also included are statistical summaries of bill activity this session for the Legislature and each of its joint standing and select committees.

The document is organized for convenient reference to information on bills considered by the committees. It is organized by committees and within committees by bill (LD) number. The committee report(s), prime sponsor for each bill and the lead co-sponsor(s), if designated, are listed below each bill title. All adopted amendments are listed by paper number. Two indices, a subject index and a numerical index by LD number are provided for easy reference to bills. They are located at the back of the document. A separate publication, History and Final Disposition of Legislative Documents, may also be helpful in providing information on the disposition of bills. These bill summaries also are available at the Law and Legislative Reference Library and on the Internet ([www.state.me.us/legis/opla](http://www.state.me.us/legis/opla)).

Final action on each bill is noted to the right of the bill title. The abbreviations used for various categories of final action are as follows:

*CARRIED OVER*.....Bill carried over to Second Regular Session  
*CON RES XXX*..... Chapter # of Constitutional Resolution passed by both Houses  
*CONF CMTE UNABLE TO AGREE*.....Committee of Conference unable to agree; bill died  
*DIED BETWEEN BODIES*.....House & Senate disagree; bill died  
*DIED IN CONCURRENCE*..... One body accepts ONTP report; the other indefinitely postpones the bill  
*DIED ON ADJOURNMENT*.....Action incomplete when session ended; bill died  
*EMERGENCY*..... Enacted law takes effect sooner than 90 days  
*ENACTMENT FAILED*..... Bill failed to get vote required for enactment or final passage  
*NOT PROPERLY BEFORE THE BODY*..... Ruled out of order by the presiding officers; bill died  
*INDEF PP*.....Bill Indefinitely Postponed  
*ONTP*..... Ought Not To Pass report accepted  
*OTP ND*..... Committee report Ought To Pass In New Draft  
*OTP ND/NT*..... Committee report Ought To Pass In New Draft/New Title  
*P&S XXX*..... Chapter # of enacted Private & Special Law  
*PUBLIC XXX*..... Chapter # of enacted Public Law  
*RESOLVE XXX*..... Chapter # of finally passed Resolve  
*UNSIGNED*.....Bill held by Governor  
*VETO SUSTAINED*.....Legislature failed to override Governor's Veto

Please note the effective date for all non-emergency legislation enacted in the First Regular Session (unless otherwise specified in a particular law) is September 18, 1999.

**LD 1673**

**An Act to Amend the Abandoned Property Laws**

**PUBLIC 232**

<u>Sponsor(s)</u> THOMPSON	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> H-436
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LD 1673 proposed to amend the Maine Uniform Unclaimed Property Act to provide for redemption of gift certificates at 60% of a gift certificate's face value.

**Committee Amendment "A" (H-436)** proposed to replace the bill. It proposed to provide that the amount abandoned is 60% of the face value of the gift certificate if the issuer imposes neither a dormancy charge nor a period of limitation on the owner's right to redeem the certificate at 100% of face value. The bill proposed that if the issuer does not meet that criteria, the current language applies; that is, the amount abandoned is the purchase price paid for the certificate.

*Enacted law summary*

Public Law 1999, chapter 232 amends the Maine Uniform Unclaimed Property Act to provide that if a gift certificate is not redeemed within the presumptive abandonment period, the amount abandoned is 60% of the face value of the gift certificate if the issuer imposes neither a dormancy charge nor a period of limitation on the owner's right to redeem the certificate at 100% of face value. If the issuer does not meet that criteria, the amount abandoned is the purchase price paid for the certificate.

**LD 1717**

**An Act to Make Privileged Communication Between a Licensed Counseling Professional and a Patient**

**CARRIED OVER**

<u>Sponsor(s)</u> ABROMSON BRENNAN	<u>Committee Report</u>	<u>Amendments Adopted</u>
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LD 1717 proposes to make communication between a licensed professional counselor and a patient privileged if the communication was received during the course of professional counseling services, with certain exceptions. The communication could be disclosed when the licensed counseling professional determines the patient needs to be hospitalized due to mental illness, when a court orders the examination of a patient to determine the emotional or mental condition of the patient, when a patient raises the patient's mental or emotional condition as a defense in a proceeding at law or in equity, when the communication is to a person who is present or participating in the professional service, including 3rd party reimbursors and clinical or peer supervisors, or when the communication is necessary to further the best interest of the patient or is reasonably necessary for the transmission of the communication.

This bill has been carried over to the Second Regular Session.

**LD 1720**

**An Act to Recover Economic Loss Attributable to Tobacco Use**

**ONTP**

<u>Sponsor(s)</u> MILLS	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 1720 proposed to create a uniform prospective remedy for recovery of economic loss, including related costs and legal fees, caused by tobacco exposure. As proposed, the liabilities created by the law apply only to manufacturers and not to other members of the tobacco industry.

The bill proposed that manufacturers are prospectively held to a strict liability standard and are deprived of the contributory negligence defense; but victims may not recover noneconomic damages.

The bill proposed that group losses asserted by the State, insurers or health care providers are provable on the basis of market share liability with the aid of certain presumptions that the manufacturers are permitted to rebut or adjust.

The bill proposed that the remedies are expressly cumulative and not intended to foreclose remedies that may exist or arise from interpretations of common law or state or federal laws. As proposed, amounts that may be recovered in prior tobacco settlements are credited against any losses to which those recoveries pertain.

**LD 1744**                      **An Act to Allow Child-placing Agencies to License Preadoptive Homes as Foster Care Homes for a Child Placed in that Home Awaiting Adoption**                      **PUBLIC 265**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TESSIER MURRAY	OTP	

LD 1744 proposed to permit a licensed child-placing agency to designate a preadoptive parent's home as a foster home for the purpose of placing the child to be adopted in that home prior to finalization of the adoption.

*Enacted law summary*

Public Law 1999, chapter 265 permits a licensed child-placing agency to designate a preadoptive parent's home as a foster home for the purpose of placing the child to be adopted in that home prior to finalization of the adoption.

**LD 1753**                      **An Act to Require Noncustodial Parents to Contribute to the Higher Education of Their Children**                      **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MARVIN	ONTP	

LD 1753 proposed to require a parent paying child support to contribute to the costs of postsecondary education for the child until the child graduates, withdraws is expelled, or turns 23 years of age, whichever occurs first.

**LD 1771**                      **An Act to Establish a Limit on Noneconomic Damages in Medical Malpractice Actions**                      **CARRIED OVER**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PLOWMAN MITCHELL B		