

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals
(may include minor formatting differences from printed original)

**STATE OF MAINE
119TH LEGISLATURE**

SECOND REGULAR SESSION

**BILL SUMMARIES
JOINT STANDING COMMITTEE
ON
HEALTH AND HUMAN SERVICES**

JULY 2000

MEMBERS:

*Sen. Judy A. Paradis, Chair
Sen. Georgette B. Berube
Sen. Betty Lou Mitchell*

*Rep. Thomas J. Kane, Chair
Rep. Joseph E. Brooks
Rep. Elaine Fuller
Rep. Michael W. Quint
Rep. Edward R. Dugay
Rep. Daniel B. Williams
Rep. Glenys P. Lovett
Rep. Tarren R. Bragdon
Rep. Lois A. Snowe-Mello
Rep. Thomas F. Shields*

Staff:

Jane Orbeton, Senior Legislative Analyst

*Office of Policy and Legal Analysis
13 State House Station
Augusta, ME 04333
(207)287-1670*



Maine State Legislature
OFFICE OF POLICY AND LEGAL ANALYSIS

13 State House Station, Augusta, Maine 04333-0013
Telephone: (207) 287-1670
Fax: (207) 287-1275

ONE HUNDRED NINETEENTH LEGISLATURE
SECOND REGULAR SESSION

Summary Of Legislation Before The Joint Standing Committees
July 2000

We are pleased to provide this summary of 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).

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:

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
FAILED EMERGENCY ENACTMENT/FINAL PASSAGE..... Emergency bill failed to get 2/3 vote
FAILED ENACTMENT/FINAL PASSAGE..... Bill failed to get majority vote
FAILED MANDATE ENACTMENT..... Bill imposing local mandate failed to get 2/3 vote
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 Second Regular Session (unless otherwise specified in a particular law) is August 11, 2000.

David E. Boulter, Director
Offices Located in the State House, Rooms 101 & 107

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PINGREE	OTP-AM MAJ	H-1187 ROWE
ROWE	OTP-AM MIN	S-803 PINGREE

LD 2599 proposed to establish the Maine Prescription Drug Fair Pricing Act. The Maine Prescription Drug Fair Pricing Act (Part A of this bill) would accomplish that purpose by doing the following.

1. It proposed to establish the Fair Drug Pricing Board. The board, with the approval of the Legislature, would set the maximum prices for prescription drugs based upon a specific formula. The maximum price schedule established by the board would take effect only if:
 - A. The board determines that the prices of prescription drugs in Maine are above the prices set in the schedule; and
 - B. Other nonregulatory programs enacted by the Legislature, such as the Medicaid drug rebate program and the Maine resident low-cost prescription drug program, will not reduce the price of prescription drugs in Maine to or below the prices set in the schedule.

The board would be required to work with the Department of Human Services, the Department of Professional and Financial Regulation and the Maine Board of Pharmacy and to report regularly to those entities and the Legislature. Prices established by the board could be appealed by a manufacturer. The board could enter into agreements with other states or Canadian provinces to ensure uniform prices for prescription drugs. The board would be required to maintain an Internet site to give the public access to the price schedule established by the board.

2. It proposed to state the purpose and intent of the Legislature in enacting the Maine Prescription Drug Fair Pricing Act, which is to provide affordable access to medically necessary prescription drugs to Maine citizens by nonregulatory means. If such nonregulatory programs do not succeed in ensuring that prescription drugs are sold in Maine at fair and nondiscriminatory prices, a fair pricing program that prohibits excessive and discriminatory pricing would be the most effective and timely alternative to lower drug prices for all Maine citizens and the protection of the health and safety of citizens.
3. It proposed to require Maine health care providers, if appropriate, to inform their patients of pharmaceutical manufacturer patient assistance programs and state programs and measures that provide those patients with affordable access to prescription drugs. These programs and measures include the Medicaid prescription drug waiver, the Medicaid drug rebate program, exploration of regional strategies and purchasing alliances, the Maine resident low-cost prescription drug program, a report from the Maine Ambulatory Care Coalition on possibilities for lowering drug prices and the Medicaid program physician directed drug initiative established in the Department of Human Services, Bureau of Medical Services.
4. It proposed to give specific enforcement power of the Maine Prescription Drug Fair Pricing Act to the Attorney General through the Maine Unfair Trade Practices Act and proposed to appropriate \$500,000 for that purpose.

5. It proposed to direct the Maine Ambulatory Care Coalition to investigate lower prices under the federal Public Health Services Act.
6. It proposed to appropriate \$50,000 for the purposes of the Fair Drug Pricing Board.

Part B of this bill proposed to modernize Medicaid recovery procedures and increase the eligibility level for the supplemental component of the elderly low-cost drug program established in the Maine Revised Statutes, Title 22, section 254.

Senate Amendment "A" (S-803) proposed to replace the bill. It proposed to do the following.

1. Part A proposed to enact a new chapter on prescription drug access. Enacted in this chapter would be the following:
 - A. Subchapter I would establish the Maine Rx Program to reduce prescription drug prices for residents of the State. The program would utilize manufacturer rebates and pharmacy discounts to reduce prescription drug prices. The State would serve as a pharmacy benefit manager in negotiating rebates and discounts on behalf of qualified residents. The program would depend on manufacturers and labelers of prescription drugs to pay rebates to the State that are used to provide discounted prices to qualifying Maine residents when they purchase prescription drugs.
 - B. It would establish the Maine Rx Dedicated Fund to receive revenue due to the program, to make payments to retail pharmacies as required by the program and to pay for contracted services, administrative costs and other program costs.
 - C. It would authorize the Department of Human Services to coordinate the Maine Rx Program with other medical and pharmaceutical assistance programs.
 - D. Subchapter II would enact the Prescription Drug Price Reduction Act. This subchapter would establish the Prescription Drug Advisory Commission, a 12-member commission that would advise the Commissioner of Human Services regarding access to prescription drugs and prescription drug prices. The commission would advise the commissioner on major substantive rules regarding the procedures to be used in setting and reviewing maximum retail prices for prescription drugs. The commission would be required to provide annual reports to the Commissioner of Human Services, the Governor and the Legislature by April 1, 2001 and by the 2nd week in January each succeeding year.
 - E. The Commissioner of Human Services would be required by January 5, 2003 to undertake a process to determine the need for maximum retail prices for prescription drugs. If the process results in a requirement that maximum retail prices be established, those prices would take effect by July 1, 2003. An appeal mechanism would be provided and also a mechanism for addressing situations that may threaten or endanger the public health or welfare. A violation of the maximum retail prices would be an unfair trade practice.
 - F. Subchapter III would contain a prohibition on profiteering in prescription drugs by manufacturers, their affiliates and subsidiaries, distributors and labelers of prescription drugs. Profiteering would be punished as a civil violation and would result in an award of triple damages, attorney's fees, punitive damages and costs. A violation of the subchapter would be a violation of the Maine Unfair Trade Practices Act.

2. It would authorize the State to negotiate and enter into purchasing alliances and regional strategies with governments and public and private entities for the purpose of reducing prescription drug prices for residents of the State.
3. It would provide statements of findings, intent and purpose.
4. It would provide appropriations and allocations to fund the provisions of the amendment.
5. If the Commissioner of Human Services establishes maximum retail prices for prescription drugs under the Maine Revised Statutes, Title 22, section 2693, the amendment would direct the commissioner to establish a drug formulary and prior authorization for dispensing drugs in the elderly low-cost drug program. Beginning January 1, 2001, it would require manufacturers and labelers of drugs that participate in the Medicaid program to participate in the drug rebate program in the elderly low-cost drug program.
6. If the Commissioner of Human Services establishes maximum retail prices for prescription drugs under Title 22, section 2693, the amendment would direct the commissioner to require prior authorization for the dispensing of drugs in the Medicaid program that would apply to drugs that are priced above the established maximum retail prices. It would direct the department to require prior authorization for the dispensing of drugs in the Medicaid program that are provided from manufacturers and labelers who do not enter into rebate agreements with the State under the Maine Rx Program.

Enacted law summary

Public Law 1999, chapter 786 does the following:

1. Part A enacts a new chapter on prescription drug access. Enacted in this chapter are the following elements:
 - A. Subchapter I contains the Maine Rx Program to reduce prescription drug prices for residents of the State. The program utilizes manufacturer rebates and pharmacy discounts to reduce prescription drug prices. The State will serve as a pharmacy benefit manager in negotiating rebates and discounts on behalf of qualified residents. The program depends on manufacturers and labelers of prescription drugs to pay rebates to the State that are used to provide discounted prices to qualifying Maine residents when they purchase prescription drugs. The Department of Human Services is directed to release the names of manufacturers and labelers that do not participate in the Maine Rx Program.
 - B. It establishes the Maine Rx Dedicated Fund to receive revenue due to the program, to make payments to retail pharmacies as required by the program and to pay for contracted services, administrative costs and other program costs.
 - C. It authorizes the Department of Human Services to coordinate the Maine Rx Program with other medical and pharmaceutical assistance programs.
 - D. Subchapter II contains the Prescription Drug Price Reduction Act. This subchapter establishes the Prescription Drug Advisory Commission, a 12-member commission that advises the Commissioner of Human Services regarding access to prescription drugs and prescription drug prices. The

commission advises the commissioner on major substantive rules regarding the procedures to be used in setting and reviewing maximum retail prices for prescription drugs. The commission is required to provide annual reports to the Commissioner of Human Services, the Governor and the Legislature by April 1, 2001 and by the 2nd week in January each subsequent year.

- E. The Commissioner of Human Services is required by January 5, 2003 to undertake a process to determine the need for maximum retail prices for prescription drugs. If the process results in a requirement that maximum retail prices be established, those prices must take effect by July 1, 2003. An appeal mechanism is provided and also a mechanism for addressing situations that may threaten or endanger the public health or welfare. A violation of the maximum retail prices is an unfair trade practice.
- F. Subchapter III contains a prohibition on profiteering in prescription drugs by manufacturers, their affiliates and subsidiaries, distributors and labelers of prescription drugs. Profiteering may be punished as a civil violation and may result in an award of triple damages, attorney's fees, punitive damages and costs. A violation of the subchapter is a violation of the Maine Unfair Trade Practices Act.

- 2. It authorizes the State to negotiate and enter into purchasing alliances and regional strategies with governments and public and private entities for the purpose of reducing prescription drug prices for residents of the State.
- 3. It provides statements of findings, intent and purpose.
- 4. It provides appropriations and allocations to fund the provisions of the law.
- 5. If the Commissioner of Human Services establishes maximum retail prices for prescription drugs, the law directs the commissioner to establish a drug formulary and prior authorization for dispensing drugs in the Elderly Low-cost Drug Program. Beginning January 1, 2001, it requires manufacturers and labelers of drugs that participate in the Medicaid program to participate in the drug rebate program in the Elderly Low-cost Drug Program.
- 6. If the Commissioner of Human Services establishes maximum retail prices for prescription drugs, the law directs the commissioner to require prior authorization for the dispensing of drugs in the Medicaid program that would apply to drugs that are priced above the established maximum retail prices. It directs the department to require prior authorization for the dispensing of drugs in the Medicaid program that are provided from manufacturers and labelers who do not enter into rebate agreements with the State under the Maine Rx Program.

LD 2606

An Act to Amend the Laws Regarding Foster Parents

**PUBLIC 675
EMERGENCY**

Sponsor(s)
COTE
PARADIS

Committee Report
OTP

Amendments Adopted