

MAINE STATE LEGISLATURE

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*State Of Maine
120th Legislature*

First Regular Session

Bill Summaries

*Joint Standing Committee
on
Banking and Insurance*

August 2001

Members:

Sen. Lloyd P. LaFountain III, Chair

Sen. I. Joel Abromson

Sen. Neria R. Douglass

Rep. Christopher P. O'Neil, Chair

Rep. Benjamin F. Dudley

Rep. Nancy B. Sullivan

Rep. Marilyn E. Canavan

Rep. Lisa T. Marrache

Rep. William J. Smith

Rep. Arthur F. Mayo III

Rep. Kevin J. Glynn

Rep. Florence T. Young

Rep. John M. Michael

Staff:

Colleen McCarthy Reid, 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

**120th Legislature
First Regular Session**

**Summary Of Legislation Before The Joint Standing Committees
August 2001**

Enclosed please find a summary of all bills, resolves, joint study orders, joint resolutions and Constitutional resolutions that were considered by the joint standing 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 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:

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*
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 First Regular Session (unless otherwise specified in a particular law) is **September 21, 2001**.

David E. Boulter, Director
Offices Located in the State House, Rooms 101/107/135

Joint Standing Committee on Banking and Insurance

LD 1640

**An Act to Conform the State's Financial Services Privacy Laws
with Federal Law**

PUBLIC 262

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
LAFOUNTAIN	OTP-AM MAJ	S-236
O'NEIL	OTP-AM MIN	

LD 1640 was submitted on behalf of the Department of Professional and Financial Regulation.

LD 1640 amends the laws governing the various providers of financial services regulated by the Department of Professional and Financial Regulation to ensure that the laws governing the privacy of personal information furnished to those individuals or entities are consistent with the provisions of the federal Gramm-Leach-Bliley Act and the implementing regulations adopted by the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the Federal Reserve System, the Federal Deposit Insurance Corporation, the National Credit Union Administration, the Federal Trade Commission and the Securities and Exchange Commission. The bill further provides that if an entity is required under federal law to comply with the Gramm-Leach-Bliley Act and the implementing federal regulations and it fails to do so, that failure to comply is also a violation of state law, which the agencies within the Department of Professional and Financial Regulation may enforce.

Part A amends the Maine Consumer Credit Code to require creditors other than financial institutions or credit unions to comply with the privacy provisions of the federal Gramm-Leach-Bliley Act and the implementing regulations adopted by the Federal Trade Commission. Failure to do so is a violation of the Maine Consumer Credit Code.

Part B amends the banking laws of the State to permit the sharing of information by financial institutions and credit unions authorized to do business in this State to the same extent permitted under the federal Gramm-Leach-Bliley Act. It also clarifies the law with respect to sharing consumer or commercial financial records between financial institutions, and with their subsidiaries and affiliates, as is the existing practice within the industry. It further provides that the failure to comply with the privacy provisions of the federal Gramm-Leach-Bliley Act and the applicable implementing federal regulations adopted by the federal banking regulators constitutes an anti-competitive or unfair practice. Part B also increases the penalties for intentional and knowing violations of the confidentiality provisions of Chapter 16 of the banking laws of the State and imposes liability upon the institution itself for such violations.

Part C amends the Maine Insurance Code to parallel the model privacy law adopted by the National Association of Insurance Commissioners and to authorize the Superintendent of Insurance to adopt rules governing the privacy of consumer information as is required by the federal Gramm-Leach-Bliley Act and provides that such rules are routine technical rules.

Part D amends the Revised Maine Securities Act to provide that the failure of a licensed broker-dealer, sales representative or investment adviser to comply with the privacy provisions of the federal Gramm-Leach-Bliley Act and the implementing regulations adopted by the United States Securities and Exchange Commission constitutes grounds for disciplinary action including license suspension or revocation.

Part E amends the statutes governing various other types of financial service providers such as check cashers and foreign currency exchangers, collection agencies and repossession companies, operators of cash dispensing machines, pawnbrokers and mortgage settlement agents to require these businesses to comply with the privacy

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requirements of the federal Gramm-Leach-Bliley Act when they meet the definition of "financial institution" under the regulations promulgated by the Federal Trade Commission.

Committee Amendment "B" (S-236) was the minority report of the committee. The amendment differed from Committee Amendment "A" because it retained the opt out provisions of the federal Gramm-Leach-Bliley Act. The amendment also proposed to do the following.

1. It uses consistent terms and cross-references to the various privacy regulations adopted by federal regulators and clarifies that such regulations are applicable under state law only to the extent applicable under federal law.
2. It clarifies that the privacy regulations are not intended to permit the release of health care information except as permitted under current state law.
3. It requires the Department of Professional and Financial Regulation to submit a report to the Joint Standing Committee on Banking and Insurance by January 15, 2002 on the status of privacy legislation and rules in other states in response to the federal Gramm-Leach-Bliley Act.
4. It removes the emergency preamble and emergency clause.
5. It also adds a fiscal note to the bill.

Committee Amendment "A" (S-235) was the majority report of the committee. The amendment proposed to do the following.

1. It puts in place an opt-in requirement for the disclosure of nonpublic personal information to nonaffiliated 3rd parties under state law instead of the opt-out provision required under the federal Gramm-Leach-Bliley Act.
2. It uses consistent terms and cross-references to the various privacy regulations adopted by federal regulators and clarifies that those regulations are applicable under state law only to the extent applicable under federal law.
3. It clarifies that the privacy regulations are not intended to permit the release of health care information except as permitted under current state law.
4. It requires the Department of Professional and Financial Regulation to submit a report to the Joint Standing Committee on Banking and Insurance by January 15, 2002 on the status of privacy legislation and rules in other states in response to the federal Gramm-Leach-Bliley Act.
5. It also adds a fiscal note to the bill.

Committee Amendment "A" was not adopted.

Enacted law summary

Public Law 2001, chapter 262 amends the laws governing the various providers of financial services regulated by the Department of Professional and Financial Regulation to ensure that the laws governing the privacy of personal information furnished to those individuals or entities are consistent with the provisions of the federal Gramm-Leach-Bliley Act and the implementing regulations adopted by the Office of the Comptroller of the Currency, the

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Office of Thrift Supervision, the Federal Reserve System, the Federal Deposit Insurance Corporation, the National Credit Union Administration, the Federal Trade Commission and the Securities and Exchange Commission. The law further provides that if an entity is required under federal law to comply with the Gramm-Leach-Bliley Act and the implementing federal regulations and it fails to do so, that failure to comply is also a violation of state law, which the agencies within the Department of Professional and Financial Regulation may enforce.

Under Public Law 2001, chapter 262, providers of financial services regulated by the Department of Professional and Financial Regulation and required to comply with the federal Gramm-Leach-Bliley Act and the provisions of chapter 262 are governed by an "opt-out" standard for the disclosure of nonpublic personal information to non-affiliated third parties. Nonpublic personal information may be shared with non-affiliated third parties to the extent permitted by law unless the consumer affirmatively opts out. The law is not intended to permit the release of health care information except as allowed under current state law.

Part A amends the Maine Consumer Credit Code to require creditors other than financial institutions or credit unions to comply with the privacy provisions of the federal Gramm-Leach-Bliley Act and the implementing regulations adopted by the Federal Trade Commission. Failure to do so is a violation of the Maine Consumer Credit Code.

Part B amends the banking laws of the State to permit the sharing of information by financial institutions and credit unions authorized to do business in this State to the same extent permitted under the federal Gramm-Leach-Bliley Act. It also clarifies the law with respect to sharing consumer or commercial financial records between financial institutions, and with their subsidiaries and affiliates, as is the existing practice within the industry. It further provides that the failure to comply with the privacy provisions of the federal Gramm-Leach-Bliley Act and the applicable implementing federal regulations adopted by the federal banking regulators constitutes an anti-competitive or unfair practice. Part B also increases the penalties for intentional and knowing violations of the confidentiality provisions of Chapter 16 of the banking laws of the State and imposes liability upon the institution itself for such violations.

Part C amends the Maine Insurance Code to parallel the model privacy law adopted by the National Association of Insurance Commissioners and to authorize the Superintendent of Insurance to adopt rules governing the privacy of consumer information as is required by the federal Gramm-Leach-Bliley Act and provides that such rules are routine technical rules.

Part D amends the Revised Maine Securities Act to provide that the failure of a licensed broker-dealer, sales representative or investment adviser to comply with the privacy provisions of the federal Gramm-Leach-Bliley Act and the implementing regulations adopted by the United States Securities and Exchange Commission constitutes grounds for disciplinary action including license suspension or revocation.

Part E amends the statutes governing various other types of financial service providers such as check cashers and foreign currency exchangers, collection agencies and repossession companies, operators of cash dispensing machines, pawnbrokers and mortgage settlement agents to require these businesses to comply with the privacy requirements of the federal Gramm-Leach-Bliley Act when they meet the definition of "financial institution" under the regulations promulgated by the Federal Trade Commission.

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Part F requires the Department of Professional and Financial Regulation to submit a report to the Joint Standing Committee on Banking and Insurance by January 15, 2002 on the status of privacy legislation and rules in other states in response to the federal Gramm-Leach-Bliley Act.

LD 1652 **An Act to Promote Healthy Lifestyles and to Reallocate the Cost of Health Care Insurance** **ONTP**

<u>Sponsor(s)</u> TURNER	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 1652 proposed to make the following changes relating to the rating practices of health carriers offering individual and small group health plans.

1. It eliminates the requirement that health insurers may vary the rates for individual and small group health plans only within certain rating bands based on age, smoking status, occupation or industry and geographic area.
2. It removes the prohibition on varying premium rates due to the health status of individuals or small group members and allows the rates to vary depending on the ability of the individual or small group members to maintain a healthy lifestyle. The highest rates that may be charged for individuals or small group members with poor health status is limited to 150% of the lowest rate.
3. It allows carriers to vary premium rates based on the smoking status of the individual or small group members.

LD 1703 **An Act to Ensure Access to Health Insurance** **PUBLIC 347**

<u>Sponsor(s)</u> DUDLEY ABROMSON	<u>Committee Report</u> OTP-AM MAJ ONTP MIN	<u>Amendments Adopted</u> H-370
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LD 1703 proposed to require health carriers to offer policies providing coverage for domestic partners of health plan members under the same terms and conditions as coverage for spouses of health plan members. A domestic partner is defined as a person who is legally domiciled in the health plan member's household and who is not legally married to another individual.

Committee Amendment "A" (H-370) was the majority report of the committee and replaced the bill. It proposed to require health carriers to offer policies providing coverage for domestic partners of health plan members under the same terms and conditions as coverage for spouses of health plan members. It clarified that the offer of domestic partner benefits is made to the group policyholder, not to each member covered under a group policy.

Domestic partners are defined as persons who are legally domiciled with one another for at least 12 months, not legally married to or legally separated from another individual, mentally competent and are each other's sole domestic partner and intend to remain so. The amendment proposed to clarify that carriers may require domestic