

MAINE STATE LEGISLATURE

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*State Of Maine
121st Legislature*

First Regular Session

Bill Summaries

*Joint Standing Committee
on
Judiciary*

July 2003

Members:

Sen. Peggy A. Pendleton, Chair

Sen. Mary R. Cathcart

Sen. Chandler E. Woodcock

Rep. William S. Norbert, Chair

Rep. Thomas D. Bull

Rep. Deborah L. Simpson

Rep. Stan Gerzofsky

Rep. Philip R. Bennett, Jr.

Rep. Janet T. Mills

Rep. Roger L. Sherman

Rep. Roderick W. Carr

Rep. Brian M. Duprey

Rep. Joan Bryant-Deschenes

Rep. Donna M. Loring

Staff:

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Maine State Legislature



Office Of Policy And Legal Analysis Office Of Fiscal And Program Review

121st Maine Legislature First Regular Session

Summary Of Legislation Before The Joint Standing Committees

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

<i>CARRIED OVER PURSUANT TO HP 1212</i>	<i>Bills carried over to the 2nd Regular Session</i>
<i>CON RES XXX</i>	<i>Chapter # of Constitutional Resolution passed by both Houses</i>
<i>CONF CMTE UNABLE TO AGREE</i>	<i>Committee of Conference unable to agree; bill died</i>
<i>DIED BETWEEN BODIES</i>	<i>House & Senate disagree; bill died</i>
<i>DIED IN CONCURRENCE</i>	<i>One body accepts ONTP report; the other indefinitely postpones the bill</i>
<i>DIED ON ADJOURNMENT</i>	<i>Action incomplete when session ended; bill died</i>
<i>EMERGENCY</i>	<i>Enacted law takes effect sooner than 90 days</i>
<i>FAILED EMERGENCY ENACTMENT/FINAL PASSAGE</i>	<i>Emergency bill failed to get 2/3 vote</i>
<i>FAILED ENACTMENT/FINAL PASSAGE</i>	<i>Bill failed to get majority vote</i>
<i>FAILED MANDATE ENACTMENT</i>	<i>Bill imposing local mandate failed to get 2/3 vote</i>
<i>NOT PROPERLY BEFORE THE BODY</i>	<i>Ruled out of order by the presiding officers; bill died</i>
<i>INDEF PP</i>	<i>Bill Indefinitely Postponed</i>
<i>ONTP</i>	<i>Ought Not To Pass report accepted</i>
<i>OTP-ND</i>	<i>Committee report Ought To Pass In New Draft</i>
<i>P&S XXX</i>	<i>Chapter # of enacted Private & Special Law</i>
<i>PASSED</i>	<i>Joint Order passed in both bodies</i>
<i>PUBLIC XXX</i>	<i>Chapter # of enacted Public Law</i>
<i>RESOLVE XXX</i>	<i>Chapter # of finally passed Resolve</i>
<i>UNSIGNED</i>	<i>Bill held by Governor</i>
<i>VETO SUSTAINED</i>	<i>Legislature failed to override Governor's Veto</i>

Please note that the effective date for all non-emergency legislation enacted in the First Regular Session (unless otherwise specified in a particular law) is September 13, 2003.

David C. Elliott, Director
Offices located in Room 215 of the Cross Office Building

Joint Standing Committee on Judiciary

LD 1342

An Act To Establish a Right of Entry for Surveyors Performing Surveying Services

**PUBLIC 161
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
RICHARDSON J MAYO	OTP-AM	H-196 S-94 MARTIN

LD 1342 proposed to provide that when performing surveying services at the request of a landowner or person with an interest in real estate, a professional land surveyor and the surveyor's assistant may, without the consent of the owner or person in possession, enter upon or cross any lands necessary to perform surveying services.

Committee Amendment "A" (H-196) proposed to make 3 changes to the bill concerning reasonable notice, the duty of care owed by the landowner, and compliance with safety rules and regulations.

Senate Amendment "A" (S-94) proposed to add an emergency preamble and emergency clause to the bill.

Enacted Law Summary

Public Law 2003, chapter 161 provides that when performing surveying services at the request of a landowner or person with an interest in real estate, a professional land surveyor and the surveyor's assistant may, without the consent of the owner or person in possession, enter upon or cross any lands necessary to perform surveying services.

Chapter 161 establishes criteria that satisfy the requirement that reasonable effort be made to notify the landowner whose land the surveyor may need to enter or cross to carry out a survey.

Chapter 161 provides that the duty of care owed by the owner or occupant of the land is the same duty of care owed to a trespasser. This duty of care, established by case law, is the duty to refrain from wantonly, willfully or recklessly causing harm to the surveyor or the surveyor's assistant.

Chapter 161 requires professional land surveyors and their assistants to comply with state and federal safety rules and regulations applicable to the land crossed or entered.

Public Law 2003, chapter 161 was enacted as an emergency measure effective May 15, 2003.

LD 1370

An Act To Enact the Maine Tribal Gaming Act

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	ONTP MAJ OTP-AM MIN	

LD 1370 is a citizen initiated bill. It proposed to allow the Passamaquoddy Tribe and the Penobscot Nation to conduct gaming and wagering at a single site. The legislative body of a municipality in which the site is located must approve the site for the conduct of gaming and wagering. The authority granted to the Passamaquoddy Tribe and the Penobscot Nation to conduct gaming and wagering at a single site would terminate in 20 years,

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unless extended, and may not be amended or repealed without the consent of the Passamaquoddy Tribe and the Penobscot Nation. The gaming and wagering authorized by this initiated bill would be regulated by the Department of Public Safety and a tribal gaming agency formed jointly by the governments of the Passamaquoddy Tribe and the Penobscot Nation.

The tribal gaming operator would be required to pay to the State an annual fee equal to 25% of the gross revenues of video facsimiles operated by the tribal gaming operator. After an allowance for costs resulting from gaming and wagering operations, the annual fee paid to the State would be used for the following purposes:

1. Fifty percent would be deposited in the Local Government Fund established in the Maine Revised Statutes, Title 30-A, section 5681 and distributed in accordance with the provisions of that section for revenue sharing with municipalities, with the intent of providing local property tax relief;
2. Forty percent would be allocated for the program cost portion of general purpose aid to local schools;
3. Five percent would be allocated to the Maine State Grant Program established in Title 20-A, chapter 419-A for grants for students who are pursuing higher education; and
4. Five percent would be allocated to the Finance Authority of Maine to distribute to private, nonprofit organizations that have the principal purpose of providing scholarships to and otherwise enhancing the postsecondary educational opportunities of students in this State enrolled in eligible programs in institutions of higher education in this State.

Committee Amendment "A" (H-535) was offered as a competing measure to the Initiated Bill 1. It proposed to authorize the state gaming agency to develop selection criteria and select and license, through a competitive bid process, a licensed gaming operator to operate a casino in Maine. The selection would have to maximize the benefit of the casino to the people of this State. Part of the proposed selection criteria is the fee that the licensed gaming operator would pay from the gaming revenues. Other criteria would include selection of a site in an area in which there is higher than average unemployment, lower than average wages, a loss of population or workforce because of business closings and proximity to affordable housing. (Not adopted)

This initiated bill will appear as a referendum question on the November ballot.

LD 1376

An Act Regarding Limited Liability Companies

ONTP

<u>Sponsor(s)</u> CLARK STANLEY	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 1376 was a concept draft pursuant to Joint Rule 208.

LD 1376 proposed to limit the use of the limited liability company structure to a business entity that makes a profit of more than \$100,000 per year. It also proposed to limit the business entities that are exempt from payment of the real estate transfer tax.