

# 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  
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:**

*Margaret J. Reinsch, Senior 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 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](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:

<i>CARRIED OVER PURSUANT TO HP 1212</i> .....	<i>Bills carried over to the 2<sup>nd</sup> 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 &amp; 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&amp;S XXX</i> .....	<i>Chapter # of enacted Private &amp; 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

establishes that, prior to filing with the court, the plaintiff filed the charge with the Maine Human Rights Commission and the commission erroneously dismissed the case.

### *Enacted Law Summary*

Public Law 2003, chapter 279 authorizes a court to award attorneys' fees and damages to a plaintiff who prevails at trial on a discrimination complaint if the plaintiff establishes that, prior to filing with the court, the plaintiff filed the charge with the Maine Human Rights Commission and the commission erroneously dismissed the case.

**LD 1425**

**An Act Relating to the Protection of Whistleblowers**

**PUBLIC 357**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SIMPSON PENDLETON	OTP-AM	H-395

LD 1425 proposed to provide protection for an employee who is retaliated against because the employee has refused to carry out a directive of the employer that the employee has reasonable cause to believe compels the employee to violate the law. The Law Court has held that the existing statutory language protects only those employees who refuse to carry out a directive that would result in serious injury or death. See Devoid v. Clair Buick Cadillac, Inc., 699 A. 2d 749 (Me. 1996). The bill was intended to correct the problem noted by the Law Court.

**Committee Amendment "A" (H-395)** proposed to clarify that an employee is protected under the Whistleblowers' Protection Act if the employee, acting in good faith, refuses to carry out a directive that would be a violation of law or rule.

### *Enacted Law Summary*

Public Law 2003, chapter 357 clarifies that an employee is protected under the Whistleblowers' Protection Act if the employee, acting in good faith, refuses to carry out a directive that would be a violation of law or rule.

**LD 1454**

**An Act To Clarify that the Unauthorized Sale of Public Records Is a Crime**

**PUBLIC 365**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DUNLAP BRYANT	OTP-AM	H-417

The purpose of LD 1454 was to reduce the illegal market in public records, especially historic public records. This bill proposed to prohibit the sale or transfer of public records, which, according to the Maine Revised Statutes, Title 5, section 92-A, excludes publications and copies or documents intended for distribution.

**Committee Amendment "A" (H-417)** proposed to clarify that a person may not transfer or sell a record unless authorized by law. "Record" is currently defined as "all documentary material, regardless of media or characteristics, made or received and maintained by an agency in accordance with law or rule or in the

## Joint Standing Committee on Judiciary

transaction of its official business." The bill as amended would not affect public access to, or receipt of copies of, public records. The bill as amended would not prohibit the sale of copies of public records.

### *Enacted Law Summary*

Public Law 2003, chapter 365 prohibits the sale or transfer of public records, which, according to the Maine Revised Statutes, Title 5, section 92-A, excludes publications and copies or documents intended for distribution.

**LD 1473**                      **An Act To Amend the Laws Governing Public Easements**                      **CARRIED OVER**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MCKEE KNEELAND		

LD 1473 proposes to allow a person who is directly benefited by a public easement to collect funds to maintain that easement and provide that a municipality may only retain a public easement in a discontinued road by stating in the discontinuance order that a public easement is retained.

**LD 1479**                      **An Act To Protect Maine Consumers from Hidden Fees and Charges**                      **PUBLIC 339**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BRANNIGAN	OTP-AM	H-394

LD 1479 proposed to add "face value" to the abandoned property laws definition section to resolve issues of interpretation. The bill proposed to define "gift obligation." The bill also proposed to clarify the abandonment period of a gift obligation and that the amount abandoned is the face value of the gift obligation. The bill proposed to prohibit the imposition of a fee or charge on a gift obligation unless the fee or charge is contained in a written agreement at the time of purchase of the gift obligation.

**Committee Amendment "A" (H-394)** proposed to clarify that the imposition of a fee or charge on a gift obligation is prohibited unless the fee or charge is noted on the gift obligation. The amendment proposed that fees and charges must also be in accordance with the Maine Revised Statutes, Title 33, section 1956, which governs dormancy charges.

### *Enacted Law Summary*

Public Law 2003, chapter 339 amends the Unclaimed Property Act to address gift certificates and other gift obligations, such as gift cards. It clarifies the abandonment period of a gift obligation and that the amount abandoned is the face value of the gift obligation. It clarifies that the imposition of a fee or charge on a gift obligation is prohibited unless the fee or charge is noted on the gift obligation. Fees and charges must also be in accordance with the Maine Revised Statutes, Title 33, section 1956, which governs dormancy charges.