

# MAINE STATE LEGISLATURE

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*State Of Maine  
122nd Legislature*

*Second Regular Session*

*Bill Summaries*

*Joint Standing Committee  
on  
Judiciary*

*July 2006*

**Members:**

*Sen. Barry J. Hobbins, Chair*

*Sen. Lynn Bromley*

*Sen. David R. Hastings III*

*Rep. Deborah L. Simpson, Chair*

*Rep. Sean Faircloth*

*Rep. Stan Gerzofsky*

*Rep. Marilyn E. Canavan*

*Rep. Mark E. Bryant*

*Rep. Michael Edward Dunn*

*Rep. Roger L. Sherman*

*Rep. Roderick W. Carr*

*Rep. Joan Bryant-Deschenes*

*Rep. Joan M. Nass*

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# Maine State Legislature



## Office of Policy and Legal Analysis Office of Fiscal and Program Review

### 122nd Maine Legislature Second 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 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/billsumm.htm](http://www.state.me.us/legis/opla/billsumm.htm)).

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
P&S XXX.....	Chapter # of enacted Private & Special Law
PASSED.....	Joint Order passed in both bodies
PUBLIC XXX.....	Chapter # of enacted Public Law
RESOLVE XXX.....	Chapter # of finally passed Resolve
UNSIGNED (Pocket Veto).....	Bill held by Governor
VETO SUSTAINED.....	Legislature failed to override Governor's Veto

Please note that the effective date for all non-emergency legislation enacted in the Second Regular Session (unless otherwise specified in a particular law) is August 23, 2006.

## Joint Standing Committee on Judiciary

enemy rule” to the “reasonable use rule.” It proposed to establish as a nuisance the unreasonable use of a person's land that results in the altering of the flow of surface water that unreasonably injures another's land or that unreasonably interferes with the reasonable use of another's land.

### *Enacted law summary*

Public Law 2005, chapter 564 changes the applicable rule governing alteration of surface water flow that affects another person's land. Existing Maine case law applies the “common enemy rule” to define a landowner's responsibility for altering the flow of surface water, also known as “diffuse surface water,” that affects another's land. Chapter 564 adopts the “reasonable use rule;” it establishes as a nuisance the unreasonable use of a person's land that results in the altering of the flow of surface water that unreasonably injures another's land or that unreasonably interferes with the reasonable use of another's land. An action must be commenced within 3 years after the cause of action accrues. Chapter 564 takes effect January 1, 2007 and applies to actions for which the cause of action accrues on or after that date.

**LD 986**

### **An Act To Amend the Maine Revised Uniform Limited Partnership Act**

**ONTP**

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

LD 986 is a concept draft pursuant to Joint Rule 208. It proposed to make changes to the Maine Revised Uniform Limited Partnership Act of the Maine Revised Statutes, Title 31, chapter 11.

See LD 1609, to which the Uniform Limited Partnership Act was added as part of the Committee Amendment.

**LD 1045**

### **An Act Regarding Contract Indemnification**

**ONTP**

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

LD 1045 proposed to prohibit certain indemnification agreements by which a contracting party indemnifies itself from its own negligence or willful misconduct.

**Committee Amendment “A” (S-514)**, the minority report of the Joint Standing Committee on Judiciary, proposed to replace the bill but maintain the purpose of prohibiting certain indemnification agreements in construction and related contracts, but only when the agreement would indemnify the promisee against liability for certain damages arising solely from the negligence or willful misconduct of the promisee or the promisee's agents, servants or independent contractors. The amendment proposed to clarify that the parties would not be prohibited from agreeing that the promisee must be included as an insured or an additional insured in an insurance contract.