

MAINE STATE LEGISLATURE

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*State Of Maine
122nd Legislature*

*First Regular Session and
First Special Session*

Bill Summaries

*Joint Standing Committee
on
Judiciary*

August 2005

Members:

Sen. Barry J. Hobbins, Chair

Sen. Lynn Bromley

Sen. David R. Hastings III

*Rep. Deborah L. Pelletier-Simpson,
Chair*

Rep. Sean Faircloth

Rep. Stan Gerzofsky

Rep. Marilyn E. Canavan

Rep. Mark E. Bryant

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Rep. Roger L. Sherman

Rep. Roderick W. Carr

Rep. Joan Bryant-Deschenes

Rep. Joan M. Nass

Rep. Donna M. Loring

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Maine State Legislature

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122nd Legislature
First Regular Session and First Special Session

Summary of Legislation Considered by the Joint Standing Committees
August 2005

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. A subject index for each committee is included immediately before the bill summaries for that committee, and a numerical index by LD number is included 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 June 29, 2005; and for non-emergency legislation enacted in the First Special Session is September 17, 2005.

Joint Standing Committee on Judiciary

LD 1518 proposed to establish the Consumer and Commercial Division pilot project within the Maine court system beginning January 1, 2006, to administer and resolve disputes regarding issues related to business activity in a coordinated, responsive and speedy manner and to afford convenient and timely access for consumers, entrepreneurs, attorneys and any other party involved with business activity. The bill also proposed to establish the Consumer and Commercial Division Steering Committee, designed to function as a partnership between the legislative and judicial branches of government to develop proposals to implement the new project, determine relevant measurable outcomes and determine other areas of technology or infrastructure that could add additional efficiencies throughout Maine courts.

Committee Amendment "A" (H-620) proposed to replace the bill. Part A of the amendment proposed to establish the Business and Consumer Specialized Civil Docket pilot project within the Maine court system beginning January 1, 2006. The proposed pilot project is intended to assist all litigants, regardless of area of law, in finding prompt resolution of matters before the Court.

Part B of the amendment proposed to establish the Business and Consumer Specialized Civil Docket Advisory Committee to make recommendations to the Supreme Judicial Court to implement the new pilot project, determine relevant measurable outcomes and determine other areas of technology or infrastructure that could add additional efficiencies throughout Maine courts.

This bill was carried over on the Special Appropriations Table by S.P. 640 to the next special or regular session of the 122nd Legislature.

LD 1526	An Act To Enact the Uniform Parentage Act and Conforming Amendments and Additional Amendments to Laws Concerning Probate, Adoption, Child Support, Child Protection and Other Family Law Issues	CARRIED OVER
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<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
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LD 1526 proposed to enact the Maine version of the Uniform Parentage Act. Part B of the bill contains proposed amendments to the Maine Revised Statutes, Title 4 and Title 19-A provisions concerning paternity and child support to make them consistent with the Uniform Parentage Act. Part C proposed to amend the intestate succession provisions of the Probate Code so that children will inherit from parents as recognized in the Uniform Parentage Act and parents recognized by the Uniform Parentage Act will inherit from their children. Part D of the bill proposed to amend the adoption laws, guardianship laws and child protection laws to be consistent with the Uniform Parentage Act. Part E proposed cross-reference changes.

This bill was carried over by H.P. 1203 to any special or regular session of the 122nd Legislature.

LD 1532	An Act To Protect Maine Citizens from Lead Hazards that Harm Maine Children and Families	PUBLIC 339
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<u>Sponsor(s)</u> FAIRCLOTH HOBBINS	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> H-542 S-275 HOBBINS
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Joint Standing Committee on Judiciary

LD 1532 proposed to address lead poisoning from lead-based paint by imposing liability on a property owner whose failure to comply with the Lead Poisoning Control Act results in a child's lead poisoning. It proposed to prohibit housing discrimination that occurs because the property does or may contain an environmental lead hazard for which liability for the lead poisoning of a child could be imposed. It proposed to establish in statute the minimum blood lead levels necessary to trigger the graduated department action. It proposed to require the owner of real property to reimburse the Department of Health and Human Services for inspection costs if an environmental lead hazard exists on the inspected premises. It proposed to require the Department of Health and Human Services to prepare forms that sellers of real property are required to provide to purchasers and landlords are required to provide to tenants, explaining the dangers of lead exposure.

Committee Amendment "A" (H-542) proposed to delete everything from the bill except the requirement that landlords and property sellers of residential property provide residential real property disclosure forms that explain lead-based paint hazards to potential tenants and purchasers.

Senate Amendment "A" to Committee Amendment "A" (S-275) proposed to clarify that the Department of Health and Human Services may combine the new form requirements and the federal form requirements into one form for sellers and another form for lessors. The amendment proposed to add a statement that the disclosure forms provisions are not to be construed to affect any rights, duties or liability under federal law.

Enacted law summary

Public Law 2005, chapter 339 requires that landlords and property sellers provide residential real property disclosure forms that explain lead-based paint hazards to potential tenants and purchasers. The disclosure forms provisions are not to be construed to affect any rights, duties or liability under federal law.

LD 1542 **An Act To Provide Relief to Retailers Who Have Been Issued Bad Checks** **PUBLIC 365**

Sponsor(s)
KAELIN
WESTON

Committee Report
OTP-AM

Amendments Adopted
H-612

LD 1542 proposed to impose a penalty for issuing a second bad check within a year of the first violation to the same payee, the penalty to be paid to the payee. This bill also proposed to require the eight district attorneys to implement a uniform policy on collecting worthless instruments.

Committee Amendment "A" (H-612) proposed to clarify that a bad check, referred to as a dishonored check, may not be counted as the first bad check to a payee unless it remained unpaid for at least 45 days. Any subsequent check intentionally issued or negotiated knowing it will not be honored, written to the same payee, will subject the issuer to the additional liquidated damages if the face amount is not paid within 30 days of the demand of the payee. The amendment proposed to delete section 2 of the bill, which directed the district attorneys of the State to establish a uniform policy on the collection of worthless instruments.

Enacted law summary

Public Law 2005, chapter 365 imposes a penalty for issuing a second bad check within a year of the first violation to the same payee. The penalty is paid to the payee. A bad check, referred to as a dishonored check, may not be