

MAINE STATE LEGISLATURE

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STATE OF MAINE
123RD LEGISLATURE
FIRST REGULAR SESSION



Summaries of bills and adopted amendments and laws enacted or finally passed during the First Regular Session of the 123rd Maine Legislature coming from the

JOINT STANDING COMMITTEE ON TAXATION

July 2007

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STATE OF MAINE

123RD LEGISLATURE

FIRST REGULAR SESSION

LEGISLATIVE DIGEST OF BILL SUMMARIES AND ENACTED LAWS



This *Legislative Digest of Bill Summaries and Enacted Laws* summarizes all bills and adopted amendments and all laws enacted or finally passed during the First Regular Session of the 123rd Maine Legislature, which was in session from December 6, 2006 to June 21, 2007.

The *Digest* is arranged alphabetically by committee, and within each committee by LD number. The committee report(s), prime sponsor and lead co-sponsor(s), if designated, are listed below each bill title. All adopted amendments are summarized and listed by paper number. A subject index is included with each committee. The appendices include a summary of relevant session statistics, an index of all bills by LD number and an index of enacted laws by law type and chapter number.

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 (or Accepted ONTP report).....	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.....	Bill held by Governor
VETO SUSTAINED.....	Legislature failed to override Governor's Veto

Please note that the effective date for non-emergency legislation enacted in the First Regular Session is **September 20, 2007**. The effective date for legislation enacted as an emergency measure is specified in the enacted law summary for those bills.

Joint Standing Committee on Taxation

**LD 1732 RESOLUTION, Proposing an Amendment to the Constitution of Maine
To Establish a Surtax on Property with a Value over \$400,000**

ONTP

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

This resolution proposes to amend the Constitution of Maine to authorize the Legislature to allow municipalities to impose a property tax surcharge on real residential property with a valuation of more than \$400,000. The surcharge would be imposed only on that portion of the value of the property that exceeds \$400,000. The owner of the property would be entitled to a credit in the amount of the surcharge against Maine income taxes due.

LD 1739 An Act Concerning Technical Changes to the Tax Laws

PUBLIC 438

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PIOTTI	OTP-AM	H-591

This bill is submitted on behalf of the Bureau of Revenue Services and makes the following technical changes to the laws governing taxation.

1. It repeals a provision that authorizes the State Tax Assessor to subtract from revenues credit card fees associated with income tax returns filed by telephone. Maine's income tax Telefile system has been discontinued.
2. It replaces the imprecise term "report" with the defined term "return" throughout the tax laws.
3. It authorizes a 120-day extension of the time allowed for filing a return after the taxpayer has received a formal demand for filing. The Department of Administrative and Financial Services, Bureau of Revenue Services has been administratively granting such extensions.
4. It provides clear statutory authority for the State Tax Assessor to disclose the fact that a person has or has not been issued a certificate of exemption under the sales tax law or the service provider tax law. The bureau has administratively interpreted existing law to authorize these disclosures.
5. It replaces an obsolete reference to the Bureau of Property Taxation, which was merged into the Bureau of Taxation, now the Bureau of Revenue Services, a number of years ago.
6. It clarifies that all owners of property proposed for tree growth classification must consent to the application in writing.
7. It repeals an obsolete provision that related to valuation of tree growth property for taxable years prior to April 1, 1983.
8. It repeals obsolete language relating to the computation of tree growth reimbursements and authorizes the State Tax Assessor to adopt rules governing the assessment of tree growth land and the computation of reimbursements.

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9. It repeals obsolete provisions relating to the administration of changes to the Maine Tree Growth Tax Law that were enacted in 1981 and corrects an erroneous reference.
10. It replaces obsolete terminology, corrects cross-references and clarifies the definition of "nonprofit."
11. It clarifies certain deadlines relating to the certification of pollution control facilities for property tax exemption.
12. It clarifies the deadline for filing an application for a homestead property tax exemption and repeals an obsolete provision that governed program applications for the 1998 tax year.
13. It makes technical changes to the business equipment tax exemption law enacted in 2006.
14. It clarifies that all owners of property proposed for farm and open space classification must consent to the application in writing and repeals obsolete language.
15. It clarifies the deadlines for notifying the landowner of the status of an application for classification of land under the farm and open space law and for reporting income from farmland under the farm and open space law, corrects a cross-reference and reallocates a paragraph into the subsection to which the paragraph's subject matter relates.
16. It repeals an obsolete statute that provided for transfers to the Unorganized Territory Education and Services Fund in fiscal years 1985 to 1990.
17. It replaces the word "primary" with "elementary" in the definition of "school" to match the term that is defined and used in other Maine statutes pertaining to schools.
18. It repeals a superfluous provision relating to determinations of residency under the sales and use tax law.
19. It eliminates redundant language.
20. It clarifies exemptions for certain sales of residential fuel and electricity.
21. It repeals an obsolete provision relating to the administration of changes that were enacted in 1989 in the sales tax exemption for continuous residence in a hotel, rooming house, tourist camp or trailer camp.
22. It simplifies and clarifies existing law providing that certain sales tax exemptions for vehicles purchased by nonresidents are not limited to natural persons.
23. It clarifies existing law providing that certain sales tax exemptions for items purchased by nonresidents are limited to natural persons.
24. It clarifies the sales and use tax exemption for water and air pollution control facilities by including chemicals and supplies for certified facilities within the scope of the exemption. The bureau currently treats these items as exempt based on a 1994 court decision.
25. It clarifies the exemption for sales of residential water.
26. It clarifies an existing sales tax exemption for property used in production.

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27. It relocates an existing sales and use tax exemption for certain sales of electricity or water to the section that provides for exemptions.
28. It repeals a statute that imposes criminal penalties for violation of unspecified laws.
29. It repeals the solid waste reduction investment tax credit in the insurance premium tax law. The credit is no longer available.
30. It corrects the name of the state agency that licenses private nonmedical institutions to reflect legislation effective July 1, 2004 that combined and reorganized the former Department of Human Services and the former Department of Behavioral and Developmental Services.
31. It clarifies that certain separately stated transportation charges are excluded from the sale price under the service provider tax law on the same basis as under the sales and use tax law.
32. It adds a specific exemption for purchases of fabrication services to print advertising or promotional materials for the purpose of subsequently transporting those materials outside the State for use by the purchaser thereafter solely outside the State. This is the administrative position taken by the bureau.
33. It clarifies that the basis of reporting for purposes of the gasoline tax is actual measured gallonage, without any adjustment for temperature or barometric pressure variations.
34. It adds a definition of "retail dealer" to the gasoline tax law in order to clarify the type of transaction that qualifies for a retail shrinkage refund under the Maine Revised Statutes, Title 36, section 2906, subsection 4.
35. It clarifies that when gasoline is placed in a retail tank it is deemed to have been sold for purposes of the gasoline tax law. This is longstanding administrative policy of the bureau.
36. It clarifies that gasoline tax refunds to a retail dealer based on shrinkage or loss by evaporation are based on purchases of gasoline delivered to the dealer's tanks and actually sold from those tanks, rather than on the total gross purchases made during the year.
37. It eliminates a reference to a "monthly" refund claim for fuel used in commercial uses since there is no requirement that the claims be filed monthly.
38. It repeals the requirement that original invoices must be submitted with refund claims for gasoline tax paid on fuel used in locally encouraged vehicles. This requirement has not been enforced for several years. It also eliminates the requirement that refund claims must be filed quarterly. By administrative policy they may be filed for any open period.
39. It adds a specific provision to clarify that gasoline tax refunds for fuel used in aircraft are reduced by the amount of Maine use tax due on the fuel. This is consistent with longstanding administrative practice of the bureau.
40. It eliminates an obsolete cross-reference to the affidavit prescribed for registered sellers in Title 36, section 3205. Title 36, section 3205 no longer contains any reference to an affidavit.
41. It repeals statutes that formerly governed taxation of fuel consumed by interstate buses. This tax is now reported under the International Fuel Tax Agreement.

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42. It clarifies that distillates delivered to a consumer or a retail outlet, whether or not "on consignment," are deemed to have been sold for purposes of the special fuel tax. This is longstanding administrative policy of the bureau.

43. It clarifies that propane shrinkage allowances must be calculated on an annual basis. This is current administrative policy of the bureau.

44. It limits the exemption for sales of special fuel to the State and its political subdivisions to bulk sales. Because of the way the tax is imposed it is not practical to make exempt sales at the pump. Governmental entities may apply for a refund of the tax paid on those sales.

45. It removes obsolete and redundant language relating to refund applications by special fuel users.

46. It eliminates the requirement that original invoices must be submitted with refund claims for special fuel tax paid by political subdivisions. This requirement has not been enforced for several years. It also repeals an obsolete provision that governed refunds of tax paid before April of 1986.

47. It clarifies the administration of the special fuel tax.

48. It eliminates the requirement that original invoices must be submitted with refund claims for special fuel tax paid on fuel used in locally encouraged vehicles. This requirement has not been enforced for several years. It also eliminates the requirement that refund claims must be filed quarterly. By administrative policy they may be filed for any open period.

49. It eliminates the requirement that original invoices must be submitted with refund claims for special fuel tax paid on fuel used off-highway. This requirement has not been enforced for several years. It also eliminates a reference to a "monthly" refund claim since there is no requirement that the claims be filed monthly.

50. It repeals the definition of "dealer" from the cigarette tax law. There is no longer any distinction between dealers and distributors.

51. It clarifies the cigarette tax law by replacing references to "license holder" with the defined term "distributor."

52. It repeals superfluous criminal provisions and clarifies an ambiguous statute prohibiting sale and reuse of cigarette stamps.

53. It repeals obsolete provisions setting discount rates for cigarette stamps that are no longer in effect.

54. It prohibits the return of partial rolls of cigarette stamps for credit unless the person is ceasing business as a distributor. This is longstanding bureau policy. It also repeals unnecessary language regarding the payment of refunds.

55. It deletes the obsolete term "dealer" from the cigarette tax law and clarifies certain record-keeping requirements.

56. It clarifies that the personal use exception applies to importation of tobacco products other than cigars and that any quantity of untaxed tobacco products imported into the State is subject to tax.

57. It repeals the law requiring certain fiduciaries to notify the State Tax Assessor of their appointment. This

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requirement has not been enforced for many years.

58. It clarifies that a taxpayer's estimated tax liability includes all taxes due under the income tax law except withholding tax.

59. It clarifies that a person who fails to withhold tax as required is not relieved from liability for penalties for failure to file returns and pay withholding tax. This is the bureau's longstanding position.

60. It consolidates 2 closely related provisions relating to overpayments of withholding tax by employers and pass-through entities into a single subsection and eliminates a superfluous authorization for rulemaking that has never been implemented.

61. It clarifies the determination of the period during which a claimant under the Circuitbreaker Program must have been domiciled in Maine.

62. It clarifies the definition of "elderly household" for purposes of the Circuitbreaker Program. The new language is consistent with the way the statute has been administratively interpreted by the bureau.

63. It restructures for clarity the definition of "income" in the Circuitbreaker Program law, but does not change the way in which income is determined for purposes of the program.

64. It makes technical changes to the business equipment tax reimbursement law. It also corrects a conflict created by Public Law 2005, chapters 618 and 623, which affected the same provision of law, by incorporating changes made by both laws.

65. It eliminates the requirement for an annual revenue enhancement and amnesty report to the Legislature by the bureau.

The bill also corrects several grammatical errors and replaces archaic, redundant and gender-specific language.

Committee Amendment "A" (H-591)

This amendment removes from the bill provisions regarding the taxation of certain fabrication services related to advertising or promotional materials.

Enacted Law Summary

Public Law 2007, chapter 438, submitted on behalf of the Bureau of Revenue Services, makes the following technical changes to the laws governing taxation.

1. It repeals a provision that authorizes the State Tax Assessor to subtract from revenues credit card fees associated with income tax returns filed by telephone. Maine's income tax Telefile system has been discontinued.
2. It replaces the imprecise term "report" with the defined term "return" throughout the tax laws.
3. It authorizes a 120-day extension of the time allowed for filing a return after the taxpayer has received a formal demand for filing. The Department of Administrative and Financial Services, Bureau of Revenue Services has been administratively granting such extensions.
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64. It eliminates the requirement for an annual revenue enhancement and amnesty report to the Legislature by the bureau.
65. It corrects several grammatical errors and replaces archaic, redundant and gender-specific language.

LD 1756 An Act To Make Real Estate Taxation Stable, Equitable and Predictable

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SNOWE-MELLO	ONTP	

This bill is a concept draft pursuant to Joint Rule 208.

This bill proposes to amend the property tax laws in the following ways: