

MAINE STATE LEGISLATURE

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STATE OF MAINE
123RD LEGISLATURE
SECOND REGULAR AND FIRST SPECIAL SESSIONS



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

JOINT STANDING COMMITTEE ON JUDICIARY

May 2008

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STATE OF MAINE
123RD LEGISLATURE
SECOND REGULAR & FIRST SPECIAL SESSIONS



**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 Second Regular or First Special Sessions of the 123rd Maine Legislature.

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:

<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; bill died</i>
<i>ONTP (or Accepted ONTP report)</i>	<i>Ought Not To Pass report accepted; bill died</i>
<i>P&S XXX</i>	<i>Chapter # of enacted Private & Special Law</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>

The effective date for non-emergency legislation enacted in the Second Regular Session (R2) is June 30, 2008. The effective date for non-emergency legislation enacted in the First Special Session (S1) is July 18, 2008.¹ The effective date for legislation enacted as an emergency measure is specified in the enacted law summary for those bills. Any bill summarized in this document having an LD number less than 1932 was a bill carried over from the First Regular Session of the 123rd Legislature.

¹ The session in which each law was enacted or finally passed (R2 or S1) is included in Appendix C.

Joint Standing Committee on Judiciary

each new reporter in the statutes that would otherwise govern client confidentiality in order to permit this mandatory reporting.

Chapter 577 corrects the probation statutes to delete the reference to whether a Class D crime was committed against a victim of sexual assault or stalking. It makes clear that probation is available for all violations of protection orders that are Class D crimes; therefore, probation will be available when the basis for issuing the protection order had been that the petitioner was a victim of sexual assault or stalking. Chapter 577 also clarifies the statutes under which a defendant has violated a protective order to specifically list those statutes.

LD 2248 An Act To Delete Outdated References to Rule 42 of the Maine Rules of Criminal Procedure from the Maine Bail Code and the Provision Allowing for Appeals by Aggrieved Contemnors

PUBLIC 552

Sponsor(s)

Committee Report

Amendments Adopted

OTP

This bill amends the Maine Revised Statutes, Title 15, sections 1004, 1103, and 2115-B by deleting outdated references to Rule 42 of the Maine Rules of Criminal Procedure. In 2003, Rule 42 was abrogated except to serve as a signpost directing the reader to apply the procedures contained in Rule 66 of the Maine Rules of Civil Procedure. See Me. Rptr., 819-831 A.2d XXX.

Enacted Law Summary

Public Law 2007, chapter 552 amends the Maine Revised Statutes, Title 15, sections 1004, 1103, and 2115-B by deleting outdated references to Rule 42 of the Maine Rules of Criminal Procedure.

LD 2252 An Act To Correct Errors and Inconsistencies in the Laws of Maine

**PUBLIC 695
EMERGENCY**

Sponsor(s)

Committee Report

Amendments Adopted

OTP-AM

H-1036

H-1037 SIMPSON

H-1038 SIMPSON

H-1044 SIMPSON

S-680 HOBBS

This bill, consisting of Parts A and B, corrects technical errors and inconsistencies in the laws of Maine.

Committee Amendment "A" (H-1036)

This amendment deletes several sections from Part A of the bill because the corrections are made in other bills or to avoid further conflicts.

This amendment adds Parts C, D, E, F, G, H and I.

Part C consists of technical amendments.

Part D addresses timing issues concerning the repeal of the Consumer Advisory Board and the Maine Advisory Committee on Mental Retardation and the effective date of the new Maine Developmental Services Oversight and Advisory Board.

Joint Standing Committee on Judiciary

Part E amends Title 28-A, section 1504 to include a new subsection 3-A concerning partial-bottle distilled spirits samples, consistent with the law governing sampling for those licensed as small breweries, farm wineries or wholesalers.

Part F corrects an erroneous cross-reference made in an initiative involving the Department of Professional and Financial Regulation to another initiative within the same department.

Part G amends the ballot language for school unit budgets to clarify that the same wording can be used for all budget votes, including elections involving school units that consist of a municipality.

Part H repeals and replaces Public Law 2007, chapter 539, Part F, section 2 to authorize the Commissioner of Health and Human Services to adopt rules to increase fees assessed under Title 22, section 2494 applying to eating establishments, eating and lodging places, lodging places, recreational camps or camping areas. Part H also amends Public Law 2007, chapter 539, Part F, section 5 concerning the formula related to the jurisdiction of the Department of Health and Human Services and the Department of Agriculture, Food and Rural Resources to provide that the Department of Agriculture has jurisdiction over operations of establishments unless sales of food for consumption on the premises or ready-to-eat for off-premises consumption, measured by annual dollar receipts, exceeds 50% of the total annual food-related dollar receipts.

Part I makes changes to resolve conflicts in the law regarding the penalties for scallop fishing violations created by Public Law 2007, chapters 557 and 607. Public Law 2007, chapter 557 increased penalties for violations of scalloping fishing laws in Cobscook Bay and Public Law 2007, chapter 607 made those same penalties apply to scallop fishing violations on a statewide basis. This amendment resolves the conflicts by making the penalties apply statewide including Cobscook Bay.

House Amendment "A" (H-1037)

This amendment deappropriates funds in fiscal year 2007-08 that do not take effect until June 30, 2008 pursuant to Public Law 2007, chapter 539 and instead appropriates those funds for indigent defense costs in fiscal year 2007-08.

Senate Amendment "A" (S-680)

This amendment adds the chair of the Shellfish Advisory Council as a member of the Marine Resources Advisory Council.

House Amendment "B" (H-1038)

This amendment changes the beginning date for certain funds to be transferred from the Dirigo Health Enterprise Fund to the Maine Individual Reinsurance Association from July 1, 2010 to July 1, 2009. It also removes a duplicative appropriations and allocations section and corrects a clerical error.

House Amendment "C" (H-1044)

The involuntary treatment law enacted in Public Law 2007, chapter 580 addresses medication but does not address the laboratory testing that is necessary to monitor and manage the possible side effects. This amendment authorizes laboratory testing for the management and monitoring of the possible side effects of medication.

Enacted Law Summary

Public Law 2007, chapter 695 makes several technical corrections and a few substantive changes to the laws of Maine. Parts A, B and C make technical changes.

Part D addresses timing issues concerning the repeal of the Consumer Advisory Board and the Maine Advisory Committee on Mental Retardation and the effective date of the new Maine Developmental Services Oversight and Advisory Board.

Joint Standing Committee on Judiciary

Part E amends Title 28-A, section 1504 to include a new subsection 3-A concerning partial-bottle distilled spirits samples, consistent with the law governing sampling for those licensed as small breweries, farm wineries or wholesalers.

Part F corrects an erroneous cross-reference made in an initiative involving the Department of Professional and Financial Regulation to another initiative within the same department.

Part G amends the ballot language for school unit budgets to clarify that the same wording can be used for all budget votes, including elections involving school units that consist of a municipality.

Part H amends Public Law 2007, chapter 539, Part F to address authorization for fees and licensing jurisdiction concerning businesses that provide food or lodging.

Part I makes changes to resolve conflicts in the law regarding the penalties for scallop fishing violations created by Public Law 2007, chapters 557 and 607.

Part J deappropriates funds in fiscal year 2007-08 that do not take effect until June 30, 2008 pursuant to Public Law 2007, chapter 539 and instead appropriates those funds for indigent defense costs in fiscal year 2007-08.

Part K adds the chair of the Shellfish Advisory Council as a member of the Marine Resources Advisory Council.

Part L changes the beginning date for certain funds to be transferred from the Dirigo Health Enterprise Fund to the Maine Individual Reinsurance Association from July 1, 2010 to July 1, 2009. It also removes a duplicative appropriations and allocations section and corrects a clerical error.

The involuntary treatment law enacted in Public Law 2007, chapter 580 addresses medication but does not address the laboratory testing that is necessary to monitor and manage the possible side effects. Part M authorizes laboratory testing for the management and monitoring of the possible side effects of medication.

Public Law 2007, chapter 695 was enacted as an emergency measure effective April 24, 2008.

LD 2306 An Act To Amend the Definition of "Penobscot Indian Reservation"

ONTP

Sponsor(s)

LORING

Committee Report

ONTP

Amendments Adopted

This bill adds a 714-acre parcel of land located in a portion of the Unorganized Territory known as Argyle in Penobscot County to the definition of the "Penobscot Indian Reservation."