

# MAINE STATE LEGISLATURE

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**STATE OF MAINE**  
124<sup>TH</sup> LEGISLATURE  
FIRST REGULAR SESSION



Summaries of bills, adopted amendments and laws enacted or finally passed during the First Regular Session of the 124<sup>th</sup> Maine Legislature coming from the

**JOINT STANDING COMMITTEE ON HEALTH AND HUMAN SERVICES**

July 2009

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# STATE OF MAINE

124<sup>TH</sup> 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 124<sup>th</sup> 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:

CARRIED OVER.....	Carried over to a subsequent session of the Legislature
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; bill died
ONTP (or Accepted ONTP report).....	Ought Not To Pass report accepted; bill died
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

The effective date for non-emergency legislation enacted in the First Regular Session of the 124<sup>th</sup> Legislature is September 12, 2009. The effective date for legislation enacted as an emergency measure is specified in the enacted law summary for those bills.

## *Joint Standing Committee on Health and Human Services*

allowing rounding of caloric values. It exempts from the definition of "chain restaurant" a hotel or motel that contains a separately owned eating establishment but applies the provisions of the bill to that separately owned eating establishment. It exempts food items provided at a self-service salad bar or buffet. It establishes a separate caloric labeling requirement for beer, wine and spirits. It specifies that enforcement is by the Attorney General against the owner or franchisee of the eating establishment and that there are no private remedies. The amendment provides an effective date of February 1, 2011.

### **Senate Amendment "B" To Committee Amendment "A" (S-314)**

This amendment:

1. Adds movie theaters to the places that are not considered a chain restaurant;
2. Increases from 60 to 90 the number of days an item must appear on a menu before the chain restaurant is required to provide caloric information regarding that item;
3. Specifies that this legislation does not create any additional rights or liabilities; and
4. Asserts that state regulation of nutritional information by chain restaurants occupies the whole field of regulation and prohibits municipalities from enacting any ordinance regulating the dissemination of such information.

### **Enacted Law Summary**

Public Law 2009, chapter 395 requires a chain restaurant, which is a restaurant with the same trade name and the same type of food, meals and menus as 20 or more restaurants at least one of which is in Maine, to provide accurate calorie information on its menus, menu boards and food display labels for the food and beverage items it regularly sells, not including limited-time offers, condiments, items in sealed manufacturer's packaging with nutrition information or custom orders. The law also requires a chain restaurant to state on its menu and menu boards: "To maintain a healthy weight, a typical adult should consume approximately 2,000 calories per day; however, individual calorie needs may vary." This law allows a chain restaurant to state on its menu and menu boards: "Nutrition information is based upon standard recipes and product formulations; however, modest variations may occur due to differences in preparation, serving sizes, ingredients or special orders."

The law provides a definition for "calories per serving," the law exempts limited time offerings to 90 days per year. It exempts from the definition of "chain restaurant" a movie theater and a hotel or motel that contains a separately owned eating establishment but applies the provisions of the bill to that separately owned eating establishment. It exempts food items provided at a self-service salad bar or buffet. It establishes a separate caloric labeling requirement for beer, wine and spirits. It specifies that enforcement is by the Attorney General against the owner or franchisee of the eating establishment and that there are no private remedies.

The law states that state regulation of nutritional information by chain restaurants occupies the whole field of regulation and prohibits municipalities from enacting any ordinance regulating the dissemination of such information.

The law takes effect February 1, 2011.

**LD 1260**

### **An Act To Amend the Certificate of Need Act of 2002 for Nursing Facility Projects**

**PUBLIC 429**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MARTIN J L MARRACHE	OTP-AM	H-535

## *Joint Standing Committee on Health and Human Services*

This bill amends the Certificate of Need Act of 2002 governing the conversion of nursing facility beds to residential care beds to permit such conversions as long as the terms of the conversion are approved by the Department of Health and Human Services under applicable provisions permitting transfers that are MaineCare-neutral in their overall impact.

The bill also amends provisions governing the nursing facility MaineCare funding pool to create certain exceptions to the constraints of the pool. A provision is enacted to permit the transfers of beds and other nursing facility resources to residential care facilities and to exclude such beds and resources from the pool if prior approval is obtained from the department.

The bill also changes the provisions governing nursing facility projects in several respects:

1. To permit certificate of need approval of different types of nursing facility projects as long as MaineCare neutrality is demonstrated and to permit transfers of MaineCare resources between nursing facilities and residential care facilities to satisfy these requirements;
2. To permit the exchange of bed rights between nursing facilities and residential care facilities in order to permit nursing facilities to satisfy MaineCare neutrality requirements;
3. To permit nursing facilities to satisfy MaineCare neutrality requirements for projects that do not involve relocation of beds from one facility to another or a new facility when the entity proposing the changes is able to satisfy MaineCare neutrality requirements by delicensing beds under common ownership or acquiring beds from other facilities including residential care facilities; and
4. To permit approval of nursing facility projects that propose transfers of ownership when any increases in MaineCare costs are offset by transfers of bed rights or the increase in MaineCare costs is limited to changes in fixed-costs reimbursement due to changes in approved financing or applicable depreciation schedules.

### **Committee Amendment "A" (H-535)**

This amendment replaces the bill and amends the Certificate of Need Act of 2002. Beginning January 1, 2010, it increases the threshold amount for nursing facility projects to \$1,000,000. It exempts from the full certificate of need approval certain nursing facility projects including capital expenditures under limited circumstances, nonmedical replacement equipment, information systems, communication systems, parking lots and garages. It changes the nursing facility MaineCare funding pool to create certain exceptions to the constraints of the pool. It permits certificate of need approval of different types of nursing facility projects as long as MaineCare neutrality is demonstrated. It permits nursing facilities to satisfy MaineCare neutrality requirements for projects that do not involve relocation of beds from one facility to another or a new facility when the entity proposing the changes is able to satisfy MaineCare neutrality requirements by delicensing beds under common ownership or acquiring beds from other nursing facilities. It charges the Department of Health and Human Services with working with stakeholders to identify possible methods for creating more flexibility in the laws governing nursing facility projects that are subject to MaineCare budget neutrality requirements.

### **Enacted Law Summary**

Public Law 2009, chapter 429 amends the Certificate of Need Act of 2002. Beginning January 1, 2010, it increases the threshold amount for nursing facility projects to \$1,000,000. It exempts from the full certificate of need approval certain nursing facility projects including capital expenditures under limited circumstances, nonmedical replacement equipment, information systems, communication systems, parking lots and garages. It changes the nursing facility MaineCare funding pool to create certain exceptions to the constraints of the pool. It permits certificate of need approval of different types of nursing facility projects as long as MaineCare neutrality is demonstrated. It permits nursing facilities to satisfy MaineCare neutrality requirements for projects that do not involve relocation of beds from one facility to another or a new facility when the entity proposing the changes is able to satisfy MaineCare

## *Joint Standing Committee on Health and Human Services*

neutrality requirements by delicensing beds under common ownership or acquiring beds from other nursing facilities. It charges the Department of Health and Human Services with working with stakeholders to identify possible methods for creating more flexibility in the laws governing nursing facility projects that are subject to MaineCare budget neutrality requirements.

**LD 1261      *Resolve, To Require the Department of Health and Human Services To Provide Cost-of-living Adjustments for Nursing Facilities and Certain Medical and Remedial Private Nonmedical Institutions*      **ONTP****

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MARTIN J L MARRACHE	ONTP	

This resolve requires the Department of Health and Human Services to provide nursing facilities and residential care facilities with cost-of-living adjustments in fiscal years 2009-10 and 2010-11. The adjustment must be 3 percent for nursing facilities where 80 percent or more of the facility's annual resident days are covered by MaineCare. A 1.5 percent adjustment must be provided for all other nursing and residential care facilities. This bill also has an appropriations and allocations section.

**LD 1262      *An Act To Restrict Gifts to Health Care Practitioners from Pharmaceutical and Medical Device Manufacturers*      **Carried Over****

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

This bill:

1. Prohibits most gifts and payments to health care practitioners from pharmaceutical and medical device manufacturers;
2. Includes medical devices in the definition of "prescription drug" for the purposes of requirements involving a pharmaceutical manufacturer's giving of gifts to health care practitioners and reporting marketing expenses;
3. Establishes requirements for pharmaceutical manufacturers' giving sample products to health care practitioners;
4. Requires the Department of Health and Human Services to report a pharmaceutical manufacturer's gifts and payments per health care practitioner instead of in the aggregate;
5. Limits the confidentiality of pharmaceutical manufacturers' reporting information to trade information protected by state and federal law;
6. Requires the Department of Health and Human Services to post the department's annual report regarding a pharmaceutical manufacturer's marketing expenses on a publicly accessible portion of the department's website; and
7. Allows the Department of Health and Human Services to raise the fees of pharmaceutical manufacturers to cover reasonable costs of the department.