

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals  
(may include minor formatting differences from printed original)

**STATE OF MAINE**  
125<sup>TH</sup> LEGISLATURE  
SECOND REGULAR SESSION



Summaries of bills, adopted amendments and laws enacted or finally passed

**JOINT STANDING COMMITTEE ON TAXATION**

June 2012

**STAFF:**

ELIZABETH F. COOPER, LEGISLATIVE ANALYST  
WILLIAM B. GARDINER, LEGISLATIVE ANALYST  
OFFICE OF FISCAL AND PROGRAM REVIEW  
5 STATE HOUSE STATION  
AUGUSTA, ME 04333  
(207) 287-1635

**MEMBERS:**

SEN. JONATHAN T.E. COURTNEY, CHAIR  
SEN. DAVID R. HASTINGS, III  
SEN. RICHARD G. WOODBURY

REP. L. GARY KNIGHT, CHAIR  
REP. G. PAUL WATERHOUSE  
REP. BRUCE A. BICKFORD  
REP. PAUL EDWARD BENNETT  
REP. WINDOL C. WEAVER  
REP. R. RYAN HARMON  
REP. SETH A. BERRY  
REP. DONALD E. PILON  
REP. MARK E. BRYANT  
REP. ELSPETH M. FLEMINGS

# STATE OF MAINE

125<sup>TH</sup> LEGISLATURE  
SECOND REGULAR SESSION



## LEGISLATIVE DIGEST OF BILL SUMMARIES AND ENACTED LAWS

This *Legislative Digest of Bill Summaries and Enacted Laws* summarizes all LDs and adopted amendments and all laws enacted or finally passed during the Second Regular Session of the 125<sup>th</sup> Maine Legislature.

The *Digest* is arranged alphabetically by committee and within each committee by Legislative Document (LD) number. The committee report(s), prime sponsor and lead co-sponsor(s), if designated, are listed below each LD 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 LD is noted to the right of the LD title. The following describes the various final actions.

<i>CARRIED OVER</i> .....	<i>carried over to a subsequent session of the Legislature</i>
<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; legislation died</i>
<i>DIED BETWEEN HOUSES</i> .....	<i>House &amp; Senate disagreed; legislation died</i>
<i>DIED IN CONCURRENCE</i> .....	<i>defeated in each house, but on different motions; legislation died</i>
<i>DIED ON ADJOURNMENT</i> .....	<i>action incomplete when session ended; legislation died</i>
<i>EMERGENCY</i> .....	<i>enacted law takes effect sooner than 90 days after session adjournment</i>
<i>FAILED, EMERGENCY ENACTMENT or FINAL PASSAGE</i> .....	<i>emergency failed to receive required 2/3 vote</i>
<i>FAILED, ENACTMENT or FINAL PASSAGE</i> .....	<i>failed to receive final majority vote</i>
<i>FAILED, MANDATE ENACTMENT</i> .....	<i>legislation proposing local mandate failed required 2/3 vote</i>
<i>HELD BY GOVERNOR</i> .....	<i>Governor has not signed; final disposition to be determined at subsequent session</i>
<i>LEAVE TO WITHDRAW</i> .....	<i>sponsor's request to withdraw legislation granted</i>
<i>NOT PROPERLY BEFORE THE BODY</i> .....	<i>ruled out of order by the presiding officer; legislation died</i>
<i>INDEF PP</i> .....	<i>indefinitely postponed; legislation died</i>
<i>ONTP, ACCEPTED, MAJORITY, MINORITY or REPORT X</i> ...	<i>ought-not-to-pass report accepted; legislation died</i>
<i>P&amp;S XXX</i> .....	<i>chapter # of enacted private &amp; 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>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 of the 125<sup>th</sup> Legislature is Thursday, August 30, 2012. The effective date for legislation enacted as an emergency measure may be found in the enacted law summary for that legislation.

*Joint Standing Committee on Taxation*

**LD 234**

**An Act To Provide a Sales Tax Exemption to Commercial Horticulturists**

**DIED ON  
ADJOURNMENT**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HARVELL	OTP-AM	H-687

This bill was carried over from the First Regular Session of the 125th Legislature.

This bill makes the following changes to the sales and use tax law with respect to commercial agriculture.

1. It enacts a definition of "commercial agricultural production" and specifies that it includes greenhouse and nursery products.
2. It specifies that the sales tax exemption contained in current law applies to products used in commercial agricultural production.

**Committee Amendment "B" (H-687)**

This amendment adds an emergency preamble and emergency clause to the bill. It removes redundant language related to exempting from the sales tax products used in the commercial production of livestock. The amendment requires the joint standing committee of the Legislature having jurisdiction over taxation matters to conduct, no later than February 1, 2017, a review to determine whether the sales tax exemption for those products used in commercial agricultural production of greenhouse or nursery products should be continued, repealed or modified. See LD 1746, Part N.

**Senate Amendment "A" To Committee Amendment "B" (S-593)**

This amendment strikes the bill and Committee Amendment "B". It requires a retail seller that does not maintain a place of business in the State but makes retail sales or solicits orders through salespeople, independent contractors, representatives or affiliates that exceed a minimum threshold to register with the State Tax Assessor and collect sales tax. The amendment establishes a presumption that a seller is soliciting business through a salesperson, independent contractor, representative or affiliate if that seller enters into an agreement with a resident of the State under which the resident, for a commission or other consideration, directly or indirectly refers potential customers, whether by a link on a website or otherwise, to the seller, if the cumulative gross receipts from sales by the seller to customers in the State who are referred to the seller by all residents with this type of agreement with the seller exceed \$10,000 during the preceding 4 quarterly filing periods. The amendment permits a seller to rebut the presumption that the seller is required to register and collect taxes by demonstrating the resident with whom the seller has an agreement did not engage in solicitation during the preceding 4 quarterly filing periods. It prohibits the State Tax Assessor from collecting taxes from a seller with a presumed nexus for periods before October 1, 2012, if the seller registers and begins to collect tax by that date.

This amendment was adopted in the Senate, but it was not adopted in the House.

**House Amendment "A" To Committee Amendment "B" (H-978)**

This amendment replaces the statutory changes in the committee amendment with a resolve directing the Department of Administrative and Financial Services, Bureau of Revenue Services to convene a working group to study the issues involved in the application of the sales tax to retailers with an affiliate nexus in the State and directing the bureau to present a report on the issues to the 126th Legislature by January 15, 2013.

**Joint Standing Committee on Taxation**

This amendment was not adopted.

**LD 305      RESOLUTION, Proposing an Amendment to the Constitution of Maine      ONTP**  
**To Allow Land and Buildings To Be Assessed Differently**

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

This resolution was carried over from the First Regular Session of the 125th Legislature.

This resolution proposes to amend the Constitution of Maine to allow land to be assessed at a rate different from the rate at which buildings located on that land are assessed.

**LD 338      An Act To Provide an Income Tax Credit for Persons Engaged in      VETO**  
**Commercial Forestry      SUSTAINED**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
JACKSON	ONTP MAJ OTP-AM MIN	S-367 ROSEN R

This bill allows an income tax credit to an employer in the logging industry that employs residents of the State who are engaged primarily in the harvesting of timber in this State. The credit is equal to \$2,500 for each full-time equivalent employee.

**Committee Amendment "A" (S-41)**

This amendment is the minority report. It changes the bill by reducing the income tax credit to an employer in the logging industry that employs residents of the State who are engaged primarily in the harvesting of timber in this State to \$250 for each employee who is employed full-time. It also adds an application date and an appropriations and allocations section. This amendment was not adopted.

**Senate Amendment "A" (S-367)**

This amendment replaces the per employee income tax credit to an employer in the logging industry that employs residents of the State to harvest timber in this State with a credit equal to the tax paid during the taxable year on fuel used by the employer for commercial forestry up to a maximum credit of \$1,000. The amendment also delays the application to tax years beginning on or after January 1, 2013 and adds an appropriations and allocations section.

This bill was enacted in the First Regular Session of the 125th Legislature, but was held by the Governor. In the Second Regular Session, the Governor vetoed this bill. The veto was sustained by the Legislature on January 10, 2012.