

MAINE STATE LEGISLATURE

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STATE OF MAINE
125TH LEGISLATURE
FIRST REGULAR SESSION



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

JOINT STANDING COMMITTEE ON JUDICIARY

July 2011

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STATE OF MAINE
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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 First Regular Session of the 125th 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.

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; legislation died
DIED BETWEEN HOUSES..... House & Senate disagreed; legislation died
DIED IN CONCURRENCE..... defeated in each house, but on different motions; legislation died
DIED ON ADJOURNMENT..... action incomplete when session ended; legislation died
EMERGENCY..... enacted law takes effect sooner than 90 days after session adjournment
FAILED, EMERGENCY ENACTMENT or FINAL PASSAGE emergency failed to receive required 2/3 vote
FAILED, ENACTMENT or FINAL PASSAGE..... failed to receive final majority vote
FAILED, MANDATE ENACTMENT legislation proposing local mandate failed required 2/3 vote
HELD BY GOVERNOR..... Governor has not signed; final disposition to be determined at subsequent session
LEAVE TO WITHDRAW..... sponsor's request to withdraw legislation granted
NOT PROPERLY BEFORE THE BODY ruled out of order by the presiding officer; legislation died
INDEF PP..... indefinitely postponed; legislation died
ONTP, ACCEPTED, MAJORITY, MINORITY or REPORT X... ought-not-to-pass report accepted; legislation died
P&S XXX..... chapter # of enacted private & special law
PUBLIC XXX..... chapter # of enacted public Law
RESOLVE XXX..... chapter # of finally passed resolve
VETO SUSTAINED..... Legislature failed to override Governor's veto

The effective date for non-emergency legislation enacted in the First Regular Session of the 125th Legislature is September 28, 2011. 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 Judiciary

**LD 1154 An Act To Implement the Recommendations of the Right To Know
Advisory Committee**

PUBLIC 320

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM	H-441

This bill implements the recommendations of the Right to Know Advisory Committee as included in the Advisory Committee's 5th annual report.

Committee Amendment "A" (H-441)

This amendment adds a mandate preamble.

Enacted Law Summary

Public Law 2011, chapter 320 is the recommendations of the Right to Know Advisory Committee.

The recommendations resulting from the review of existing public records exceptions are contained in Part A.

Part B is in response to Resolve 2009, chapter 171. Part B amends the public policy section of the freedom of access laws to specifically allow communications outside of public proceedings between members of a public body if those communications are not used to defeat the purposes of the freedom of access laws.

Part C contains the advisory committee's recommendations pursuant to Resolve 2009, chapter 186. Part C requires that public bodies keep records of their meetings if they are required under the freedom of access laws to give notice of their meetings and the public body is not purely advisory in its authority.

Part D consists of the advisory committee's recommendations to broaden the review requirements for both existing public records exceptions and the Legislature's review of proposed public records exceptions. Part D provides that the review and evaluation process includes language that affects the public accessibility of a public record. Any factors that affect the accessibility may be considered, including but not limited to fees, request procedures and timeliness of responses.

Part E exempts social security numbers from the definition of "public records" under the freedom of access laws.

The mandate preamble exempts the State from paying the costs that may result from the requirement that records be kept of public proceedings.

**LD 1172 An Act To Prohibit Enforcement of Federal Laws in Violation of the
Constitution of the United States**

**MAJORITY
(ONTP) REPORT**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
NEWENDYKE SNOWE-MELLO	ONTP MAJ OTP-AM MIN	

Joint Standing Committee on Judiciary

This bill expresses the findings of the Legislature that the Commerce Clause of the United States Constitution is valid for the regulation of interstate commerce but not intrastate commerce. The bill prohibits a federal or state official, agent or employee from enforcing a federal act, order, law, statute, rule or regulation that attempts to regulate goods grown, manufactured or made in this State or services performed in this State. Violation by a federal official is a Class C crime, punishable by up to 5 years in prison and a fine of up to \$5,000. Violation by a state official is a Class D crime, punishable by less than one year in prison and a fine of up to \$2,000.

Committee Amendment "A" (H-516)

This amendment is the minority report of the Joint Standing Committee on Judiciary.

This amendment replaces the provision in the bill that prohibits any person from interfering with intrastate goods and services and created Class C and Class D crimes. This amendment prohibits a state official or employee from enforcing a federal law that regulates or attempts to regulate goods grown, manufactured or made in this State or services performed in this State when those goods or services are sold, maintained, retained or performed exclusively in this State, unless the official or employee is authorized to do so by state law. This amendment also directs state courts to not give force or effect to any action by a state official or employee that is inconsistent with the prohibition.

This amendment was not adopted.

LD 1186 An Act To Amend the Probate Code Relating to the Authority of the Probate Court To Approve Transfers from a Protected Person's Estate

PUBLIC 155

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HOBBINS	OTP-AM	S-75

This bill amends the Probate Code to provide that the Probate Court does not need to make a finding about the adequacy of the protected person's estate when approving a gift or transfer for less than fair market value from the protected person's estate if the gift or transfer is to the protected person's spouse or blind or disabled child. The bill incorporates the federal change in the look-back period from 36 months to 60 months.

Committee Amendment "A" (S-75)

This amendment clarifies that any gift or transfer that can be made without a transfer penalty under applicable federal law may be approved by the Probate Court without the court's making findings about the adequacy of the estate or the potential eligibility for MaineCare coverage.

Enacted Law Summary

Public Law 2011, chapter 155 amends the Probate Code to provide that the Probate Court does not need to make a finding about the adequacy of the protected person's estate when approving a gift or transfer for less than fair market value from the protected person's estate if the gift or transfer can be made without a transfer penalty under applicable federal law. Chapter 155 also incorporates the federal change in the look-back period from 36 months to 60 months.