

# MAINE STATE LEGISLATURE

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



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

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

July 2011

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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 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.

*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 125<sup>th</sup> 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 Health and Human Services*

**LD 1290      Resolve, To Promote Prevention Practices in Oral Health Care**

**VETO  
SUSTAINED**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
EVES CRAVEN	OTP-AM	H-411

This resolve requires the Department of Health and Human Services to develop and maintain a program to promote oral health and dental disease prevention activities and to gather and aggregate data regarding oral health programs in this State.

**Committee Amendment "A" (H-411)**

This amendment adds to the resolve the requirement that the oral health promotion program be undertaken within existing resources of the Department of Health and Human Services.

**LD 1294      An Act To Impose a 90-day Residency Requirement in Order To  
Receive State Assistance**

**ONTP**

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

This bill establishes a 90-day residency requirement for applicants for the MaineCare program, the statewide food supplement program, the TANF program and municipal general assistance.

**LD 1296      An Act To Amend the Maine Medical Use of Marijuana Act To Protect  
Patient Privacy**

**PUBLIC 407**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SANDERSON TRAHAN	OTP-AM	H-615

This bill amends the Maine Medical Use of Marijuana Act to protect patient privacy. The bill provides for expanded access and optional registration under the Act. The bill does the following.

1. It allows a physician to determine whether a condition requires the use of medical marijuana.
2. It amends the definition of "enclosed, locked facility."
3. It defines "mature marijuana plant."
4. It clarifies the definition of "qualifying patient" and removes the requirement of registration for certain authorized conduct of the patient.

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5. It creates a definition for "primary caregiver."
6. It allows patients who cultivate their own marijuana to possess, beyond 6 mature marijuana plants, other marijuana plants in various stages of cultivation or processing.
7. It allows a primary caregiver to possess, beyond 6 mature marijuana plants for each of 5 qualifying patients of the caregiver, other marijuana plants in various stages of cultivation or processing.
8. It requires the use of an enclosed, locked facility only if marijuana is grown for three or more qualifying patients.
9. It allows a primary caregiver to sell excess marijuana to a marijuana dispensary and for dispensaries to contract out marijuana cultivation.
10. It removes the requirement that a patient who cultivates marijuana plants keep the plants in an enclosed, locked facility.
11. It removes the registration requirements for a hospice provider or nursing facility named as a patient's primary caregiver.
12. It removes the registration requirements for visiting qualifying patients.
13. It clarifies that a person may not be subject to arrest or prosecution for engaging in conduct authorized by the Maine Medical Use of Marijuana Act.
14. It prohibits a law enforcement officer, law enforcement department, state agency or employee of the State from seizing or possessing marijuana in the lawful possession of a qualifying patient, primary caregiver or dispensary.
15. It allows a business owner to prohibit smoking medical marijuana on the business's premises.
16. It allows a sliding scale registration fee based upon a patient's status as a veteran of the Armed Forces of the United States.
17. It removes the registration requirement that the Commissioner of Health and Human Services approve the registration application.
18. It removes the requirement that registration cards contain an applicant's address and date of birth.
19. It clarifies that possession of a written certification from a physician prescribing use of medical marijuana cannot be used as evidence of unlawful conduct or be the basis for a search of the patient.
20. It requires that the records of a patient no longer registered as a medical marijuana user be purged and requires that the patient be notified of the purge of information.
21. It removes the requirement of listing the nature of the debilitating conditions of registered patients in the annual report of the registration process by the Department of Health and Human Services to the Legislature.
22. It clarifies that registration is voluntary and failure to register does not affect the authorized conduct for a qualifying patient or primary caregiver.
23. It allows for a civil penalty for a person making a fraudulent representation relating to the possession or medical use of marijuana under the Maine Medical Use of Marijuana Act.

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24. It allows a marijuana dispensary to obtain and possess up to 5 ounces of marijuana for each patient of the dispensary.
25. It removes the registration requirement of listing the name, address and date of birth for each principal officer, board member and employee of a marijuana dispensary or issuing registration cards to those individuals.
26. It provides for immunity for marijuana dispensaries and their principal officers, board members and employees.
27. It prohibits a political subdivision of the State from enacting any law or ordinance concerning use of medical marijuana other than reasonable rules concerning the locations of marijuana dispensaries.
28. It requires the Department of Health and Human Services to amend rules to retain at least eight marijuana dispensaries throughout the State.
29. It requires a written certification by a physician recommending use of medical marijuana to be written on tamper-resistant paper.
30. It allows a primary caregiver to assist a qualifying patient in the preparation of marijuana.
31. It exempts from the definition of "food establishment" a primary caregiver who prepares medical marijuana for use by a qualifying patient who is a family or household member of the primary caregiver.
32. It requires a designation of a primary caregiver from a qualifying patient to be in a written document signed and dated by the qualifying patient.
33. It requires a physician to advise a patient of the risks and benefits of the use of medical marijuana and that the patient may benefit from the use of medical marijuana prior to issuing a certification prescribing the use of medical marijuana.
34. It allows a patient to grow marijuana for personal use and designate a primary caregiver or registered dispensary.
35. It allows a court to permit the use of medical marijuana while imposing conditions of a criminal sentence, bail, probation, continuance or other dispositional order.
36. It includes dispensing in conduct allowed by a registered dispensary.
37. It requires a registered dispensary to display its certificate issued by the Department of Health and Human Services in a publicly visible location in the dispensary.
38. It clarifies that physicians are protected for conduct authorized by the Maine Medical Use of Marijuana Act.
39. It requires a qualifying patient or primary caregiver to provide, upon request by a law enforcement officer, official proof of identification and the original copy of the physician's certification or qualifying patient's designation of primary caregiver.
40. It requires the Department of Health and Human Services to maintain a log of requests to view registration information, including the name and agency of the requestor, and allows a person whose information is subject to an information request to copy or receive copies of portions of the log relating to that request.

### **Committee Amendment "A" (H-615)**

This amendment replaces the bill, but retains most of the substantive provisions of the bill. It retains provisions of

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the bill that allow qualifying patients to use marijuana for medical purposes, removes provisions of the bill that increase the amount of marijuana a medical marijuana patient may possess, adds provisions requiring treating physicians to consult with other physicians before providing written certification for the medical use of marijuana for minors who are qualifying patients and adds a requirement that the Department of Health and Human Services expunge from the records of the medical marijuana registry information on a registered patient's diagnosis and information on qualifying patients who request to be removed from the registry.

**Enacted Law Summary**

Public Law 2011, chapter 407 allows qualifying patients to use marijuana for medical purposes, removes from the law the requirement that treating physicians to consult with other physicians before providing written certification for the medical use of marijuana for minors who are qualifying patients and adds a requirement that the Department of Health and Human Services expunge from the records of the medical marijuana registry information on a registered patient's diagnosis and information on qualifying patients who request to be removed from the registry. The law makes registration with DHHS optional for patients and for caregivers who care only for family and household members. The law adds specific language on an affirmative defense and on forfeiture of marijuana in excess of amounts allowed by the law on medical use of marijuana.

**LD 1303      An Act To Increase the Fee Paid to a Funeral Home To Transport a Body at the Request of the State Medical Examiner      PUBLIC 445**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
FITTS	OTP-AM	H-239 S-358 ROSEN R

This bill increases the fee paid to a funeral establishment to transport a body to Augusta at the request of the Department of the Attorney General, Office of Chief Medical Examiner.

**Committee Amendment "A" (H-239)**

This amendment adds an appropriations and allocations section to the bill.

**Senate Amendment "A" To Committee Amendment "A" (S-358)**

This amendment adds an effective date of July 1, 2012 and removes the fiscal year 2011-12 General Fund appropriation of \$26,250.

**Enacted Law Summary**

Public Law 2011, chapter 445 increases the fee paid to a funeral establishment to transport a body to Augusta at the request of the Department of the Attorney General, Office of Chief Medical Examiner, beginning July 1, 2012.

**LD 1331      An Act To Increase Health Care Quality through the Promotion of Health Information Exchange and the Protection of Patient Privacy      PUBLIC 347**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
FOSEL	OTP-AM	H-458