

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 LABOR, COMMERCE,
RESEARCH AND ECONOMIC DEVELOPMENT**

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 Labor, Commerce, Research and Economic Development

LD 1536 Resolve, Directing the Commissioner of Professional and Financial Regulation To Conduct Meetings To Review the Issue of Compliance with the Laws Governing Guaranteed Price Home Heating Oil, Kerosene and Liquefied Petroleum Gas Contracts RESOLVE 79

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CORNELL DU HOUX GERZOFISKY	OTP-AM	H-526

This bill requires a dealer of home heating oil, kerosene or liquefied petroleum gas to file a quarterly report with the Attorney General concerning all prepaid guaranteed price home heating oil, kerosene or liquefied petroleum gas contracts that the dealer holds and evidence that the dealer is in compliance with the security provisions under state law relating to those contracts. The bill also stipulates that a violation of a prepaid guaranteed price home heating oil, kerosene or liquefied petroleum gas contract is a civil violation with a fine to equal the amount of the contract plus an additional 5% to be collected by the Attorney General. The Attorney General shall disburse a portion of the fine to the consumers whose contracts were not honored.

Committee Amendment "A" (H-526)

This amendment replaces the bill with a resolve that directs the Commissioner of Professional and Financial Regulation to convene a working group with interested parties to determine what information could be required of dealers of home heating oil, kerosene and liquefied petroleum gas that would demonstrate compliance with the law requiring security for prepaid guaranteed price contracts, pursuant to the Maine Revised Statutes, Title 10, section 1110, and to develop recommendations to improve the State's ability to ensure compliance with that law. It also requires the commissioner to submit a report of the findings and recommendations of the working group no later than January 15, 2012 to the Joint Standing Committee on Labor, Commerce, Research and Economic Development and authorizes that committee to introduce a bill on the subject matter of the report to the Second Regular Session of the 125th Legislature.

Enacted Law Summary

Resolve 2011, chapter 79 directs the Commissioner of Professional and Financial Regulation to convene a working group with interested parties to determine what information could be required of dealers of home heating oil, kerosene and liquefied petroleum gas that would demonstrate compliance with the law requiring security for prepaid guaranteed price contracts, pursuant to the Maine Revised Statutes, Title 10, section 1110, and to develop recommendations to improve the State's ability to ensure compliance with that law. The resolve requires the commissioner to submit a report of the findings and recommendations of the working group no later than January 15, 2012 to the Joint Standing Committee on Labor, Commerce, Research and Economic Development and authorizes that committee to introduce a bill on the subject matter of the report to the Second Regular Session of the 125th Legislature.

LD 1560 An Act To Update Professional and Occupational Licensing Statutes PUBLIC 286

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PRESCOTT RECTOR	OTP-AM	H-396

Joint Standing Committee on Labor, Commerce, Research and Economic Development

This bill amends the Charitable Solicitations Act to add the word "entity" to certain definitions for consistency; change the disclosure requirement for commercial co-venturers to encompass services as well as goods; authorize the Commissioner of Professional and Financial Regulation to deny the license application of an entity that has been, or whose principals have been, convicted of a felony or of a misdemeanor involving dishonesty; require an applicant whose license previously has lapsed to file an annual fund-raising activity report for the previous calendar year; and change the provision pertaining to the unauthorized use of names to limit this prohibition to those instances in which such use is made in a manner intended to mislead.

The bill changes the name of the Office of Licensing and Registration in the Department of Professional and Financial Regulation to the Office of Professional and Occupational Regulation. The bill also clarifies that an individual who engages in any activity that requires a license, without first obtaining a license, commits a civil violation of unlicensed practice. The bill removes references to boards that have been repealed. It authorizes an office, board or commission to assess a licensee who appeals a board decision for the cost of reproducing and transcribing the hearing record.

The bill provides that a person who assists at an auction may not be a person who has had an auctioneer license denied, suspended or revoked in this State or in any other jurisdiction. In addition, the bill provides for a new ground for disciplinary action by the licensing board if a licensed auctioneer allows another to act as an assistant when that person has held an auctioneer license that was denied, suspended or revoked in this State or another jurisdiction.

The bill removes provisions of law relating to informal conferences with licensees concerning certain disciplinary matters in the statutes of the Board of Chiropractic Licensure, Nursing Home Administrators Licensing Board and the Maine Board of Pharmacy to conform to the provisions of the Maine Revised Statutes, Title 10.

The bill moves provisions of law governing exceptions to the laws governing licensing related to electrical installations from Title 32, section 1102-A to section 1201-A. It clarifies levels of supervision by master electricians of subordinate licensees. The bill also requires that electricians contact state electrical inspectors for a permit inspection before the wiring is enclosed and the sheetrock installed. Under current law, only the owner or occupant of a building is required to comply with an order of correction issued by a state electrical inspector. This bill requires the electrician who performed the work that resulted in the order of correction to also comply with the order.

The bill amends the occupational therapy laws to provide for a 6-month temporary license that may be extended for an additional 6 months, if necessary.

The bill reduces the number of members on the State Board of Alcohol and Drug Counselors from 9 members to 5 members with 4 licensed alcohol and drug counselors and one public member appointed by the Governor. The terms of other existing board member positions will terminate on the effective date of the bill.

The bill reduces the term of a temporary license for a person to practice respiratory care from one year to 90 days. Such a license may be extended for an additional 90 days if necessary. The bill also reduces the required supervision of a temporary permit holder from direct supervision to general supervision.

The bill clarifies that the current branch office licensing requirement for a real estate brokerage business does not extend to home offices of real estate licensees. In addition, the bill requires that a brokerage agreement between a real estate brokerage agency and a client must include a statement that the agreement creates an agency-client relationship.

The bill clarifies that members of the Board of Real Estate Appraisers and investigators are not subject to certain professional appraiser practices when they review complaint matters.

Joint Standing Committee on Labor, Commerce, Research and Economic Development

The bill creates a limited barber license; changes references to "manicuring" to "nail technology" to reflect current industry terminology; increases the time period for initial licensure after passing the examination for applicants seeking licensure in barbering, cosmetology, nail technology or aesthetics; eliminates the student requirement and replaces it with a student roster report at no cost; eliminates certain location restrictions on mobile establishments; and makes other minor technical changes.

The bill amends the laws governing massage therapy to require that a licensee who applies for license renewal more than 90 days after the expiration date is subject to all requirements governing new applicants.

The bill adds an eligibility provision for foreign educated applicants and changes the name of the Board of Speech-language Pathology, Audiology and Hearing Aid Dealing and Fitting to the Board of Speech, Audiology and Hearing.

Committee Amendment "A" (H-396)

This amendment makes technical corrections to the bill by repealing only the references to informal conferences for the Nursing Home Administrators Licensing Board and the Maine Board of Pharmacy within the Department of Professional and Financial Regulation. The amendment replaces the current minimum hour requirements for continuing education courses for real estate appraisers with continuing education requirements that will be determined by rule by the Department of Professional and Financial Regulations, Board of Real Estate Appraisers.

Enacted Law Summary

Public Law 2011, chapter 286 makes the following changes to the professional and occupational licensing statutes:

1. It amends the Charitable Solicitations Act to: add the word "entity" to certain definitions for consistency; change the disclosure requirement for commercial co-venturers to encompass services as well as goods; authorize the Commissioner of Professional and Financial Regulation to deny the license application of an entity that has been, or whose principals have been, convicted of a felony or of a misdemeanor involving dishonesty; require an applicant whose license previously has lapsed to file an annual fund-raising activity report for the previous calendar year; and change the provision pertaining to the unauthorized use of names to limit this prohibition to those instances in which such use is made in a manner intended to mislead.
2. It changes the name of the Office of Licensing and Registration in the Department of Professional and Financial Regulation to the Office of Professional and Occupational Regulation.
3. It clarifies that an individual who engages in any activity that requires a license, without first obtaining a license, commits a civil violation of unlicensed practice and removes references to boards that have been repealed. It authorizes an office, board or commission to assess a licensee who appeals a board decision for the cost of reproducing and transcribing the hearing record. It provides that a person who assists at an auction may not be a person who has had an auctioneer license denied, suspended or revoked in this State or in any other jurisdiction. In addition, the bill provides for a new ground for disciplinary action by the licensing board if a licensed auctioneer allows another to act as an assistant when that person has held an auctioneer license that was denied, suspended or revoked in this State or another jurisdiction.
4. It removes provisions of law relating to informal conferences with licensees concerning certain disciplinary matters in the statutes of the Nursing Home Administrators Licensing Board and the Maine Board of Pharmacy to conform to the provisions of the Maine Revised Statutes, Title 10.
5. It moves provisions of law governing exceptions to the laws governing licensing related to electrical installations from Title 32, section 1102-A to section 1201-A. It clarifies levels of supervision by master electricians of subordinate licensees. It also requires that electricians contact state electrical inspectors for a permit inspection before the wiring is enclosed and the sheetrock installed. Under current law, only the owner or occupant of a building is required to comply with an order of correction issued by a state electrical inspector. It requires the

Joint Standing Committee on Labor, Commerce, Research and Economic Development

electrician who performed the work that resulted in the order of correction to also comply with the order. It amends the occupational therapy laws to provide for a 6-month temporary license that may be extended for an additional 6 months, if necessary.

6. It reduces the number of members on the State Board of Alcohol and Drug Counselors from 9 members to 5 members with 4 licensed alcohol and drug counselors and one public member appointed by the Governor. The terms of other existing board member positions will terminate on the effective date of the bill.

7. It reduces the term of a temporary license for a person to practice respiratory care from one year to 90 days. Such a license may be extended for an additional 90 days if necessary. It also reduces the required supervision of a temporary permit holder from direct supervision to general supervision.

8. It clarifies that the current branch office licensing requirement for a real estate brokerage business does not extend to home offices of real estate licensees. In addition, it requires that a brokerage agreement between a real estate brokerage agency and a client must include a statement that the agreement creates an agency-client relationship.

9. It clarifies that members of the Board of Real Estate Appraisers and investigators are not subject to certain professional appraiser practices when they review complaint matters. It replaces the current minimum hour requirements for continuing education courses for real estate appraisers with continuing education requirements that will be determined by rule by the Department of Professional and Financial Regulations, Board of Real Estate Appraisers

10. It creates a limited barber license; changes references to "manicuring" to "nail technology" to reflect current industry terminology; increases the time period for initial licensure after passing the examination for applicants seeking licensure in barbering, cosmetology, nail technology or aesthetics; eliminates the student requirement and replaces it with a student roster report at no cost; eliminates certain location restrictions on mobile establishments; and makes other minor technical changes.

11. It amends the laws governing massage therapy to require that a licensee who applies for license renewal more than 90 days after the expiration date is subject to all requirements governing new applicants.

12. It adds an eligibility provision for foreign educated applicants and changes the name of the Board of Speech-language Pathology, Audiology and Hearing Aid Dealing and Fitting to the Board of Speech, Audiology and Hearing.

LD 1566 An Act To Require Disclosures by 3rd-party Vendors Contracted To ONTP
Perform Fund-raising

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

Current law places certain restrictions on professional solicitors, who are persons or companies that solicit donations on behalf of charitable organizations.

This bill requires a professional solicitor who receives more than 25% of the solicited donation to disclose to the donor the percentage of the donation the professional solicitor receives, the percentage of the donation the charitable organization receives, whether the donation is sent by the donor to the professional solicitor or to the charitable organization and whether the professional solicitor's fee is paid prior to or after the distribution of the