

# MAINE STATE LEGISLATURE

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**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 JUDICIARY**

June 2012

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# 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 Judiciary*

**LD 1595    An Act To Impose a Penalty for Making False Claims Regarding  
Affiliation with a Federally Recognized Tribe**

**PUBLIC 583**

| <u>Sponsor(s)</u> | <u>Committee Report</u> | <u>Amendments Adopted</u> |
|-------------------|-------------------------|---------------------------|
| Soctomah          | OTP-AM                  | H-821                     |

This bill creates the crime of fraudulent claim of affiliation with a federally recognized tribe for when a person knowingly claims falsely to be affiliated with a federally recognized tribe with the intent to obtain, and does obtain, something of value to which the person is not entitled.

**Committee Amendment "A" (H-821)**

This amendment replaces the bill. It establishes a civil violation with a maximum fine of \$2,500 for a person who falsely claims to be a member of the Aroostook Band of Micmacs, the Houlton Band of Maliseet Indians, the Passamaquoddy Tribe or the Penobscot Nation, which are federally recognized, with the intent to obtain property to which the person is not entitled and, because of the false claim, does obtain property. This amendment provides that "property" has the same definition as provided in the Maine Revised Statutes, Title 17-A, section 352, subsection 1.

**Enacted Law Summary**

Public Law 2011, chapter 583 establishes a civil violation with a maximum fine of \$2,500 for a person who falsely claims to be a member of the Aroostook Band of Micmacs, the Houlton Band of Maliseet Indians, the Passamaquoddy Tribe or the Penobscot Nation, which are federally recognized, with the intent to obtain property to which the person is not entitled and, because of the false claim, does obtain property. "Property" has the same definition as provided in the Maine Revised Statutes, Title 17-A, section 352, subsection 1.

**LD 1605    An Act To Promote Agricultural Activity in Maine by Limiting the  
Liability for Agritourism Activities**

**PUBLIC 609**

| <u>Sponsor(s)</u>  | <u>Committee Report</u>    | <u>Amendments Adopted</u> |
|--------------------|----------------------------|---------------------------|
| LIBBY<br>THIBODEAU | OTP-AM   MAJ<br>ONTP   MIN | H-839                     |

This bill provides limited liability to landowners who open their land for agritourism activities.

**Committee Amendment "A" (H-839)**

This amendment is the majority report of the Joint Standing Committee on Judiciary. It replaces the bill with a limitation on the liability of agritourism professionals based on participants' assumption of the inherent risks of agritourism activities.

Inherent risks include but are not limited to certain hazards, including surface and subsurface conditions and natural conditions of land, vegetation and waters; the behavior of wild and domestic animals, including but not limited to the depositing of manure; ordinary dangers of structures or equipment ordinarily used in farming and ranching operations; and the potential of injury to a participant or others if a participant acts in a negligent manner, including failing to follow instructions given by the agritourism professional or failing to exercise reasonable caution while engaging in the agritourism activity.

## *Joint Standing Committee on Judiciary*

An agritourism professional is not liable for any property damage or damages arising from the personal injury of a participant arising from the inherent risks of agritourism activities if the participant is given notice of the inherent risks and the assumption of those risks. Notice of the inherent risks of agritourism activities may be satisfied either by a statement signed by the participant or a sign or signs prominently displayed at the place or places where the agritourism activities are conducted.

### **Enacted Law Summary**

Public Law 2011, chapter 609 limits the liability of agritourism professionals based on participants' assumption of the inherent risks of agritourism activities.

Inherent risks include but are not limited to certain hazards, including surface and subsurface conditions and natural conditions of land, vegetation and waters; the behavior of wild and domestic animals, including but not limited to the depositing of manure; ordinary dangers of structures or equipment ordinarily used in farming and ranching operations; and the potential of injury to a participant or others if a participant acts in a negligent manner, including failing to follow instructions given by the agritourism professional or failing to exercise reasonable caution while engaging in the agritourism activity.

An agritourism professional is not liable for any property damage or damages arising from the personal injury of a participant arising from the inherent risks of agritourism activities if the participant is given notice of the inherent risks and the assumption of those risks. Notice of the inherent risks of agritourism activities may be satisfied either by a statement signed by the participant or a sign or signs prominently displayed at the place or places where the agritourism activities are conducted.

**LD 1606      An Act To Provide Magistrates To Assist the Court in Handling Small      ONTP**  
**Claims and Landlord-tenant Cases**

| <u>Sponsor(s)</u>   | <u>Committee Report</u> | <u>Amendments Adopted</u> |
|---------------------|-------------------------|---------------------------|
| PRIEST<br>GERZOFSKY | ONTP                    |                           |

This bill authorizes the Chief Judge of the District Court to appoint no more than 4 magistrates to hear and dispose of landlord-tenant cases and small claims cases. Alternatively, it allows the Chief Judge to assign family law magistrates to hear and dispose of these kinds of cases. It authorizes the Chief Justice of the Supreme Judicial Court to increase filing fees for these kinds of cases to pay for the cost of magistrates appointed by the Chief Judge.

**LD 1647      Resolve, To Require Rulemaking Regarding Standing To Appeal in      RESOLVE 144**  
**Proceedings before the Board of Environmental Protection and the**  
**Maine Land Use Regulation Commission**

| <u>Sponsor(s)</u> | <u>Committee Report</u> | <u>Amendments Adopted</u> |
|-------------------|-------------------------|---------------------------|
| SAVIELLO          | ONTP MAJ<br>OTP-AM MIN  | S-464                     |

This bill provides a definition of "person aggrieved" in the laws governing the Maine Land Use Regulation Commission and the Department of Environmental Protection. It also provides that a person aggrieved, rather than an interested party, may seek to supplement the record in an appeal to the Board of Environmental Protection.

### **Committee Amendment "A" (S-464)**