

# 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 TAXATION**

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 Taxation*

before the board. It clarifies that the board may not have any ex parte communication with or on behalf of any party, but may have such communication related to administrative matters.

8. It provides an appeals procedures and requires that the board set a rate of no more than \$150 as a processing fee for each petition that proceeds to an appeals conference. It provides that that either the taxpayer or the assessor may appeal a decision to the Superior Court and that a person who wishes to appeal the board's decision to the Superior Court must file a petition for review within 60 days after receipt of the board's decision or the decision becomes final and no further review is available.

9. It provides for the transfer of funds from the Bureau of Revenue Services to the Maine Board of Tax Appeals, the elimination of positions within the bureau and the creation of new positions in the appeals office of the Maine Board of Tax Appeals and provides for the transfer of property and equipment from the bureau to the board.

Public Law 2011, chapter 694 was enacted as an emergency measure effective July 1, 2012.

**LD 1751      *Resolve, Authorizing the State Tax Assessor To Convey the Interest of the State in Certain Real Estate in the Unorganized Territory***

**RESOLVE 129**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
KNIGHT	OTP-AM	H-748

This resolve authorizes the State Tax Assessor to convey the interest of the State in several parcels of real estate in the Unorganized Territory.

**Committee Amendment "A" (H-748)**

This amendment reauthorizes the State Tax Assessor to convey certain real estate in the Unorganized Territory. Authorization to convey these parcels was originally granted in Resolve 2011, chapter 54 but that authorization expires April 1, 2012, and conveyances cannot be completed by April 1, 2012, due to administrative delays. This amendment extends the deadline until April 1, 2013 and updates tax liability amounts.

**Enacted Law Summary**

Resolve 2011, chapter 129 authorizes the State Tax Assessor to convey the interest of the State in several parcels of real estate in the Unorganized Territory. It also reauthorizes the State Tax Assessor to convey certain real estate in the Unorganized Territory that was originally granted in Resolve 2011, chapter 54. That authorization expired April 1, 2012, and conveyances could not be completed by April 1, 2012, due to administrative delays. Resolve 2011, chapter 129 extends the deadline until April 1, 2013, and updates tax liability amounts.

**LD 1752      *An Act Concerning Technical Changes to the Tax Laws***

**PUBLIC 548**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
KNIGHT	OTP-AM	H-767

This bill makes the following changes to the laws governing taxation.

1. It makes technical changes to correct cross-references, correct clerical errors, resolve statutory numbering

## *Joint Standing Committee on Taxation*

conflicts, improve syntax and repeal unnecessary language.

2. It corrects references to the Department of Administrative and Financial Services, Bureau of Revenue Services.
3. It clarifies the computation of a benchmark loan payment for purposes of the educational opportunity tax credit, consistent with the way the credit is currently administered.
4. It clarifies that an insurance company that does not do business in Maine and is not subject to the Maine insurance premiums tax is eligible for the new markets capital investment credit.
5. It clarifies the computation of the Maine fishery infrastructure investment tax credit.
6. It adds administration of reports and payments by initiators of deposit under the beverage container laws to the list of duties assigned to the State Tax Assessor.
7. It clarifies that only the applicant may appeal to the State Board of Property Tax Review the decision of the assessors or municipal officers with respect to a request for abatement of property taxes on nonresidential property with a valuation of \$1,000,000 or greater.
8. It corrects the computation of the subtraction modification relating to bonus depreciation for property not used as the basis for the Maine capital investment credit.
9. It clarifies that the minimum taxability thresholds for nonresidents apply to the taxable year of the taxpayer rather than the calendar year.
10. It amends the definition of "fiduciary adjustment" to reflect the repeal of the requirement to reduce itemized deductions by the amount of any federal deduction for mortgage insurance premiums.
11. It clarifies the recapture provisions of the Maine capital investment credit.

### **Committee Amendment "A" (H-767)**

This amendment clarifies the application of the motor vehicle oil premium reimbursement to include exports by a distributor purchasing motor vehicle oil from another distributor who remitted the premium to the State. The amendment makes the section of the Act clarifying the application of the motor vehicle oil premium reimbursement retroactive to apply to taxes on premiums received on or after July 1, 2011, to coincide with the first reimbursement requests filed by distributors.

### **Enacted Law Summary**

Public Law 2011, chapter 548 makes the following changes to the laws governing taxation.

1. It makes technical changes to correct cross-references, correct clerical errors, resolve statutory numbering conflicts, improve syntax and repeal unnecessary language.
2. It corrects references to the Department of Administrative and Financial Services, Bureau of Revenue Services.
3. It clarifies the computation of a benchmark loan payment for purposes of the educational opportunity tax credit, consistent with the way the credit is currently administered.
4. It clarifies that an insurance company that does not do business in Maine and is not subject to the Maine insurance premiums tax is eligible for the new markets capital investment credit.
5. It clarifies the computation of the Maine fishery infrastructure investment tax credit.

*Joint Standing Committee on Taxation*

- 6. It adds administration of reports and payments by initiators of deposit under the beverage container laws to the list of duties assigned to the State Tax Assessor.
- 7. It clarifies that only the applicant may appeal to the State Board of Property Tax Review the decision of the assessors or municipal officers with respect to a request for abatement of property taxes on nonresidential property with a valuation of \$1,000,000 or greater.
- 8. It corrects the computation of the subtraction modification relating to bonus depreciation for property not used as the basis for the Maine capital investment credit.
- 9. It clarifies that the minimum taxability thresholds for nonresidents apply to the taxable year of the taxpayer rather than the calendar year.
- 10. It amends the definition of "fiduciary adjustment" to reflect the repeal of the requirement to reduce itemized deductions by the amount of any federal deduction for mortgage insurance premiums.
- 11. It clarifies the recapture provisions of the Maine capital investment credit.
- 12. It clarifies the application of the motor vehicle oil premium reimbursement to include exports by a distributor purchasing motor vehicle oil from another distributor who remitted the premium to the State to apply retroactively to taxes on premiums received on or after July 1, 2011, coinciding with the first reimbursement requests filed by distributors.

**LD 1764     An Act To Reduce High-technology Tax Evasion and Theft**

**PUBLIC 526**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BERRY WOODBURY	OTP-AM MAJ ONTP MIN	H-743

This bill prohibits the possession of automated sales suppression devices, which alter the amounts of sales made by a business for the express purpose of illegally withholding or skimming sales taxes paid by customers. For those persons who correct and fully report any previously underreported sales records before September 1, 2012, certain penalties are reduced but other existing financial liabilities are not reduced. The bill also authorizes the Department of Administrative and Financial Services, Bureau of Revenue Services to adopt routine technical rules to implement this interim compliance period. The bill also requires the bureau to report to the joint standing committee in January 2013 and December 2014 on efforts to detect and prevent crimes involving automated sales suppression devices.

**Committee Amendment "A" (H-743)**

This amendment changes the title of the bill, removes the emergency preamble and emergency clause from the bill and, like the bill, prohibits the possession of automated sales suppression devices, which alter the amounts of sales made by a business for the purpose of illegally withholding sales taxes paid by customers. It provides that a person who knowingly possesses, purchases or owns any automated sales suppression device or phantom-ware commits a Class D crime. It provides that a person who knowingly manufactures, sells, installs or transfers any automated sales suppression device or phantom-ware or possesses, purchases or owns with the intent to sell, install or transfer any automated sales suppression device or phantom-ware commits a Class C crime. The amendment removes the sections of the bill related to an interim compliance period and reporting by the Department of Administrative and Financial Services, Bureau of Revenue Services to the joint standing committee of the Legislature having jurisdiction over taxation matters on efforts to detect and prevent crimes involving automated sales suppression