

# MAINE STATE LEGISLATURE

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



Summaries of bills, amendments and laws enacted or finally passed

**JOINT STANDING COMMITTEE ON JUDICIARY**

July 2013

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# STATE OF MAINE

126<sup>TH</sup> LEGISLATURE  
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## LEGISLATIVE DIGEST OF BILL SUMMARIES AND ENACTED LAWS

This *Legislative Digest of Bill Summaries and Enacted Laws* contains summaries of all LDs and adopted amendments and all laws enacted or finally passed during the First Regular Session of the 126<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 126<sup>th</sup> Legislature is October 9, 2013. 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 1253 An Act To Allow Tribal Members a Choice of Venue**

**ONTP**

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

This bill provides that the jurisdiction over certain tribal members in civil and criminal actions is shared concurrently by the state courts and the tribal courts of the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians. An eligible defendant may move the action from the state court to the tribal court or from the tribal court to the state court at the beginning of the action. Both parties in a civil action must agree to transfer the action from the state court to the tribal court.

This bill also provides for consistent jurisdiction in the Penobscot Tribal Court over certain actions involving members of the Passamaquoddy Tribe, the Houlton Band of Maliseet Indians and the Penobscot Nation.

This legislation takes effect only if the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians certify their approval.

**LD 1331 An Act To Amend the Law Pertaining to Defective or Unreasonably Dangerous Implantable Medical Devices and Pharmaceuticals**

**VETO  
SUSTAINED**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
GOODALL	OTP-AM ONTP	S-163

This bill requires a user or consumer who has been injured by defective, unreasonably dangerous goods or products to bring a civil action within six years after the date that both that injury and its cause are known or should have been known by the exercise of reasonable diligence.

**Committee Amendment "A" (S-163)**

The bill requires a user or consumer who has been injured by defective, unreasonably dangerous goods or products to bring a civil action within six years after the date that both that injury and its cause are known or should have been known by the exercise of reasonable diligence. This amendment, which is the majority report of the committee, limits the type of civil actions subject to the six year limitation to actions against sellers of pharmaceuticals or implantable medical devices and provides definitions of those terms.

**LD 1339 An Act To Strengthen the Consent Laws for Abortions Performed on Minors and Incapacitated Persons**

**ACCEPTED  
MAJORITY  
(ONTP) REPORT**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DAVIS THIBODEAU	ONTP OTP-AM	

This bill repeals the current law concerning consent for a minor's abortion.

This bill requires the written consent of a parent or legal guardian before an abortion may be performed on a minor

## *Joint Standing Committee on Judiciary*

or an incapacitated person. Consent may be given in certain circumstances by a brother or sister who is at least 21 years of age or by a stepparent or a grandparent. Consent is not required in a medical emergency. The Probate Court or District Court may issue an order for the purpose of consenting to the abortion in two circumstances.

First, the court may waive the need for third-party consent if it finds by clear and convincing evidence that the petitioner is both sufficiently mature and well-informed to decide whether to have an abortion.

Second, the court may waive the need for third-party consent if the court finds by clear and convincing evidence that there is a pattern of physical or sexual abuse or neglect of the petitioner by one or both of her parents or her guardian or that notification of a parent or guardian is not in the best interests of the petitioner.

### **Committee Amendment "A" (H-448)**

This amendment, which is the minority report of the Joint Standing Committee on Judiciary, incorporates a fiscal note.

This amendment was not adopted.

### **LD 1377     An Act To Protect Cellular Telephone Privacy**

**PUBLIC 402**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
KATZ CAREY	OTP-AM OTP-AM	S-278 S-322    KATZ

This bill enacts provisions governing the disclosure of information regarding the content of communications conveyed using portable electronic devices such as cellular telephones. This bill prohibits a government entity from obtaining information concerning the identities of parties to a communication, the date and time of the communication or the existence, substance, purport or meaning of the communication conveyed using a cellular telephone or other electronic device without a valid warrant, except that a government entity may obtain such information with the consent of the owner or user of the electronic device. It also authorizes the Attorney General to designate a law enforcement officer to obtain such content information without a warrant in cases in which there is an imminent threat of death or serious physical injury or a threat to national security.

This bill requires a government entity to inform the owner or user of a portable electronic device that content information was obtained from that person's device within 3 days of obtaining the information, unless the court determines there is good cause to delay this notification.

This bill also requires judges involved with granting warrants to obtain content information to report their activities regarding the warrants to the Administrative Office of the Courts annually. It directs the Administrative Office of the Courts to provide a summary of those reports to the Legislature.

This bill provides that a person damaged as a result of a violation of these provisions has a cause of action in Superior Court against the provider of electronic communication service that disclosed portable electronic device content information in violation of these provisions, and, in addition to actual damages, costs and attorney's fees, the court may award statutory damages in an amount not to exceed \$5,000. The bill also provides that a person damaged as a result of a violation of these provisions has a cause of action in court against a government entity that fails to comply with these provisions, and the court may award injunctive relief. Finally, the bill authorizes the Attorney General to enforce these provisions.

### **Committee Amendment "A" (S-278)**

This amendment is the majority report of the Joint Standing Committee on Judiciary. It replaces the bill.