

MAINE STATE LEGISLATURE

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STATE OF MAINE
127TH LEGISLATURE
FIRST REGULAR SESSION



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

JOINT STANDING COMMITTEE ON JUDICIARY

August 2015

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STATE OF MAINE

127TH 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 127th 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. An appendix provides a summary of relevant session statistics.

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 & 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&S XXX</i>	<i>chapter # of enacted private & 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 First Regular Session of the 127th Legislature is October 15, 2015. 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

government.

The Act provides that the government may not directly or indirectly substantially burden a person's exercise of religion unless the application of the burden to the person is in furtherance of a compelling governmental interest and is accomplished through the least restrictive means. The Act allows a person whose exercise of religion has been substantially burdened in violation of the Act to assert the violation as a claim or defense in a court action.

The Act's requirement that the government's infringement upon the free exercise of religion be justified by a compelling interest is similar to the requirement placed on the Federal Government through the Religious Freedom Restoration Act of 1993 and that of other states that have passed similar protections.

LD 1342

An Act To Prohibit Unauthorized Custody Transfers of Children

PUBLIC 274

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HICKMAN VOLK	OTP-AM	H-410

This bill addresses the practice of rehomeing children by creating a new crime prohibiting the transfer of the long-term care and custody of a child without a court order. The new crime is described as a parent, guardian or other person legally charged with the long-term care and custody of a child under 16 years of age, or a person to whom the long-term care and custody of a child under 16 years of age has been expressly delegated, transferring the long-term care and custody of the child to another person who is not a family member without authorization by order of a court that has jurisdiction over the child. This is a Class C crime.

Committee Amendment "A" (H-410)

This amendment deletes from the bill the proposed new crime of unlawful transfer of long-term care and custody of a child and replaces it with amendments to the existing crime of abandonment of a child, prohibiting substantially the same conduct. This amendment adds to the crime of abandonment of a child a prohibition on placing a child with or transferring the physical custody of a child to a nonrelative without court approval. If the child is less than six years of age, the crime is a Class C crime and if the child is less than 18 years of age, the crime is a Class D crime. This amendment creates an affirmative defense that the placement or transfer of custody of the child is due to the incarceration, military service, medical treatment or incapacity of the person and is temporary and for a designated short-term period with a specific intent and time period for the return of the child.

This amendment clarifies that a person is prohibited from advertising for the purpose of finding a person to take into permanent custody a particular child; current law provides that a person is prohibited from advertising for the purpose of finding a person to adopt a child. This amendment removes from the provision in the bill prohibiting advertising the prohibition on publication and reduces the penalty for advertising to a maximum of \$5,000. The bill provides an exemption from the advertising prohibitions for the Department of Health and Human Services and licensed child-placing agencies, as well as attorneys advertising their availability to provide legal services relating to adoption.

Enacted Law Summary

Public Law 2015, chapter 274 amends the existing crime of abandonment of a child to prohibit the transfer of the long-term care and custody of a child without a court order. It also adds to the crime of abandonment of a child a prohibition on placing a child with or transferring the physical custody of a child to a nonrelative without court approval. If the child is less than six years of age, the crime is a Class C crime and if the child is less than 18 years of age, the crime is a Class D crime. Chapter 274 creates an affirmative defense that the placement or transfer of custody of the child is due to the incarceration, military service, medical treatment or incapacity of the person and is temporary and for a designated short-term period with a specific intent and time period for the return of the child.

Joint Standing Committee on Judiciary

Chapter 274 clarifies that a person is prohibited from advertising for the purpose of finding a person to take into permanent custody a particular child; current law provides that a person is prohibited from advertising for the purpose of finding a person to adopt a child. It imposes a maximum penalty of \$5,000 for a violation.

LD 1381 An Act To Correct Errors and Inconsistencies in the Laws of Maine

**PUBLIC 329
EMERGENCY**

Sponsor(s)

Committee Report

Amendments Adopted

OTP-AM

H-495

This bill corrects errors and inconsistencies in the laws of Maine pursuant to the Maine Revised Statutes, Title 1, section 94 and Joint Rule 311.

Committee Amendment "A" (H-495)

This amendment amends the bill to designate the contents of the bill as Part A. The amendment revises a provision in the bill to correct the list of categories of meat and poultry processors that may register with the Department of Agriculture, Conservation and Forestry to engage in intrastate commerce to make it clear that the categories are alternatives.

This amendment revises the labeling requirements included in the bill to carry out the intent of Public Law 2013, chapter 304 to allow mobile poultry processing unit operators to sell uninspected poultry products at a farmers' market, to a locally owned grocery store or to a locally owned restaurant only if specific labeling requirements are met.

This amendment adds Part B to include corrections that may be considered substantive changes. Part B:

1. Corrects a conflict created when Public Law 2011, chapter 298 amended Title 17-A, section 1057, subsection 3 and Public Law 2011, chapter 394 repealed Title 17-A, section 1057, subsection 3. This amendment corrects the conflict by repealing the subsection and replacing it with the chapter 298 version. This correction is supported by the Joint Standing Committee on Criminal Justice and Public Safety;
2. Corrects a conflict created by Public Law 1981, chapters 150 and 175, which enacted the same provision of law with a minor difference. Chapter 150 used the phrase "evidence of individual insurability" where chapter 175 used the phrase "evidence of insurability." This amendment corrects the conflict by repealing the provision and replacing it with the chapter 150 version;
3. Corrects an error by adding a cross-reference that was inadvertently omitted. This correction is supported by the Joint Standing Committee on Insurance and Financial Services; and
4. Corrects a conflict created when Public Law 2013, chapter 451 amended Public Law 2013, chapter 368, Part S, section 9 and Public Law 2013, chapter 595 repealed the same provision by repealing Public Law 2013, chapter 368, Part S, section 9.

This amendment adds Part C to amend Title 10, section 1174, subsection 3 to correct the erroneous inclusion of Title 10, section 1174, subsection 3, paragraph W in the committee amendment LD 1482 in the 126th Legislature. It provides that the changes apply retroactively to the effective date of Public Law 2013, chapter 534, which enacted Title 10, section 1174, subsection 3, paragraph W. These changes are substantive and supported by the Joint Standing Committee on Labor, Commerce, Research and Economic Development.

This amendment adds Part D to correct technical conflicts between two bills related to alcoholic beverage tastings conducted by retailers and the role of sales representatives in those events. Public Law 2015, chapters 129 and 184