

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
128<sup>TH</sup> 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**

August 2017

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# STATE OF MAINE

128<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 128<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. 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.

*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 128<sup>th</sup> Legislature is Wednesday, November 1, 2017. 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**

and prescribes no more than a four-day supply of the drug with no refills.

**Committee Amendment "A" (S-108)**

This amendment allocates to the Maine Revised Statutes the language in the bill granting rulemaking authority to the State Board of Nursing.

**Enacted Law Summary**

Public Law 2017, chapter 188 permits certified registered nurse anesthetists (CRNAs) in critical access hospitals and hospitals located in rural areas, when authorized by the facility and under rules to be adopted by the State Board of Nursing, to engage in the following activities without being supervised by a licensed physician or dentist:

1. Formulate and implement a patient-specific plan of anesthesia care, including by conducting a preanesthetic assessment; verifying informed consent; and ordering appropriate pre-operative and post-operative lab tests and diagnostic imaging tests; and
2. Order and prescribe post-operative prescription drugs, except that a CRNA may only prescribe drugs on DEA Schedules III, IIIN, IV and V if the CRNA has established a client or patient record at the time of the prescription and prescribes no more than a four-day supply of the drug with no refills.

**LD 1200 An Act Relating to the Licensure of Physicians**

**PUBLIC 189**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HYMANSON P	OTP-AM	H-206

This bill specifies that nothing in the chapters of law governing the licensure of osteopathic and allopathic physicians may be construed to require a maintenance of certification as a condition of licensure, reimbursement, employment or admitting privileges at a hospital in Maine. The bill defines "maintenance of certification" as a process, subsequent to initial board certification, that requires periodic recertification examinations to maintain specialty medical board certification.

**Committee Amendment "A" (H-206)**

This amendment prohibits the Board of Osteopathic Licensure and the Board of Licensure in Medicine from requiring a physician to obtain osteopathic continuous certification or maintenance of certification from a specialty medical board as a condition of initial licensure or license renewal. This amendment removes the provisions of the bill related to physician reimbursement, physician employment and hospital admitting privileges.

**Enacted Law Summary**

Public Law 2017, chapter 189 prohibits the Board of Osteopathic Licensure and the Board of Licensure in Medicine from requiring a physician to obtain osteopathic continuous certification or maintenance of certification from a specialty medical board as a condition of initial licensure or license renewal.

**LD 1217 An Act To Implement the Recommendations of the Government Oversight Committee To Improve the Efficiency and Effectiveness of Evaluations of the State's Investments in Economic Development**

**PUBLIC 264**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM	H-445

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

This bill was reported by the Government Oversight Committee pursuant to the Maine Revised Statutes, Title 3, section 997, subsection 2. It implements a number of changes around the requirements in current law requiring the Department of Economic and Community Development to conduct an independent evaluation of research and development activities and a separate evaluation of economic development incentives that are not covered in the research and development evaluation. This bill combines the statutory provisions related to both these evaluations into a requirement for conducting and funding one independent evaluation that encompasses both. The bill changes the required cycle for evaluation from every two years, with results reported to the Legislature during second regular sessions, to every four years, with results reported to the Legislature during first regular sessions. This bill also establishes the objectives for the evaluation and ties those objectives and any recommendations made to the State's long-term economic plan developed by the Maine Economic Growth Council pursuant to the Maine Revised Statutes, Title 10, section 929-A, subsection 1.

The bill requires the Commissioner of Economic and Community Development to present the results of the evaluation to the joint standing committee of the Legislature having jurisdiction over labor, commerce, research and economic development matters, and to report to the committee and the Governor on actions planned by the department and other entities to address the recommendations made in the evaluation with periodic updates on the implantation of the planned actions. It requires a recipient of state funding for research and development activities or economic development incentives, including General Fund appropriations, dedicated revenue, tax expenditures and general obligation bond proceeds for economic development, to collect, maintain and provide data as requested by the Department of Economic and Community Development. Similar to the current payments required of agencies and private entities that receive more than \$250,000 in economic development incentives, the bill also adds a requirement for agencies or private entities that receive General Fund appropriations or general obligation bonds of \$500,000 or more for research and development activities in any fiscal year to contribute an amount not to exceed 0.8% of the General Fund appropriations or general obligation bond proceeds to be applied to the Maine Economic Development Evaluation Fund.

### **Committee Amendment "A" (H-445)**

This amendment adds an appropriations and allocations section.

### **Enacted Law Summary**

Public Law 2017, chapter 264 implements a number of changes around the requirements in current law requiring the Department of Economic and Community Development to conduct an independent evaluation of research and development activities and a separate evaluation of economic development incentives that are not covered in the research and development evaluation. This law combines the statutory provisions related to both these evaluations into a requirement for conducting and funding one independent evaluation that encompasses both. The law changes the required cycle for evaluation from every two years, with results reported to the Legislature during second regular sessions, to every four years, with results reported to the Legislature during first regular sessions. It also establishes the objectives for the evaluation and ties those objectives and any recommendations made to the State's long-term economic plan developed by the Maine Economic Growth Council pursuant to the Maine Revised Statutes, Title 10, section 929-A, subsection 1.

The law requires the Commissioner of Economic and Community Development to present the results of the evaluation to the joint standing committee of the Legislature having jurisdiction over labor, commerce, research and economic development matters, and to report to the committee and the Governor on actions planned by the department and other entities to address the recommendations made in the evaluation with periodic updates on the implantation of the planned actions. It requires a recipient of state funding for research and development activities or economic development incentives, including General Fund appropriations, dedicated revenue, tax expenditures and general obligation bond proceeds for economic development, to collect, maintain and provide data as requested by the Department of Economic and Community Development. Similar to the current payments required of agencies and private entities that receive more than \$250,000 in economic development incentives, this law also adds a requirement for agencies or private entities that receive General Fund appropriations or general obligation

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

bonds of \$500,000 or more for research and development activities in any fiscal year to contribute an amount not to exceed 0.8% of the General Fund appropriations or general obligation bond proceeds to be applied to the Maine Economic Development Evaluation Fund.

**LD 1222     An Act To Address the Policies Relating to Substance Use in the Workplace**

**Died Between Houses**

Sponsor(s)  
CUSHING A  
GUERIN S

Committee Report

Amendments Adopted

This bill was not referred to committee.

This bill makes changes to the laws governing employment practices concerning substance abuse testing, including the following.

1. It replaces the phrase "substance abuse test" and "substance abuse testing" with "substance use test" and "substance use testing" to reflect current usage.
2. It repeals a section of law that addresses nuclear power plants since there are no operating nuclear power plants in this State.
3. It authorizes an employer that has employees subject to a federally mandated substance use testing program to extend federal drug testing activities to its entire workforce in order to maintain a single testing program and specifies that the employer must prepare a substance use testing plan for employees who are not federally regulated, provide a copy of the plan to the employees and the Department of Labor before testing, follow federal notification and procedural protocols for such employees and annually report the results of testing to the department.
4. It streamlines the current substance use testing policy approval by requiring the Department of Labor to develop a uniform impairment and substance use testing policy applicable to all employers. Employers must certify their adoption of the policy and be approved by the Department of Labor prior to conducting substance use testing.
5. It removes the "probable cause" standard and replaces it with an "impairment detection" standard required before the employer may conduct substance use testing. For employers authorized to conduct substance use testing, only an employer or employee approved for impairment detection by the Department of Labor or a medical person may make an impairment detection. Among other things, this detection may be based on a single work-related accident, unlike the "probable cause" standard under current law. The employer may immediately remove the employee from the workplace pending resolution of the impairment detection.
6. It adds an "impairment determination" process that may be used as an alternative or in addition to a substance use test. Under this process, an occupational health care provider conducts a medical review in order to confirm the impairment detection, which may include a substance use test that includes testing for prescription drugs. If the impairment is confirmed, the employer may take employment action including firing or disciplining the employee, subject to any limitations under the Maine Human Rights Act and any other state or federal law. If the occupational health care provider finds that the employee was not impaired or that such impairment did not pose a safety risk, the employee is entitled to full reinstatement to the employee's position.
7. It adds a violation of an established drug-free workplace policy as grounds for employment action.
8. It adds a first impairment determination to the requirement, applicable to an initial confirmed positive substance use test, that the employer must provide the employee with an opportunity to participate in a treatment program