

2017 Summary of New Maine Laws & Carry Over Legislation

State of Maine 128th Legislature, 1st Regular Session

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Overview - 2017 Summary of New Maine Laws & Carry Over Legislation

The new laws highlighted in this summary are those most relevant to our clients and does not include all laws enacted this past session. This summary of bills of interest includes legislation in the 128th Maine Legislature's 1st Regular session that was either:

- Enacted as regular legislation, or
- Enacted as emergency legislation, or
- Defeated but noteworthy.

This report also highlights some of the legislation that has been carried over to the 2nd Regular Session, which will commence on January 3, 2018.

User Guide

The summary is organized by subject matter and subcategories.

- You may link from the [Table of Contents](#) directly to your area of interest.
- Each legislative document is assigned an "LD #" for reference through the legislative process. Once the legislation becomes law, it is assigned a Public Law year and chapter number for reference. The Public Law year is the first year of the Legislature's first regular session, which was 2017 for the 128th Legislature. Ultimately, the language is incorporated into the Maine Statutes.
- In the electronic version of this summary, the chapter number links to the new law.
- Unless specific effective dates are provided in the legislation, the effective date of non-emergency legislation enacted during the 1st Regular Session is November 1, 2017. Emergency bills became effective as law on the date they were signed by the Governor, which we note in red following the chapter number of laws and resolves enacted as emergencies.

For More Information

If you have any questions about a summary, what a statutory change means, or how to prepare for the next legislative session, please contact an attorney in the relevant practice group (contact information is provided throughout the report) or a member of our [Government Relations Group](#): [Andrea Cianchette Maker](#) – 207.791.1101; [Ann Robinson](#) – 207.791.1186; [John D. Delahanty](#) – 207.791.1222; [Elizabeth M. Frazier](#) – 207.791.1155; or [Megan D. Sanborn](#) – 207.629.5901.

You may access the *2017 Summary of New Maine Laws & Carry Over Legislation* under the Publications tab on the [Government Relations](#) page on Pierce Atwood's website.

Disclaimer

The *2017 Summary of New Maine Laws & Carry Over Legislation* is not intended to provide a detailed legal analysis of all aspects of the new laws summarized. For legal advice and counsel, please contact an attorney at Pierce Atwood.

Appropriations

If you have a question about any of the new laws summarized in the Appropriations section of this report, what the statutory changes mean for you and your business, or how to prepare for the next legislative session, please contact one of the attorneys listed below or a member of our Government Relations Group: [John D. Delahanty](mailto:John.D.Delahanty@maine.gov) – 207.791.1222; [Andrea Cianchette Maker](mailto:Andrea.Cianchette.Maker@maine.gov) – 207.791.1101; or [Ann R. Robinson](mailto:Ann.R.Robinson@maine.gov) – 207.791.1186.

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LD 302, *An Act to Make Supplemental Appropriations and Allocations for the Expenditures of State Government and to Change Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Year Ending June 30, 2017* – Public Law 2017, [chapter 2](#). **This emergency law became effective on March 15.**

This law made appropriations and allocations to the Department of Administrative and Financial Affairs, Department of the Attorney General, Department of Defense, Veterans and Emergency Management, Department of Education, Efficiency Maine Trust, Department of Environmental Protection, Department of Health and Human Services, Department of Inland Fisheries and Wildlife, Judicial Department, Department of Marine Resources, Department of Public Safety, Department of the Secretary of State, Board of Trustees of the University of Maine System, and the Workers' Compensation Board. The law also does the following:

1. Provides an extension of limited-period positions set to expire June 2017 through August 1, 2017;
2. Requires the transfer in fiscal year 2016-2017 of \$35 million from the unappropriated surplus of the General Fund to the Maine Budget Stabilization Fund;
3. Authorizes the State Controller to spend a one-time amount of \$300,000 for updating the econometric database information;
4. Removes the requirement that the Chief Medical Examiner transfer any balance in excess of \$500 to the General Fund;
5. Authorizes the Fund for Women Veterans to use any remaining balance on software for veteran services;
6. Allows any funds transferred from the Treasurer of the State of Maine to the Lifetime License Fund in the Department of Inland Fisheries and Wildlife to be carried forward into the next fiscal year;
7. Authorizes the State Controller to transfer remaining funds in the fiscal year 2016-2017 in the Department of Inland Fisheries and Wildlife, Fisheries and Hatcheries Operations program to be used for the construction of water supply pipelines and updating water treatment equipment;
8. Authorizes the Judicial Department to transfer any remaining balance in the Personal Services category to the Capital Expenditures category in the Courts' General Fund account;
9. Authorizes the use of any remaining funds from the Department of the Secretary of State, Archives Administration Fund to be used in fiscal year 2017-2018 for the Department of the Secretary of State, Archives Administration;
10. Authorizes the Department of the Secretary of State, Bureau of Administrative Services and Corporations program to use any remaining balances for use in 2017-2018 to upgrade software;
11. Provides a one-time transfer of \$155,000 to the Department of the Secretary of State, Bureau of Administrative Services and Corporations for the referendum in June 2017 for the bond issue;

12. Establishes a Reserve Fund within the Department of Administrative and Financial Services for the operation of the Maine Military Authority and transfers \$7,000,000 to that fund from the General Fund's unappropriated surplus;
13. Establishes the Opioid Health Home Program administered by the Department of Health and Human Services to provide services to individuals who have been diagnosed with an opioid addiction who are uninsured, MaineCare members, or uninsured and MaineCare eligible; and
14. Requires the Department of Health and Human Services to report quarterly beginning in April 2017 to the Joint Committee on Health and Human Services and the Joint Committee on Appropriation and Financial Affairs relating to the implementation of the Opioid Health Home Program.

LD 390, *An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2018 and June 30, 2019* – Public Law 2017, [chapter 284](#). **This emergency law became effective on July 4.**

This new law, which represents the budget for the State of Maine for fiscal years 2018 and 2019, was enacted after a state shutdown that lasted over three days. Following the shutdown, this final budget reflects a compromise between the Governor and the Legislature, and was signed by the Governor in the early morning hours on July 4, 2017. The final two-year budget appropriates \$7.1 billion and contains hundreds of provisions and initiatives. Some highlights include:

- The elimination of the 3% income tax surcharge enacted by a citizen's initiative in the fall of 2016, which would have applied to household incomes over \$200,000; and
- An appropriation of an additional \$162 million to fund Maine's K-12 public education system over the next two years (of which 50% must be dedicated to local property tax relief).

Other provisions in the budget include:

- Education reforms to put more resources into the classroom, particularly in rural Maine;
- Property tax relief measures, including restoring the Homestead Exemption for all home owners;
- Operational funding for the University of Maine;
- An additional \$1.15 million in new Head Start funding;
- Language to prevent further cuts to support services for children and adults with severe and persistent mental illness;
- \$3 million to the Maine Clean Elections Fund in 2018;
- \$10 million to fund the Maine Community College Systems Strategic Workforce Initiative;
- Doubling the number of hours of services that people with intellectual or developmental disabilities are able to receive; and
- Additional resources to serve Maine residents with disabilities.

Bond Issues

If you have a question about any of the new laws summarized in the Economic Development section of this report, what the statutory changes mean for you and your business, or how to prepare for the next legislative session, please contact one of the attorneys listed below or a member of our Government Relations Group: [Andrea Cianchette Maker](mailto:Andrea.Cianchette.Maker@legis.maine.gov) – 207.791.1101; [John D. Delahanty](mailto:John.D.Delahanty@legis.maine.gov) – 207.791.1222; or [Ann R. Robinson](mailto:Ann.R.Robinson@legis.maine.gov) – 207.791.1186.

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LD 140, *An Act to Authorize a General Fund Bond Issue to Support Entrepreneurial Activity, Attract Business and Enhance Demographic In-migration by Investing in High-speed Broadband Infrastructure and to Amend the Law Governing the Municipal Gigabit Broadband Network Access Fund* – [Carried Over](#).

LD 292, *An Act to Authorize a General Fund Bond Issue to Invest in Maine's Rail Infrastructure and Expand Passenger Rail Service* – [Carried Over](#).

LD 299, *An Act to Increase Voter Knowledge of Bond Issues* – Public Law 2017, [chapter 45](#).

This new law requires a copy of the Treasurer of State's statement of bond debt to be in each voting booth whenever a proposed bond issue is on the statewide ballot.

LD 318, *An Act to Authorize a General Fund Bond Issue to Support Economic Development with High-Resolution Geospatial Data* – [Carried Over](#).

LD 590, *An Act to Authorize a General Fund Bond Issue to Invest in Maine's Rail Infrastructure* – [Carried Over](#).

LD 638, *An Act to Authorize a General Fund Bond Issue for Transportation Projects* – [Carried Over](#).

LD 955, *An Act to Authorize a General Fund Bond Issue to Recapitalize the Municipal Investment Trust Fund* – [Carried Over](#).

LD 1163, *An Act to Authorize a General Fund Bond Issue to Provide Funding for a Program of Student Debt Payment and To Provide for the Establishment of That Program* – [Carried Over](#).

LD 1552, *An Act to Authorize a General Fund Bond Issue to Improve Highways, Bridges and Multimodal Facilities and Upgrade Municipal Culverts* – Public Law 2017, [chapter 299](#).

This new law provides for a referendum to be sent to voters in November 2017 to authorize a \$105 million bond for transportation infrastructure. The bond, if approved by voters, will be used to fund projects within the Department of Transportation in the amount of \$100 million, including \$80 million for Priority 1, Priority 2, and Priority 3 state highways as well as for the Department of Transportation's municipal partnership initiative and to replace and rehabilitate bridges; and \$20 million for facilities and equipment, including property acquisition, related to ports, harbors, marine transportation, aviation, freight and passenger railroads, transit, and bicycle and pedestrian trails that preserve public safety or have a high economic value.

The bond will also provide funding to the Department of Environmental Protection, in the amount of \$5 million, to fund a competitive grant program to match local funding to upgrade municipal culverts in order to improve fish and wildlife habitats and increase community safety. The law provides that project sponsors may include local governments, municipal conservation commissions, soil and water conservation districts,

and private nonprofit organizations. Eligible projects may compete for a grant and must provide information on a variety of criteria related to the proposed project, including the priority status of the culvert to be replaced, the amount of contribution to the competitive grant goals, and the expected contribution to reduced flooding in surrounding areas, as well as the cost-effectiveness of the project.

Business

If you have a question about any of the new laws summarized in the Business section of this report, what the statutory changes mean for you and your business, or how to prepare for the next legislative session, please contact one of the attorneys listed below or a member of our Government Relations Group: [Andrea Cianchette Maker](#) – 207.791.1101; [John D. Delahanty](#) – 207.791.1222; or [Ann R. Robinson](#) – 207.791.1186.

Banking and Financial Services

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LD 193, *An Act to Protect Retirement Accounts from Creditor Collection* – Public Law 2017, [chapter 177](#).

This law amends the exemption from attachment of retirement accounts to match the exemption in the United States Bankruptcy Code. The law caps the exemption at an aggregate value of \$1 million for individual retirement accounts and other tax-deferred arrangements that are exempt under the U.S. Bankruptcy Code, 11 U.S.C. § 522(d)(12). The law provides that amounts contributed within 120 days before either the bankruptcy action is filed, or the judgment against the debtor or the issuance of the levy or other attachment is issued, are not exempt. Amounts necessary to satisfy child support or spousal support obligations are also not exempt from attachment or bankruptcy. The law also repeals the exemption from attachment for individual retirement accounts and similar plans or contracts.

LD 239, *An Act to Require National Banks to Cooperate in the Administration of the General Assistance Program* – Public Law 2017, [chapter 28](#).

This law removes the exemption provided to national banks from the law requiring financial institutions to provide account balance information to the State or to a municipality for persons who have applied for, or are receiving, financial assistance from the State or the municipality. The law also requires that a signed release form from a depositor be obtained before deposit or balance information may be released by the financial institution and, if the depositor is deceased, a written request from the municipality and a notarized affidavit of death must be provided. The law does not grant any authority for the release of any funds by a financial institution.

(Not Enacted) LD 360, *An Act to Allow Consumers to Shop for Credit without Damaging their Credit Scores*.

This bill, which was not enacted, sought to prohibit a consumer reporting agency from considering the number of credit inquiries made by a consumer, or on behalf of a consumer, as a factor in the calculation of the consumer's credit score.

LD 389, *An Act to Promote Access to Financial Institutions by Entities That Are Authorized under State Law – Carried Over*.

LD 660, *An Act to Allow Credit and Debit Card Surcharges – Carried Over*.

LD 846, *An Act to Enact the Revised Uniform Fiduciary Access to Digital Assets Act – Carried Over*.

LD 1199, *An Act to Promote Fiscal Responsibility in the Purchasing of Debt* – Public Law 2017, [chapter 216](#).

This law amends the Maine Fair Debt Collection Practices Act. It defines "debt buyer" as one who is regularly in the business of purchasing charged-off consumer debt for collection purposes, and does not include either a supervised financial organization, as defined in 9-A MRS § 1-301 (38-A), or a person who acquired charged-off debt incidental to the purchase of a portfolio that is predominantly not charged-off debt. The law also prohibits (i) the sale or transfer of debt, and/or the collection or attempt at collection of debt, without certain

required information; and (ii) the sale or transfer of any debt that has been paid, settled or discharged in bankruptcy. Additionally, the law sets forth the required allegations and attachments that must be included in a complaint for a collection action against a consumer, as well as filing requirements for the debt buyer in order to obtain a judgment against a consumer, regardless of whether or not the consumer appears in court. Finally, the law also increases the maximum penalties for debt buyers who violate the Maine Fair Debt Collection Practices Act.

(Not Enacted) [LD 1242](#), *An Act to Prevent Abusive Debt Collection Tactics by Debt Buyers*.

This bill, which was not enacted, sought to amend the Maine Fair Debt Collection Practices Act to give debtors certain protections with respect to debt buyers. The bill proposed language to restrict a debt buyer from selling or transferring ownership of a debt or pursue collection activities regarding a debt without possessing specified information, including the names of the original creditor and all intervening creditors. If the debt collector initiated a court action to collect the debt, the bill provided that specific information about the original creditor, the intervening creditors, and the basis for any interest, fees and charges, must be included in the complaint. This bill also sought to establish an annual rate of 6% as the maximum post-judgment interest rate applicable to a judgment obtained by a debt buyer, and provided that a debt may not be collected if a debt buyer violates the Maine Fair Debt Collection Practices Act.

LD 1292, *An Act to Improve the Foreclosure Process by Regulating Mortgage Loan Servicers* – Public Law 2017, [chapter 106](#).

This law generally amends the Maine Consumer Credit Code to regulate servicers of consumer mortgage loans by including them within the definition of “creditor,” and expressly including loan servicing within many of the substantive provisions of the Code.

LD 1486, *An Act to Clarify the Status of the Financial Industry Regulatory Authority and the National Association of Registered Agents and Brokers under the Maine Insurance Code* – Public Law 2017, [chapter 115](#).

This law requires the Superintendent of Insurance to maintain as confidential a document or information received from the Financial Industry Regulatory Authority or the National Association of Registered Agents and Brokers if the document or information has been provided to the superintendent with notice that it is confidential under the laws of the jurisdiction that is the source of the document or information. The law authorizes the Bureau of Insurance to enter into agreements for the sharing of otherwise confidential information with the Financial Industry Regulatory Authority and the National Association of Registered Agents and Brokers if the recipient of the information agrees to maintain the same level of confidentiality as is available under Maine law and has demonstrated that it has the legal authority to do so. The law also sets license fees for nonresidents acting in this State as insurance producers pursuant to a national nonresident insurance producer license issued by the National Association of Registered Agents and Brokers, and requires them to be appointed by the insurers they represent according to the procedures otherwise applicable to appointment of producers, including the payment of appointment fees.

Commerce and Trade

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(Not Enacted) [LD 284](#), *An Act Concerning Notification after a Security Breach*.

This bill, which was not enacted, proposed to shorten the time allowed for a delay in notification to residents of the State of a breach of the security of a system that contains computerized personal information from 7 business days to 3 business days.

(Not Enacted) [LD 487](#), *An Act to Promote Keeping Workers in Maine*.

This bill, which was not enacted, proposed to regulate the use of non-compete agreements by public and private employers. Specifically, the bill sought to prohibit the use of non-compete agreements for low-wage

employees, restrict their use to those situations where necessary to protect the employer's trade secrets or confidential information, and limit their duration to promote renegotiation. The bill also would have required employers to disclose the requirement for a non-compete agreement to prospective employees, by including a statement in the job advertisement and providing a copy of the agreement prior to extending an offer, and to pay additional compensation to any employee who agreed to sign a non-compete agreement. Lastly, the bill sought to create a cause of action for any employee harmed by the unlawful use of a non-compete agreement, including an award of attorneys' fees and court costs.

LD 533, *An Act to Clarify the Application of the Statute of Limitations under Article 3-A of the Uniform Commercial Code* – Public Law 2017, [chapter 251](#).

This law clarifies that certain statutes of limitations as set forth in the Maine Uniform Commercial Code shall apply notwithstanding the 20-year statute of limitations applicable to certain contracts under 14 MRS § 751. Specifically, the six-year statute of limitations applies to negotiable instruments pursuant to 11 MRS § 3-1118, and the four-year statute of limitations applies to sales of goods pursuant to 11 MRS § 2-725. This bill became law without the Governor's signature.

LD 656, *An Act to Improve the Ability of Maine Companies to Manufacture and Market Biobased Products* – [Carried Over](#).

LD 1506, *An Act to Amend the Usage and Consumer Protections of Guaranteed Asset Protection Waivers* – Public Law 2017, [chapter 178](#).

This law sets various requirements surrounding "Guaranteed Asset Protection Waivers," in which a creditor agrees to cancel or waive all or part of the amount due on a borrower's finance agreement for a motor vehicle in the event of total physical damage loss or unrecovered theft of the motor vehicle for a charge that is separate from amounts due on the underlying finance agreement. The law provides (i) the requirements for offering waivers; (ii) obligations for contractual liability policies and other insurance policies insuring such waivers; (iii) the disclosures that must be included within the guaranteed asset protection waiver agreement; and (iv) the requirements surrounding cancellability of the guaranteed asset protection waiver agreements. This law does not apply to an insurance policy or a guaranteed asset protection insurance policy offered by an insurer under Title 24-A, or to certain debt cancellation or debt suspension contracts offered by credit unions or financial institutions. Additionally, the guaranteed asset protection waivers governed by this law are not considered insurance under Maine law, and are exempt from Title 24-A.

LD 1610, *An Act to Protect Privacy of Online Customer Personal Information* – [Carried Over](#).

Economic Development

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LD 367, *An Act to Implement the Recommendations of the Government Oversight Committee to Develop a Long-range Strategic Plan for Economic Development in the State* – [Carried Over](#).

LD 1149, *An Act to Provide Revenue to Fix and Rebuild Maine's Infrastructure* – [Carried Over](#).

LD 1244, *An Act to Support Small Manufacturers in the State* – [Carried Over](#).

LD 1248, *An Act to Improve Public Transportation in Maine* – [Carried Over](#).

LD 1324, *An Act to Support Innovation, Entrepreneurship and Maine's Economic Future* – Public Law 2017, [chapter 109](#).

This law expands the powers of the Maine Technology Institute by allowing the Institute to establish programs that support organizations and programs in the State that facilitate entrepreneurial growth and internships with Maine's innovative businesses, and protect intellectual property by the State's research institutions, companies and entrepreneurs. This bill also allows the Maine Technology Institute to administer technology centers that support early-stage development of technology-based businesses that are currently administered by the Department of Economic and Community Development. The new powers granted to the Maine Technology Institute through the bill are not exclusive in nature.

LD 1338, *An Act to Create and Sustain Jobs through Development of Cooperatives and Employee-owned Businesses* – [Carried Over](#).

LD 1343, *An Act to Promote Downtown Revitalization by Creating the Locating Businesses Downtown Loan Program* – [Carried Over](#).

LD 1435, *An Act to Ensure Transparency in the Distribution of Federal Block Grant Funds* – [Carried Over](#).

(Not Enacted) LD 1450, *An Act to Promote Workforce Development and Provide an Economic Stimulus for Maine-based Filmmakers and Supporting Businesses*.

This bill, which was not enacted, sought to make changes to visual media production certification, reimbursement, and credit processes, for the purposes of: establishing the film industry as a permanent component of the economic base of Maine; developing a pool of trained professionals and businesses in Maine to supply and support the film industry in Maine; increasing employment of Maine residents; improving the economic success of existing businesses in Maine; and developing the infrastructure in Maine necessary for a thriving film industry.

LD 1478, *An Act to Provide Support for Sustainable Economic Development in Rural Maine* – Public Law 2017, [chapter 174](#). **This emergency law became effective on June 12.**

This law establishes the Rural Manufacturing and Industrial Site Redevelopment Program within the Maine Rural Development Authority to provide technical assistance, planning grants, and implementation grants for the redevelopment and marketing of nonproductive industrial or manufacturing sites in rural communities. The authority may use funds from the Commercial Facilities Development Program established in 5 MRS § 13120-P to fund the activities of the Rural Manufacturing and Industrial Site Redevelopment Program. The law also requires the Authority, in consultation with the Department of Economic and Community Development, Office of Business Development, to conduct an inventory of all nonproductive manufacturing and industrial sites in the State that may be eligible for assistance.

LD 1639, *An Act to Promote Major Business Headquarters Expansions in Maine, Promote the Commercialization of Research and Development in Maine and Create Jobs* – Public Law 2017, [chapter 297](#).

This new law enacts a refundable tax credit for certain business headquarters expansions in Maine. The law establishes a process by which a business looking to expand its headquarters in Maine can apply to be certified to receive the credit. Any qualified applicant for the tax credit must seek a certificate of approval from the Commissioner of the Department of Economic and Community Development (DECD). To be a qualified applicant for the tax credit, a business must be headquartered in Maine, employ at least 5,000 individuals worldwide of which 25% must be based in Maine, and have business locations in at least three other states or foreign countries. Additionally, the business must demonstrate that it intends to make a qualified investment of at least \$35 million to expand its headquarters in Maine within five years of the date of application to the DECD.

The Commissioner of DECD must determine, within 30 days of the receipt of an application, whether the applicant is qualified and issue either a certificate of approval or a written denial indicating why the applicant is not qualified. The law also sets forth certain provisions that the applicant must meet in order to transfer either a certificate of approval, or a certificate of completion. A business that has received a certificate of

approval may apply for a certificate of completion from the Commissioner of DECD, and a certificate of completion will be issued if the Commissioner determines that the investment has been made and that at least 25% of the company's full-time employees are based in the State. The Commissioner may not issue certificates of approval that total an aggregate of more than \$100 million, and may not issue a certificate of approval for a qualified investment over \$40 million for any individual company. Investments made after December 31, 2022 do not qualify.

The law provides that, beginning in the tax year in which a certificate of completion is issued or the tax year beginning 2020, whichever is later, a certified applicant may credit 2% of its qualified investment against its tax liability for a total of 20 years. The law sets forth certain job creation requirements, and provides that a tax credit may not be taken in any year in which the company did not meet or exceed the job creation requirements. In the first ten years, the company must have added at least 80 full-time employees whose jobs were added since the first day of the first tax year the credit was claimed multiplied by the number of years for which the credit has been claimed. For each tax year after the first ten years, the company must employ a total of 800 additional full-time employees based in the State whose jobs were added since the first day of the first tax year for which the credit was claimed. Finally, cumulative credits may not exceed \$16 million for any one certificate of completion.

The law also sets forth reporting requirements for both the company and the Commissioner of DECD, including reporting on the number of full-time employees added to the company in the previous year, the incremental amount of qualified investments made in the prior year, and aggregate data on employment levels and qualified investments from all certified companies. The law also requires the Office of Program Evaluation and Government Accountability to review the design of this tax credit program and authorizes the Joint Standing Committee on Taxation to report out a bill to the Second Regular Session of the 128th Legislature regarding the program if it desires changes to the design.

Food and Alcohol

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LD 56, *An Act to Include 50 Milliliter and Smaller Liquor Bottles in the Laws Governing Returnable Containers* – Public Law 2017, [chapter 140](#).

This new law modifies Maine's bottle deposit law to add wine and spirit containers of 50 milliliters or less, or so-called "nips," to the list of bottles for which a five-cent deposit is required in Maine. This law will be effective on January 1, 2019.

LD 388, *An Act Regarding the Sale of Alcohol by a Manufacturer with an On-premises Retail License* – Public Law 2017, [chapter 34](#).

This law clarifies existing law that permits a licensee manufacturing liquor at a facility in Maine to sell its liquor for off-premises consumption from the manufacturing facility, without having to get a separate off-premises retail license. The law specifies that the area of the manufacturing facility where the manufacturer sells its liquor for off-premises consumption is not required to be accessed by an entrance separate from the area of the facility that is licensed to serve liquor for on-premises consumption. But, the manufacturer is responsible for ensuring that products purchased for off-premises consumption are not consumed on the licensed premises. Distilleries are subject to the existing law that requires spirits sold at retail to first be listed for sale and distributed by the State.

LD 415, *An Act to Modify the Amount of Product Samples of Malt Liquor, Wine or Spirits that May Be Provided to Retail Licensees* – Public Law 2017, [chapter 35](#).

This law doubles the annual limit of unopened, full-bottle samples of malt liquor and wine that can be provided to a retail licensee from 9 to 18 gallons of malt liquor, and 9 to 18 liters of wine. The law also doubles the limit of unopened, full-bottle samples of distilled spirits that a sales representative can provide to a retail licensee from 3 to 6 liters per year per distiller.

LD 579, *An Act Regarding Transfers of Liquor Between Licensed Manufacturers' Facilities* – Public Law 2017, [chapter 123](#).

This law provides that a manufacturer of liquor that operates multiple facilities licensed for the manufacture of liquor may transfer liquor the manufacturer produces from one facility to another. The law also clarifies that a manufacturer may transfer liquor the manufacturer produces from the licensed manufacturing facility to any establishment operated by the manufacturer that is licensed for on-premises consumption, where samples are served and where sales are permitted for consumption off the premises.

LD 852, *An Act to Make Changes to the Maine Liquor Liability Act* – Public Law 2017, [chapter 77](#).

This law amends the Maine Liquor Liability Act to provide that the inability of a plaintiff to obtain investigative records from a law enforcement officer or law enforcement agency constitutes good cause as to why the plaintiff could not reasonably file notice to all defendants within the 180-day limit.

LD 855, *An Act to Protect Children from Edible Cannabis Products* – [Carried Over](#).

LD 957, *Resolve, To Direct Legislative Staff To Recodify and Revise Title 28-A of the Maine Revised Statutes* – Resolve 2017, [chapter 18](#).

This resolve requires the Office of Policy and Legal Analysis and the Office of the Revisor of Statutes to prepare a recodification and revision of the Maine Revised Statutes Title 28-A by January 15, 2019 for introduction in the First Regular Session of the 129th Legislature. The offices may consult with the Department of Administrative and Financial Services, Bureau of Alcoholic Beverages and Lottery Operations, the Office of the Attorney General, and other interested parties in preparing the same.

LD 1329, *An Act to Allow Tobacco Retail Establishments to Serve Alcohol* – [Carried Over](#).

LD 1409, *An Act to Reduce Regulations for Small Nonalcoholic Beverage Producers* – Public Law 2017, [chapter 113](#). **This emergency law became effective on June 1.**

This law gives small nonalcoholic beverage producers, that manufacture or bottle no more than 10,000 gallons of beverages per year, flexibility in the method by which they clean and sanitize reusable glass beverage containers, as long as they use the required 3% caustic alkali sanitizing solution. The amendment also permits small nonalcoholic beverage producers to bottle and carbonate their products by hand, rather than through the use of machinery, as long as all other sanitary requirements are met.

LD 1533, *An Act to Update the Laws Relating to Liquor Licensing and Enforcement* – Public Law 2017, [chapter 167](#).

This law amends various existing laws relating to liquor licensing and enforcement, including relocation application requirements. The law also requires the Bureau of Alcoholic Beverages and Lottery Operations to establish a process by which an existing agency liquor store, in the same municipality to which another agency liquor store is applying to relocate, may submit to the bureau input supporting or objecting to the relocation. The law also replaces the term “golf club” with “golf course” in order to clearly distinguish golf courses from other types of clubs subject to Title 28-A.

LD 1642, *An Act to Clarify Licensing Provisions for the Manufacturer and Sale of Liquor* – Public Law 2017, [chapter 280](#). **This emergency law became effective on June 29.**

This law clarifies one of the criteria that qualifies a person (i.e., an individual, partnership, corporation, firm, association or other legal entity) who is licensed to manufacture liquor in the State to also have an establishment licensed for the sale of liquor to be consumed on the licensed premises. The bill requires that the person have a controlling interest in both the manufacturing business and the on-premises establishment, regardless of the business structure of either entity. The law also temporarily prohibits the Department of Administrative and Financial Services, Bureau of Alcoholic Beverages and Lottery Operations from suspending, revoking, or refusing to renew certain licenses for the manufacture or sale of liquor issued prior to June 1, 2017 based solely on a change in the bureau's interpretation of the terms “exclusively held” or “exclusively owned.”

Motor Vehicle

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LD 306, *An Act to Require State Compliance with Federal REAL ID Guidelines* – Public Law 2017, [chapter 27](#). This new law authorizes the Secretary of State to issue, at the request of the applicant, a federal REAL ID compliant driver's license or non-driver identification card and to make use of biometric technology in doing so. The law also authorizes the Secretary of State to charge \$20 more per document than a noncompliant license and to charge \$30 for a non-driver identification card. The law also appropriated about \$1 million from the highway fund to help pay for the costs of REAL ID compliance. This new law will take effect on July 1, 2019.

LD 596, *An Act to Promote Highway Safety by Restricting the Use of Marijuana and Possession of an Open Marijuana Container in a Motor Vehicle* – [Carried Over](#).

LD 797, *An Act to Fund Railroad Infrastructure and Operations* – [Carried Over](#).

LD 1442, *An Act to Raise the Debtor's Exemption on Vehicles* – Public Law 2017, [chapter 209](#). This law increases the exemption from attachment and execution for a motor vehicle from \$5,000 to \$7,500.

LD 1463, *An Act to Amend the Laws Relating to Motor Vehicle Dealers* – Public Law 2017, [chapter 217](#). This law requires a vehicle manufacturer to reimburse a dealer for used motor vehicles that are subject to a do not drive or stop sale order for which parts are not readily available. The reimbursement for used vehicles is at a rate of 1.5% of the value of the used vehicle per month, beginning 30 days after the order was issued and ending when parts are available. This law also requires a vehicle manufacturer to reimburse a dealer for new cars subject to a do not drive order and stop sale order for which parts are not available, pursuant to 49 United States Code, Section 30116 (2016) or be subjected to a complaint filed with the Maine Motor Vehicle Franchise Board or a civil cause of action.

This law also clarifies the standard of review in a succession plan and in the dealer's sales and performance analysis done by the manufacturer. Finally, this law prohibits a manufacturer from competing with a dealer by owning or having an ownership interest in any motor vehicle dealership unless the Maine Motor Vehicle Franchise Board determines that there is no dealer in the relevant market that could own and operate a dealership of the same line make.

LD 1481, *Resolve, To Establish a Pilot Project to Provide Travel Vouchers to Persons with Disabilities in Rural Communities* – [Carried Over](#).

LD 1588, *An Act to Maintain Mail Routes and Access to Residential Structures* – [Carried Over](#).

LD 1595, *An Act Regarding Inspection Requirements for Public Safety and Municipal Vehicles Owned by Island Communities* – [Carried Over](#).

Municipal / State Related

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(Not Enacted) LD 70, *An Act to Allow Municipal Governing Boards of 3 Members to Perform Official Duties via Technology*.

This bill, which was not enacted, proposed to allow municipal governing boards of three members to perform official duties via technology, such as conducting meetings remotely.

LD 329, *An Act Concerning the Law Governing the Posting of Newspaper Legal Notices and the Statewide Repository for Legal Notices* – Public Law 2017, [chapter 19](#).

The Governor vetoed this bill, but the Legislature successfully voted to override the Governor's veto, and the law will go into effect over the Governor's objection. Summarily, in 2013, the Legislature enacted a law requiring newspapers to post any legal notices that appear in print newspaper also on a newspaper's publicly accessible website. The notices on the website must be placed no later than the same day the notice appears in the print newspaper; must be presented in a conspicuous manner; must be searchable; and the newspaper is not allowed to charge an additional fee for placing the legal notice on the website. There is a sunset provision on the current law, however, whereby it was scheduled to be repealed on January 1, 2018. The new law, however, removes the sunset provision. Therefore, the law regarding the posting of legal notices on websites remains in effect indefinitely.

LD 410, *An Act to Except from the Freedom of Access Act Certain Information in the Possession of the Maine Public Employees Retirement System* – Public Law 2017, [chapter 46](#).

This new law exempts the medical, personal, and financial information of members, beneficiaries, and participants of the Maine Public Employees Retirement System from the Freedom of Access Act.

LD 473, *An Act to Quantitatively Evaluate State Contracts* – [Carried Over](#).

LD 584, *An Act to Create the Fund for Municipalities to Improve Pedestrian Safety* – [Carried Over](#).

LD 759, *An Act to Clarify the Financial Authority of Sewer and Sanitary Districts* – Public Law 2017, [chapter 151](#).

This law clarifies the authority of sewer and sanitary districts to administer financial resources. The law allows sewer and sanitary districts to invest their funds in the same way as municipalities, and clarifies that sewer districts have full authority to collect rates and fees.

LD 849, *An Act to Require the State to Maintain an Interest-bearing Account of Privately Donated Funds for Saxl Park in the City of Bangor* – Private & Special Law 2017, [chapter 8](#).

This law requires the State to deposit into an interest-bearing account privately donated funds received by the State to expend on behalf of the Saxl Park Advisory Committee for the purpose of maintaining, operating, and improving Saxl Park in the City of Bangor. The requirement applies to the unexpended balance of funds previously received by the State for this purpose, and requires interest earned to be used for the same purpose. The law repeals Resolve 2007, chapter 201, section 10, subsection 2, which pertains to private donations to benefit Saxl Park.

LD 905, *An Act to Authorize the Construction of a Maine Turnpike Connector to Gorham* – Public Law 2017, [chapter 68](#).

This law authorizes the Maine Turnpike Authority to provide up to \$150 million to pay for planning, design, and construction of a connector in Cumberland County from Route 114 in South Gorham to an interchange on the Maine Turnpike.

LD 1037, *An Act to Provide for the 2017 and 2018 Allocations of the State Ceiling on Private Activity Bonds – Private & Special Law 2017*, [chapter 5](#). This emergency law became effective on May 12.

This law establishes the allocations of the state ceiling on issuance of tax-exempt private activity bonds for calendar years 2017 and 2018 among the state-level issuers of tax-exempt bonds. The law will not affect the general or moral obligation debt of the State.

LD 1360, *An Act to Conform the State Workforce Board and Workforce Development Programs to the Federal Workforce Innovation and Opportunity Act – Public Law 2017*, [chapter 110](#).

This law replaces all references to the federal Workforce Investment Act of 1998 with the federal reauthorization of that act, the Workforce Innovation and Opportunity Act, and changes the name of the State Workforce Investment Board to the State Workforce Board. The law also removes various enumerated duties of the State Workforce Board, and instead references only Section 101 of the Workforce Innovation and Opportunity Act. Additionally, the law changes the reporting requirements of the Maine Department of Labor to the Legislature by requiring the same outcome measurements and expenditure information that is provided to the U.S. Department of Labor for programs operated under the federal Workforce Innovation and Opportunity Act. The law also requires the Center for Workforce Research and Information to annually publish a list of high-priority occupations that it identifies as providing opportunity for employment in jobs with high compensation, are recommended by the State Workforce Board, and are approved by the Governor or Governor's designee.

LD 1391, *An Act to Ensure the Continuation of the Landowner Relations Program – [Carried Over](#)*.

LD 1400, *An Act to Create the Bar Harbor Port Authority – [Carried Over](#)*.

LD 1432, *An Act to Implement the Recommendations of the Right to Know Advisory Committee Concerning Advance Payment of Costs for Public Records Requests – Public Law 2017*, [chapter 158](#).

This law clarifies that under Maine's Freedom of Access Act, an agency or public official may require payment of all costs before providing a public record to a requester.

LD 1482, *An Act to Implement the Recommendations of the Right To Know Advisory Committee Concerning Existing Public Records Exceptions – Public Law 2017*, [chapter 163](#).

This law repeals the current exception from the definition of "public records" under Maine's Freedom of Access Act for Social Security numbers in the possession of the Secretary of State because it is duplicative of the existing general exception for Social Security numbers in 1 MRS § 402 (3)(N). The law also changes the criteria for designating records of the Efficiency Maine Trust as confidential. Instead of requiring that each of four criteria be met, the law now requires that one of two criteria be met, namely (i) that a person to whom the record belongs has requested it be designated confidential and that the Efficiency Maine Trust Board has determined the record contains proprietary information, access to which would result in some competitive disadvantage to any person to whom the record belongs; or (ii) the record pertains to or contains information about the energy usage profile of an identifiable individual. Lastly, the law provides that the Social Security number, address, telephone number, or email address of a customer who has participated or may participate in a program of the Efficiency Maine Trust are confidential.

LD 1626, *Resolve, Authorizing the Department of Inland Fisheries and Wildlife to Assume Ownership of the Forest City Project – Resolve 2017*, [chapter 23](#).

This resolve authorizes the Department of Inland Fisheries and Wildlife (IF&W) to take ownership of the United States portion of the dam known as the Forest City Project from Woodland Pulp LLC, if the Federal Energy Regulatory Commission (FERC) first determines in writing that no FERC license is necessary to operate the dam if it is owned by the State. The resolve also provides that IF&W may not take ownership of the dam until the State and Woodland Pulp LLC execute an agreement that provides that Woodland Pulp LLC and its successors in interest will maintain the dam for a period of 15 years from the date the State acquires the dam. IF&W will oversee the management of the dam facility.

Education & Workforce Development

If you have a question about any of the new laws summarized in the Education & Workforce Development section of this report, what the statutory changes mean for you and your business, or how to prepare for the next legislative session, please contact one of the attorneys listed below or a member of our Government Relations Group: [Andrea Cianchette Maker](mailto:Andrea.Cianchette@legis.maine.gov) – 207.791.1101; [John D. Delahanty](mailto:John.D.Delahanty@legis.maine.gov) – 207.791.1222; or [Ann R. Robinson](mailto:Ann.R.Robinson@legis.maine.gov) – 207.791.1186.

Primary and Secondary Education

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LD 51, *An Act Regarding the Withdrawal of a Single Municipality from a Regional School Unit* – [Carried Over](#).

LD 228, *An Act to Amend the Mathematics Requirements for High School Graduation* – [Carried Over](#).

LD 334, *An Act to Clarify the Uses of the Fund to Advance Public Kindergarten to Grade 12 Education* – [Carried Over](#).

LD 398, *Resolve, to Establish the Task Force to Recognize Computer Science in the Path to Proficiency* – Resolve 2017, [chapter 21](#).

This enacted resolve directs the Science, Technology, Engineering, and Mathematics Council to establish a task force to develop and report on strategies to integrate computer science into Maine's proficiency-based high school diploma requirements and increase students' computer science skills, including strategies for professional development so that computer science education is available to all students in Maine's K-12 education system. The resolve authorizes the Task Force to recommend legislation or rulemaking in its final report.

LD 678, *An Act to Protect Students from Identity Theft* – Public Law 2017, [chapter 247](#).

This new law governs the practice of collecting student social security numbers. The law requires that any school, public or private that collects a student's Social Security number, must disclose to the parent or student why the school is collecting the information. The law also requires the school to give the student an opportunity to opt out of providing the Social Security number. Additionally, the school must delete the student's Social Security number from its records after the student is no longer enrolled in the school.

LD 816, *An Act to Promote Academic Achievement through Hunger Relief for Maine Children* – [Carried Over](#).

LD 999, *An Act to Provide a Healthy Learning Environment in Early Care Settings by Requiring Rules Concerning Nutrition and Physical Activity* – [Carried Over](#).

LD 1330, *An Act to Authorize a General Fund Bond Issue to Facilitate Innovative Approaches to Regional School Facilities and to Establish the Maine Innovative Regional School Facilities Finance Program* – [Carried Over](#).

LD 1331, *An Act to Authorize a General Fund Bond Issue to Recapitalize the School Revolving Renovation Fund* – [Carried Over](#).

LD 1614, *An Act to Authorize a General Fund Bond Issue to Fund the Maine Science, Technology, Engineering and Mathematics Loan Program* – [Carried Over](#).

Post-Secondary Education

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LD 47, *An Act to Authorize a General Fund Bond Issue to Fund Equipment for Career and Technical Education Centers* – [Carried Over](#).

LD 139, *An Act to Authorize a General Fund Bond Issue for Maine’s Community Colleges* – [Carried Over](#).

LD 376, *An Act to Authorize a General Fund Bond Issue for a New Engineering Design and Education Center at the University of Maine* – [Carried Over](#).

LD 503, *An Act to Continue the Doctors for Maine’s Future Scholarship Program* – [Carried Over](#).

LD 1016, *An Act to Provide Funding for Career and Technical Education Based on Projected Enrollment* – [Carried Over](#).

LD 1130, *An Act to Provide Traffic Safety Education in Schools* – [Carried Over](#).

LD 1163, *An Act to Authorize a General Fund Bond Issue to Provide Funding for a Program of Student Debt Payment and To Provide for the Establishment of That Program* – [Carried Over](#).

LD 1562, *An Act to Authorize a General Fund Bond Issue to Capitalize a Career and Technical Revolving Equipment and Renovation Fund* – [Carried Over](#).

Workforce Development

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LD 669, *An Act to Address the Unmet Workforce Needs of Employers and to Improve the Economic Future of Workers* – [Carried Over](#).

LD 836, *An Act to Authorize a General Fund Bond Issue to Build Maine’s Workforce Development Capacity by Modernizing and Improving the Facilities and Infrastructure of Maine’s Public Universities* – [Carried Over](#).

LD 1564, *An Act to Conform State Law to Federal Law While Promoting Safe Working Environments for Minors* – Public Law 2017, [chapter 286](#). **This emergency law became effective on July 9.**

This new law amends current labor statutes to conform to Federal law permitting minors ages 14 and 15 to work in bowling alleys and movie theaters. This law provides clarity to minors 14 and 15 years old who are employed at bakeries and hotels. This law moves the occupational restrictions for minors 16 and 17 years old to be the same restrictions as those for minors 14 and 15 years old and adds to the list of employment and occupations that are restricted for minors those establishments that cultivate, produce or sell marijuana or products that marijuana is an ingredient of, and marijuana social clubs. This law authorizes the Department of Labor, Bureau of Labor Standards to revoke a work permit. This law also clarifies that graduates of vocational programs who are under 18 years of age are able to work in the occupations they were trained for.

LD 1638, *An Act to Promote Workforce Education Attainment* – Public Law 2017, [chapter 259](#).

This new law adds a new responsibility to the State Workforce Investment Board requiring it to support and track progress toward the goal of increasing the percent of working-age adults holding a higher education degree or industry-recognized credential to 60% by 2025. This law also requires the Board to report annually to the Legislature’s committee having jurisdiction over education and cultural affairs and the legislative committee having jurisdiction over labor, business, research, and economic development matters.

Election Laws

If you have a question about any of the new laws summarized in the Election Laws section of this report, what the statutory changes mean for you and your business, or how to prepare for the next legislative session, please contact one of the attorneys listed below or a member of our Government Relations Group: [Andrea Cianchette Maker](#) – 207.791.1101; [John D. Delahanty](#) – 207.791.1222; or [Ann R. Robinson](#) – 207.791.1186.

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LD 297, *An Act to Improve the Administration of Election Recounts* – Public Law 2017, [chapter 141](#).

This law makes several changes to Maine's election recount laws. It clarifies that the Secretary of State may determine a process for counting ballots if recounts are requested for more than one office or referendum issue on the same ballot. It prohibits an undeclared write-in candidate from requesting a recount. It allows recounts to be conducted in stages when a recount is requested that includes more than one county. It amends the payment and deposit structure for recount requests that include more than one county. More specifically, a deposit is not required when the difference between the leading candidate and the requesting candidate is 1% or less of the total votes cast, or not more than 1,000 votes, whichever is less. When the percentage difference exceeds this threshold, the requesting candidate must pay a deposit of \$5,000, or 10% of the estimated cost. If the recount does not change the result, the candidate must pay the total cost of the recount. If the recount reverses the election, the requesting candidate will receive a full refund.

LD 299, *An Act to Increase Voter Knowledge of Bond Issues* – Public Law 2017, [chapter 45](#).

This new law requires a copy of the Treasurer of State's statement of bond debt to be in each voting booth whenever a proposed bond issue is on the statewide ballot.

LD 408, *An Act to Prohibit Taxpayer-funded Campaign Expenditures from Being Used on Post-election Parties* – Public Law 2017, [chapter 31](#).

This new law prohibits Maine Clean Election funds to be used for post-election events.

LD 459, *Resolve, Regarding Legislative Review of Portions of Chapter 3: Maine Clean Election Act and Related Provisions, a Major Substantive Rule of the Commission on Governmental Ethics and Election Practices* – Resolve 2017, [chapter 13](#). **This emergency resolve became effective on June 7.**

This enacted resolve requires the Commission on Governmental Ethics and Election Practices to make certain modifications to a provisionally adopted major substantive rule pursuant to Chapter 3 of the Maine Clean Election Act regulations. The resolve authorizes the final adoption of the major substantive rule only if it is amended as follows: 1) remove the requirement that a candidate make a declaration of intent that they will train all individuals collecting qualifying contributions on their behalf and; 2) remove the requirement that a candidate ensure the compliance of all qualifying contributions collected on their behalf by other individuals.

LD 543, *An Act Regarding Political Action Committee Expenditures* – Public Law 2017, [chapter 98](#).

This new law prohibits a political action committee from compensating a legislator or a legislator's business for services if the legislator is a principal officer, treasurer, primary decision-maker, or fundraiser of the committee.

LD 1269, *An Act to Adjust the Procedure for Recounts in Certain Municipal Elections* – Public Law 2017, [chapter 191](#).

This new law provides that a written request for a recount of a municipal election must be filed with the municipal clerk's office within seven business days after the election. This law also modifies the procedure for referendum recounts in a municipality. The law changes the qualified voters who can request a recount from "persons whose names were checked on the voting list at any town referendum or ballot question or city

referendum," to just registered voters in the municipality. If 10% or 100 of those registered voters request a recount, then a recount must be granted.

Employment

If you have a question about any of the new laws summarized in the Employment section of this report, what the statutory changes mean for you and your business, or how to prepare for the next legislative session, please contact one of the attorneys listed below or a member of our Government Relations Group: [Andrea Cianchette Maker](#) – 207.791.1101; [John D. Delahanty](#) – 207.791.1222; or [Ann R. Robinson](#) – 207.791.1186.

General

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LD 673, *An Act to Restore the Tip Credit to Maine's Minimum Wage Law* – Public Law 2017, [chapter 272](#).

This new law restores the tip credit system to Maine's minimum wage laws, reversing a portion of the minimum wage citizen-initiated legislation that passed at the ballot box in the fall of 2016. The law allows employers of tipped workers to credit not more than 50% of a worker's tipped wages against the hourly minimum wage, when calculated over the course of the seven-day workweek. The direct wage paid to these workers may not be less than \$5.00 from January 1, 2017 to December 31, 2017. After that time, the direct wage may not be less than 50% of the hourly minimum wage. This law also prohibits an employer from deducting credit card swipe fees from an employee's tip. Finally, the law requires an employer to provide information regarding the tip credit to an employee, in writing, including the requirement that the tip credit may not apply to any employee who has not been informed of the tip credit system.

LD 1004, *An Act to Increase Reporting on Wage and Hour Violations* – Public Law 2017, [chapter 268](#).

This new law requires the Maine Department of Labor (the Department) to provide a written report, on an annual basis, to the Maine Legislature's committee having jurisdiction over labor matters. The report must detail information about complaints received by the Department for violation of wage and hour laws for which the Department has taken final action. The report must include the industry, the fines sought by the Department, the fines collected by the Department, and the length of time between the filing of the complaint and final resolution.

LD 1340, *An Act to Amend the Laws Governing the Maine State Housing Authority* – Public Law 2017, [chapter 234](#).

This new law is an omnibus law that amends and updates various provisions of the statutes governing the Maine State Housing Authority (MSHA). This summary will highlight a few of the amendments.

Among other things, the new law clarifies that MSHA may administer project-based vouchers and specialty vouchers for certain services within the area of operation of municipal housing authorities. The municipal housing authority continues to maintain jurisdiction over administering tenant-based housing choice vouchers.

The amended law requires municipal housing authorities and MSHA to provide municipal officers an opportunity to review and discuss development projects prior to filing the development plans with the municipality.

The amendments also provide that the application materials of potential employees and employees' records are confidential and not open to public inspection, except in certain circumstances, and provide that the employee or former employee has a right to review that employee's personnel file.

The amendments also provide that a municipality with a housing authority shall meet annually with MSHA and remove various requirements that MSHA report annually to the Legislature and governmental agencies

regarding specific programs. The amendments also authorize MSHA to make certain changes to the MSHA's loan-making authority for first-time homebuyers and grant-issuing authority to abate lead and arsenic for low-income residents with private wells.

LD 1360, *An Act to Conform the State Workforce Board and Workforce Development Programs to the Federal Workforce Innovation and Opportunity Act* – Public Law 2017, [chapter 110](#).

This law replaces all references to the federal Workforce Investment Act of 1998 with the federal reauthorization of that Act, the Workforce Innovation and Opportunity Act, and changes the name of the State Workforce Investment Board to the State Workforce Board. The law also removes various enumerated duties of the State Workforce Board, and instead references only Section 101 of the Workforce Innovation and Opportunity Act. Additionally, the law changes the reporting requirements of the Maine Department of Labor to the Legislature by requiring the same outcome measurements and expenditure information that is provided to the U.S. Department of Labor for programs operated under the federal Workforce Innovation and Opportunity Act. The law also requires the Center for Workforce Research and Information to annually publish a list of high-priority occupations that it identifies as providing opportunity for employment in jobs with high compensation, are recommended by the State Workforce Board, and are approved by the Governor or Governor's designee.

LD 1575, *An Act to Update the Statutes Governing the Bureau of Labor Standards to Promote Clarity for Workers and Employers* – Public Law 2017, [chapter 219](#).

This law makes a series of amendments to workplace rules administered by the Bureau of Labor Standards (the Bureau):

- The required poster covering wage and hour laws will now include video display terminal safety information and minimum wage and overtime provisions. The Bureau may now provide the poster in either electronic or paper form.
- Employers must still post the notice, but it is not entirely clear whether the legislation is intended to permit electronic posting, for example on a company intranet, or if a physical posting is required.
- The penalties for failure to post the notice are substantially increased.
- 26 MRS § 597, the statute guaranteeing employees the right to use tobacco products outside of work, has been amended to provide expressly that employers may offer voluntary wellness programs that offer incentives for the cessation of the use of tobacco products.
- The rest break statute, 26 MRS § 601, has been amended to codify what has generally been an accepted interpretation that for an employer to count an employee's required 30-minute break as unpaid mealtime, the employee must be completely relieved of duty for the full 30 minutes.
- There are minor modifications to 26 MRS § 626, the wage payment to require that payments due when a business closes must be made the next business day, and that employees who are absent on payday must still be paid as if they were not absent.
- Section 626 is also amended to require that the employer pay a departing employee no later than that employee's next established payday; the "within a reasonable time after demand" language has been eliminated. The same section of the law also modifies the provision of § 626 dealing with the payment of vacation pay at the time of termination. § 626 has long provided that when the terms of employment provided for the payment of unused vacation, that vacation had to be paid out as wages at the end of employment or upon the sale of the business. This law has added an additional basis for requiring payment of unused vacation, namely if the employer has an "established practice" of doing so. The Law Court has held that whether unused vacation must be paid out at the end of employment depends on the employment agreement between employer and employee. It is unclear whether this new language is intended to have any effect on that precedent.
- The § 664 overtime exemption at issue in the Oakhurst Dairy case has been restored with the correction of the infamous "Oxford comma" problem with respect to employees involved with produce, meat and fish products, and other perishable foods. The provision is retroactive, so that no further overtime claims may be brought under the theory that prevailed in the Oakhurst case.

- A new subsection 7 has been added to 26 MRS § 774 to require that an employer must keep a time book or record for every minor employed in any occupation (except household work or agriculture as long as the minor is not in direct contact with hazardous machinery or substances). The record must be available for Bureau inspection, at all times, with financial penalties for noncompliance.

Workers' Compensation

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LD 612, *An Act to Improve Vocational Rehabilitation under the Maine Workers' Compensation Act of 1992* – Public Law 2017, [chapter 53](#).

This law will make it more likely that an injured worker who is involved in vocational rehabilitation will remain on full benefits during the duration of a Board-ordered rehabilitation plan. Section 217 of the Workers' Compensation Act already creates a rebuttable presumption that someone enrolled in a Board-ordered plan is unable to work during the duration of the plan, but that presumption can be rebutted according to the Maine Law Court. This new provision instructs that, if a worker is on benefits at the commencement of a Board-ordered plan, the employer cannot take steps to reduce benefits except under very narrow circumstances. This provision may result in more requests for Board-ordered plans of lengthy durations.

Energy

If you have a question about any of the new laws summarized in the Energy section of this report, what the statutory changes mean for you and your business, or how to prepare for the next legislative session, please contact one of the attorneys listed below or a member of our Government Relations Group: [Andrea Cianchette Maker](#) – 207.791.1101; [John D. Delahanty](#) – 207.791.1222; or [Ann R. Robinson](#) – 207.791.1186.

Natural Gas

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LD 344, *An Act to Provide Opportunity for Energy Cost Reduction for Maine Businesses and Citizens* – Public Law 2017, [chapter 22](#).

This law provides two additional years for the Maine Public Utilities Commission (MPUC) to enter into an energy cost reduction contract for firm upstream natural gas capacity.

During 2013, the Maine Legislature enacted “The Maine Energy Cost Reduction Act,” finding that the expansion of natural gas transmission pipeline capacity into Maine and other states in the New England electric power pool region could result in lower natural gas prices and, by extension, lower electricity prices for consumers in Maine. The Act authorized the MPUC to enter into (or to order Maine’s electric and/or gas utilities to enter into) energy cost reduction contracts (ECRC) for firm upstream natural gas capacity if the ECRC is in the public interest, is reasonably likely to be economically beneficial to electric and natural gas consumers in Maine, and is reasonably likely to enhance electric and natural gas reliability in the state.

In December 2014, the MPUC received ECRC proposals from three natural gas pipeline developers. On July 19, 2016, after two lengthy evaluation processes including an in-depth analysis and reports commissioned by the Commission’s consultant, London Economics International (LEI), the MPUC approved Maine’s execution of an ECRC with Enbridge, Inc.’s (formerly Spectra Energy) Access Northeast Project. The MPUC’s approval of an ECRC for the Access Northeast Project, however, is not valid unless other New England States (with the exception of Vermont) also approve similar arrangements to participate in the Access Northeast project for a minimum quantity equal to their respective load shares. The MPUC’s approval of the Access Northeast ECRC is also subject to further MPUC approval of the precise terms of the ECRC. To date, no other New England States have approved such similar contracts for the Access Northeast project and the terms of the Maine ECRC have not yet been negotiated. On June 29, 2017, Enbridge notified the Federal Energy Regulatory Commission that it was withdrawing the proposed Access Northeast Project from FERC’s pre-filing review process at this time.

This new law amends the existing statute to extend the deadline for the execution of an ECRC from December 31, 2018, to December 31, 2020. The purpose of the two-year extension is to allow additional time for the prerequisites in the Commission’s Order to be met and for a Maine ECRC to be negotiated prior to the statutory deadline.

LD 822, *An Act to Ensure Fairness among Large Consumers of Natural Gas* – [Carried Over](#).

LD 1151, *An Act to Allow Promotional Allowances by Gas Utilities* – Public Law 2017, [chapter 83](#).

This law grants gas utilities the ability to offer promotional allowances (e.g. rebates, discounts, credits or other promotions) to existing and potential customers without obtaining prior approval from the MPUC. The law requires that the offering gas utility file a schedule of rates setting forth the promotional allowance with the MPUC. This schedule will become effective upon filing, unless a later date is specified in the filing. The

law also makes it clear that the gas utility may not recover the expenses and costs associated with the promotional allowance from any person other than the utility's shareholders, and preserves the MPUC's authority to disallow, in a subsequent rate case or proceeding, any expense that the Commission finds to be unjust, unreasonable, excessive, or unwarranted.

Electricity

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LD 532, *An Act to Remove the 100-megawatt Limit on Hydroelectric Generators under the Renewable Resources Laws* – [Carried Over](#).

LD 755, *An Act to Amend the Law Regarding Nontransmission Alternatives Investigations Required for Proposed Transmission Lines and Projects* – Public Law 2017, [chapter 201](#).

This law provides the MPUC with an additional three months (to a total of nine months) to review and approve or deny requests for certificates of public convenience and necessity (CPCN) for proposed transmission lines at voltages of 69 kV or higher.

This law also amends the CPCN statute to allow the nontransmission alternatives investigation to be performed during the course of the CPCN proceeding rather than requiring that it be submitted as part of the initial petition for CPCN approval.

LD 803, *An Act to Improve Transparency in the Electricity Supply Market* – Public Law 2017, [chapter 74](#).

This law provides protection to residential customers who elect to purchase generation service (electric supply service) through a competitive electricity provider (CEP). These protections include, among other things, requirements that the CEP disclose where a residential customer can obtain information to compare the CEP's service with the standard-offer service and requirements that information be placed on the residential customer's bill regarding resources the customer can access to compare electricity supply rates and terms.

The law also prohibits competitive electricity providers from automatically renewing electric supply service contracts unless the residential customer receives a notice of renewal in advance by mail, the renewal contract rate is lower than 20% above the expiring contract rate, and the term of the contract is the lesser of 12 months or the length of the contract that is expiring.

Finally, this law directs the MPUC, in consultation with the Public Advocate, to investigate and present findings on whether residential consumers are paying more, on average, for service through CEPs as opposed to service from standard-offer providers during the period from 2014 through 2016.

LD 1061, *An Act to Increase Investment and Regulatory Stability in the Electric Industry* – Public Law 2017, [chapter 134](#).

This law amends the existing long-term contracting statute to also authorize the MPUC to direct investor-owned transmission and distribution facilities to enter into long-term contracts for transmission capacity, capacity resources, energy or renewable energy credits pursuant to a regional procurement process in conjunction with other states.

This law also requires that the MPUC submit a report to the Joint Standing Committee on Energy, Utilities and Technology of the Legislature on January 1st of each year that details the number of requests for proposals (RFPs) issued by the Commission for long-term contracts, the number of responses to the RFPs, and the number of executed term sheets and executed contracts resulting from the RFPs within the previous 12 months. The report must include estimates of ratepayer costs or savings associated with any approved term sheet, actual ratepayer costs or savings associated with long-term contract procurements for the previous

year, and the total ratepayer costs or savings as of the date of the report arising from long-term contract procurements. Finally, the report must include the megawatt-hours, the renewable energy credits and the capacity produced or procured through the long-term contracts, as well as an energy and capacity resource and renewable energy credit procurement plan for the upcoming year.

LD 1632, *An Act to Establish the Manufacturing Jobs Energy Program* – [Carried Over](#).

Utilities

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LD 260, *An Act to Create the Maine Energy Office* – [Carried Over](#).

LD 461, *Resolve, Regarding Legislative Review of Chapter 220: Removal of Provider of Last Resort Service Obligation, a Major Substantive Rule of the Public Utilities Commission* – Resolve 2017, [chapter 4](#). **This emergency resolve became effective on April 11.**

This resolve authorizes MPUC Chapter 220, Provider of Last Resort (POLR) Service Obligation, which is a major substantive rule of the MPUC. Chapter 220 establishes the requirements and procedures for a Price Cap Incumbent Local Exchange Carrier (ILEC) to be relieved of its obligation to provide Provider of Last Resort service. The rule also describes the findings required for Commission approval of a Price Cap ILEC's request to discontinue, reduce or impair the service it provides in any municipality in which the Price Cap ILEC has been relieved of its obligation to provide POLR service.

LD 756, *An Act to Clarify the Authority of an Affiliate of a Utility To Own Power Generation Outside of the Utility's Territory* – Public Law, [chapter 287](#).

In 1997, the Maine Legislature enacted "An Act to Restructure the State's Electric Industry" (Electric Restructuring Act) (P.L. 1997, Ch. 316). The Electric Restructuring Act, among other things, directed Maine's investor-owned transmission and distribution utilities (T&D Utilities) to divest their generation assets and prohibited those T&D Utilities from owning, having a financial interest in, or otherwise controlling generation and generation-related assets on or after March 1, 2000, except as otherwise provided for in the Act (Divestiture Statute). See 35 MRS § 3204(5).

This law amends the Electric Restructuring Act to allow affiliates of T&D Utilities to own generation or generation-related assets in accordance with standards of conduct adopted pursuant to the amendment, as long as the generation or generation-related assets are not directly interconnected into facilities that are owned or operated by the T&D Utility. See 35-A MRS § 11.

The law directs the MPUC to issue a rule that establishes standards of conduct to govern the relationships between T&D Utilities and their affiliates that own generation or generation-related assets. The law requires that the standards of conduct must: (a) prohibit a T&D Utility from taking any action that favors an affiliate or adversely affects a competitor of an affiliate in a manner that is unjust or unreasonable; (b) ensure separation and independence of such affiliates; and (c) protect ratepayers.

Finally, the law prohibits affiliate generation or generation-related assets from participating in MPUC-approved long-term contracts if those affiliates do not have a pre-existing long-term contract or term sheet as of July 1, 2017.

LD 1147, *An Act to Modernize the Renewable Portfolio Standard* – Public Law, [chapter 291](#).

This law amends the existing renewable portfolio standard that requires each competitive electricity provider (CEP) to demonstrate that a certain percentage of their portfolio of supply sources for retail electricity sales is comprised of a specified percentage of new renewable capacity resources (Class I RPS). The Class I RPS

required that the CEP supply portfolio include increasing percentages of new renewable capacity resources each year, from 1% new renewable capacity resources in the supplier's portfolio in 2008, to 10% in 2017. This new law amends the Class I RPS to extend the 2017 requirement that 10% of each CEP's portfolio is comprised of new renewable capacity resources for an additional five years, until December 31, 2022.

LD 1224, *An Act to Allow for Greater Energy Competition in Maine by Amending the Law Governing Electric Generation or Generation-related Assets by Affiliates* – [Carried Over](#).

LD 1313, *An Act to Establish Energy Policy in Maine* – Public Law 2017, [chapter 282](#).

In 2016, the Maine Legislature passed an “Act to Reduce Electric Rates for Maine’s Businesses.” This law aimed to offset the electricity costs of certain energy-intensive Maine manufacturing businesses that meet the statutory criteria (Affected Customers) by requiring \$3 million per year to be transferred from the Regional Greenhouse Gas Initiative (RGGI) Trust Fund to the Maine Public Utilities Commission (MPUC) during the fiscal years 2016-2017, 2017-2018 and 2018-2019 for disbursement to the Affected Customers. Under the statute, the MPUC was directed to disburse the funds to eligible Affected Customers on a pro-rata basis in proportion to the customers’ retail purchase of electricity for the prior calendar year.

This law amends the existing statute to spread the funding out over an additional year by changing the funding amounts from \$3 million each year, to \$2.5 million in fiscal year 2017-2018, \$2.5 million in fiscal year 2018-2019 and \$1 million in fiscal year 2019-2020. The amendment also makes it clear that the transfer of funds from the RGGI Trust Fund to the MPUC shall be made only to the extent that the funds are available. Additionally, eligible Affected Customers who elect in writing to opt out of receiving a disbursement under this law by October 1, 2017, are not prohibited from receiving other financial or other assistance from the RGGI Trust Fund during the period from fiscal year 2017-2018 through fiscal year 2019-2020.

Finally, during the period that the PUC disbursements are being made, from fiscal years 2017-2018 through 2019-2020, the new law waives the requirement that the Trust must allocate 50% of the RGGI Trust Funds for residential programs and 50% for commercial and industrial programs.

LD 1503, *An Act to Amend Criteria for Issuing a Certificate of Approval for Certain Projects under the Finance Authority of Maine Act* – Public Law 2017, [chapter 95](#). **This emergency law became effective on May 26.**

This law amends the existing law regarding the Finance Authority of Maine’s (FAME) criteria for issuing Certificates of Approval to finance projects pursuant to FAME’s Revenue Obligation Securities Program. The amended law requires that applicants seeking financing assistance through the Revenue Obligation Securities Program demonstrate a strong likelihood of their ability to repay the revenue obligation securities, rather than just a reasonable likelihood. This amendment is designed to ensure that the State of Maine has sufficient safeguards to protect against undue losses to the State.

Telecommunication

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LD 345, *An Act to Authorize a General Fund Bond Issue to Upgrade and Replace Infrastructure of the Maine Public Broadcasting Corporation* – [Carried Over](#).

LD 423, *An Act to Extend Availability in Rural Maine* – [Carried Over](#).

Environmental & Renewables

If you have a question about any of the new laws summarized in the Environmental & Renewables section of this report, what the statutory changes mean for you and your business, or how to prepare for the next legislative session, please contact one of the attorneys listed below or a member of our Government Relations Group: [Andrea Cianchette Maker](#) – 207.791.1101; [John D. Delahanty](#) – 207.791.1222; or [Ann R. Robinson](#) – 207.791.1186.

Conservation and Public Lands

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LD 586, *An Act to Implement the Recommendations of the Commission To Study the Public Reserved Lands Management Fund* – Public Law 2017, [chapter 289](#). **This emergency law became effective on July 20.**

This emergency law, which overcame the Governor's veto, took effect on July 20 in order to provide protection for funds in the Public Reserve Lands Management Fund. It enacts new language on expenditures from the Fund, requiring that such expenditures be subject to legislative approval in the same manner as appropriations from the General Fund, and establishing an educational grant program for training in logging or forestry. It further establishes a forest inventory timeline, pursuant to which the Department of Agriculture, Conservation and Forestry must conduct a forest inventory of the State's public reserved and non-reserved lands by March 15, 2021 and every five years thereafter.

Chemical Control

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LD 174, *An Act to Require Schools to Submit Pest Management Activity Logs and Inspection Results to the Board of Pesticides Control for the Purposes of Providing Information to the Public* – [Carried Over](#).

LD 182, *An Act to Protect Firefighters by Establishing a Prohibition on the Sale and Distribution of New Upholstered Furniture Containing Certain Flame-Retardant Chemicals* – Public Law 2017, [chapter 311](#).

This new law prohibits the sale of upholstered furniture products that contain flame retardant chemicals as of January 1, 2019. The sales prohibition provides that a person may not sell or distribute upholstered furniture that contains more than 0.1% of a flame retardant chemical.

The law provides an exemption for used upholstered furniture as well as for upholstered furniture to be used in public facilities, and upholstered furniture that is otherwise subject to the prohibition but was purchased by the retailer prior to January 2, 2019. The law provides that all rules adopted under this section will be routine technical rules.

LD 594, *An Act to Modify the Definition of "General Use Pesticide"* – Public Law 2017, [chapter 59](#).

This law amends the definition of "general use pesticide" by removing references to pesticides that have been registered with the United States Environmental Protection Agency (EPA). Instead, the law now refers to "general use pesticide" as a pesticide that is required by the Maine Board of Pesticides Control to be registered. Additionally, the law removes references to pesticides restricted by the EPA and provides that restricted or limited pesticides are those listed by the Maine Board of Pesticides Control.

Environmental Enforcement and Liability

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LD 399, *An Act to Revise Maine's Environmental Laws* – [Carried Over](#).

LD 725, *An Act to Recognize Local Control Regarding Food Systems* – Public Law 2017, [chapter 215](#).

This law gives municipalities the authority to regulate food and food products that are grown, produced, processed, and sold within their own boundaries.

LD 1473, *An Act to Make Minor Changes and Corrections to Statutes Administered by the Department of Environmental Protection* – Public Law 2017, [chapter 137](#).

This legislation became law without the Governor's signature. It makes several changes in the Maine Department of Environmental Protection's authority, including clarifying its ability to revoke and suspend licenses and to enter and inspect property and buildings, and further implements the recent reassignment of duties from the Board of Environmental Protection to the Commissioner of Environmental Protection. This law incorporates federal Clean Water Act regulations that were effective on July 1, 2016, thereby updating the applicable rules in Maine. It further clarifies the boundaries of water quality designations for a number of water courses around the State.

LD 1502, *An Act to Transfer Responsibility for Licensing of Land-based Aquaculture from the Department of Marine Resources to the Department of Agriculture, Conservation and Forestry* – Public Law 2017, [chapter 94](#).

This law transfers authority for the licensing of land-based aquaculture from the Department of Marine Resources to the Department of Agriculture, Conservation and Forestry.

Environmental Permitting and Land Use

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LD 131, *An Act to Protect the Biomass Industry* – [Carried Over](#).

LD 549, *An Act to Recognize Preexisting Land Uses* – Public Law 2017, [chapter 89](#).

This new law creates a rebuttable presumption for properties located in the unorganized territories of the State that a use or structure is a permissible non-conforming use where a person demonstrates that such use or structure has existed for at least 30 years.

LD 672, *An Act to Clarify a Municipality's Authority to Adopt and Enforce Land Use Regulations for Marijuana Facilities* – [Carried Over](#).

LD 805, *An Act to Streamline the Municipal Review Process When Dividing a Structure into 3 or More Dwelling Units and to Amend the Process for Recording Subdivision Variances* – Public Law 2017, [chapter 104](#).

This new law applies to municipal review of projects that are dividing a new or existing structure into three or more dwelling units. Under current law, such projects seeking municipal review in municipalities that have site plan ordinances are required to undertake both site plan review and state subdivision review by the municipality. Under the new law, effective on July 1, 2018, such projects under review by municipalities that have site plan ordinances are exempt from state subdivision review. This exemption takes effect July 1, 2018 in order to provide time for municipalities to review or modify their site plan ordinances. Under the new law, municipalities with no site plan ordinance will continue to review the division of a new or existing building into three or more dwelling units under state subdivision law. Further, this law amends the deadline for filing

waivers under subdivision review at the registry of deeds from the current 90 days to within two years of the date of waiver approval from either subdivision review or Site Location of Development review.

LD 1139, *An Act to Clarify Certain Right-of-way Limitations* – Public Law 2017, [chapter 194](#).

This new law enacts a new section to the conveyance of property provisions in Maine statute. The new section states that for all easements and rights-of-way granting access to waters of the State conveyed after January 1, 2018, the grantee does not necessarily have the right to install a dock on the easement or right-of-way. Specifically, the easement holder does not have a right, by implication, to install a dock on the right-of-way if the conveyance does not expressly include the right to construct a dock on the easement or the right to use the easement to facilitate the construction of a dock on the water body.

(Not Enacted) LD 1194, *Resolve, Establishing the Commission to Study and Assess Maine's Regulatory Environment*.

This resolve proposed to establish a commission to study Maine's regulatory environment, particularly with regard to the State's regulatory approval rates of large-scale development projects, to identify opportunities for improvement in an effort to make Maine more business friendly.

LD 1258, *An Act to Modernize the Voluntary Response Action Program Funding Process* – Public Law 2017, [chapter 92](#).

This law increases the fee charged for assistance from the Maine Department of Environmental Protection for submitting a Voluntary Response Action Plan application. The fee is 1% of the assessed value of the property at the time the application is submitted, except that the fee may not exceed \$15,000. This law takes effect January 1, 2018.

LD 1381, *An Act to Clarify Appeals of Municipal Land Use Decisions* – Public Law 2017, [chapter 241](#).

This law makes certain changes to the statutes governing the appeal of a municipal land use decision to Superior Court. The law responds to a Maine Supreme Judicial Court case, *Bryant v. Town of Camden 2016 ME 27*, which determined that a certain municipal land use decision was not ready for appeal to the Superior Court until it received final action from both the Camden Planning Board and the Camden Zoning Board of Appeals, despite a municipal ordinance to the contrary. In response, this law provides that a municipal land use decision, which is required elsewhere in law to be heard by more than one municipal review board, must seek review from each of those municipal review boards before it can be properly appealed to the Superior Court.

Marine Resources

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LD 703, *An Act to Address Marine Debris Resulting from Commercial Activities* – [Carried Over](#).

Mining and Natural Resources

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(Not Enacted) LD 159, *An Act to Prohibit the Mining of Massive Sulfide Ore Deposits on State Lands*.

This bill would have amended the laws regarding mining on state lands to prohibit the issuance of a mining lease that authorizes the mining of a massive sulfide ore deposit – defined as a metal sulfide ore deposit that contains in total one million tons or more of metallic minerals – located on state lands.

(Not Enacted) [LD 160](#), *An Act to Prohibit the Mining of Massive Sulfide Ore Deposits on State Lands under the Maine Metallic Mineral Mining Act.*

This bill would have amended the Maine Metallic Mineral Mining Act to prohibit DEP from approving an application for a mining permit that proposes to mine metallic mineral ore deposits that contain a massive sulfide ore deposit, defined as a metal sulfide ore deposit that contains in total one million tons or more of metallic minerals.

(Not Enacted) [LD 254](#), *An Act to Implement a Moratorium on Metallic Mineral Mining.*

This bill would have implemented a moratorium on metallic mineral mining in the State by prohibiting the DEP from issuing a permit to mine under the Maine Metallic Mineral Mining Act.

(Not Enacted) [LD 395](#), *Resolve, Regarding Legislative Review of Chapter 200: Metallic Mineral Exploration, Advanced Exploration and Mining, a Major Substantive Rule of the Department of Environmental Protection.*

This resolve would have provided for legislative review of Chapter 200: Metallic Mineral Exploration, Advanced Exploration and Mining, a major substantive rule of the DEP.

(Not Enacted) [LD 580](#), *An Act to Modify the Mining Laws.*

This bill proposed to enact provisions amending the State's mining laws, including a prohibition on the issuance of a mining lease for operations located wholly or partially in, on or under designated lands, state historic sites, state parks, public reserved lands, the Allagash Wilderness Waterway or state-owned wildlife management areas; a prohibition of any mining operation in, on or under a flood plain or a flood hazard area; a prohibition on the placement of any mining operation in or on a river, stream or brook or in, on or under a great pond or the coastal waters of the State; a clarification that mining by *in situ* leaching is prohibited; and a financial assurance requirement for a worst-case mining event or failure. The bill also proposed to enact a prohibition on metallic mineral mining in the State and to direct a corresponding repeal of all state agency rules relating to metallic mineral mining contingent upon the failure of the DEP Protection to finally adopt major substantive rules for metallic mineral mining in the State under the Mining Act on or before August 1, 2018.

LD 820, *An Act to Protect Maine's Clean Water and Taxpayers from Mining Pollution* – Public Law 2017, [chapter 142](#).

This new law, which overcame the Governor's veto, amends the State's mining laws. It authorizes final adoption of Chapter 200: Metallic Mineral Exploration, Advanced Exploration and Mining, subject to stated amendments. Chapter 200 stems from a major substantive rulemaking of the Maine DEP on January 13, 2017.

The new law prohibits open-pit mining, prohibits the use of wet mine waste units or tailings impoundments for the management of mine waste and tailings, and requires the use of dry stack tailings management. It limits where mining operations may be located, prohibiting the issuance of a mining lease where the operation is to be wholly or partially located in, on or under any of the following state lands: designated lands under Title 12, MRS § 598-A, state historic sites, state parks, public reserved lands, submerged lands, state-owned wildlife management areas, or the Allagash Wilderness Waterway. It prohibits the removal of metallic minerals in, on or from a river, stream, or brook, a great pond, a freshwater wetland, or a coastal wetland, and prohibits the placement of a mine shaft in, on, or under a significant or outstanding river segment, an outstanding river, a high or moderate value waterfowl and wading bird habitat, a great pond, or a coastal wetland.

The law also amends permit approval conditions under the Mining Act relating to discharges causing groundwater contamination, thereby limiting the impacts that may occur, and provides a narrow definition of the term "mining area" applicable to this provision on discharges causing groundwater contamination.

Certain definitions are added to the Mining Act, including the terms "dry stack tailings management," "mine shaft," "mine waste," "mine waste unit," "open-pit mining," and "wet mine waste unit," and the existing definition for the term "tailings impoundment" is amended.

The law further clarifies the financial assurance provisions in the Mining Act and requires special financial assurance coverage for a worst-case catastrophic mining event or failure, as well as treatment of all expected fluids and wastes generated by the mining operation for a minimum of 100 years. The amount of the financial assurance must be sufficient to cover the cost for the DEP to administer, and hire a third party to implement, all necessary investigation, monitoring, closure, post-closure, treatment, remediation, corrective action, reclamation, operation, and maintenance activities under the environmental protection, reclamation, and closure plan.

In sum, these new provisions will make it extremely difficult, if not impossible, to site, permit, or economically operate a metallic mineral mine in Maine.

Water

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LD 40, *An Act to Strengthen Requirements for Water Testing in Schools* – [Carried Over](#).

LD 454, *An Act to Ensure Safe Drinking Water for Families in Maine* – Public Law 2017, [chapter 230](#).

This new law concerns testing for contaminants in residential private drinking water wells that are otherwise exempt from state and federal safe drinking water laws. It requires the Department of Health and Human Services (DHHS) to develop uniform well testing recommendations and to conduct educational outreach on health effects and the need for testing. DHHS must update its educational materials as needed, including to recommend water testing through a state-certified laboratory. The Maine Water Well Commission also must develop educational materials regarding contaminants under the new law, which are to be distributed to landowners when a well is drilled or deepened. An educational outreach fund, supported by fees on the DHHS Health and Environmental Testing Laboratory's testing of residential private drinking water wells, is established, as is funding to DHHS for additional water testing and other duties related to the requirements of the law. The underlying legislation overcame a Governor's veto to become law.

LD 1298, *An Act to Update Maine's Water Quality Standards* – [Carried Over](#).

Wildlife and Fisheries Management

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LD 557, *An Act to Revoke the Hunting and Fishing Licenses of a Person Charged with Defacing Property Posting Signs* – Public Law 2017, [chapter 50](#).

Current law prohibits a person from damaging, destroying, defacing, or trampling another person's land while hunting wild animals or wild birds, and any person who does so, under the current law, commits a Class E crime. By enacting LD 557, the Legislature took the prohibitions regarding hunting on the land of another one step further. First, it added a new prohibition that one may not damage, destroy, deface, or tear down a property posting sign. Second, it mandates that if a person is *convicted* of damaging, destroying, defacing, or tearing down a property posting sign, his or her hunting license *and fishing license* will be revoked, and the convicted hunter is not eligible to obtain a new hunting or fishing license for one year.

LD 1626, *Resolve, Authorizing the Department of Inland Fisheries and Wildlife to Assume Ownership of the Forest City Project* – Resolve 2017, [chapter 23](#).

This resolve authorizes the Department of Inland Fisheries and Wildlife (IF&W) to take ownership of the United States portion of the dam known as the Forest City Project from Woodland Pulp LLC, if the Federal Energy Regulatory Commission (FERC) first determines in writing that no FERC license is necessary to operate the dam if it is owned by the State. The resolve also provides that IF&W may not take ownership of the dam until the State and Woodland Pulp LLC execute an agreement that provides that Woodland Pulp LLC and its successors in interest will maintain the dam for a period of 15 years from the date the State acquires the dam. IF&W will oversee the management of the dam.

Healthcare

If you have a question about any of the new laws summarized in the Healthcare section of this report, what the statutory changes mean for you and your business, or how to prepare for the next legislative session, please contact one of the attorneys listed below or a member of our Government Relations Group: [Andrea Cianchette Maker](#) – 207.791.1101; [John D. Delahanty](#) – 207.791.1222; or [Ann R. Robinson](#) – 207.791.1186.

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LD 46, *An Act to Provide Consistency with Regard to Jury Duty Exemption* – Public Law 2017, [chapter 275](#).

This new law removes all but two of the previously existing exemptions from jury duty that applied to certain occupational categories. This law removes the exemptions for judges, physicians, and dentists providing active patient care, veterinarians with or in an active veterinary medicine practice, sheriffs, and attorneys-at-law.

LD 132, *An Act to Authorize Podiatrists to Perform Certain Routine Procedures* – Public Law 2017, [chapter 14](#).

Chapter 14 extends the definition of “practice of podiatric medicine,” to include the performance of a history and physical on a podiatrist’s pre-operative patient and upon the patient’s admission into a hospital or ambulatory surgical center.

LD 161, *An Act To Remove the Treasurer of State from the Maine Vaccine Board* – Public Law 2017, [chapter 7](#).

This law removes the Treasurer of the State as a member of the Maine Vaccine Board.

LD 184, *An Act to Allow Hospitals To More Efficiently Monitor the Prescribing of Controlled Substances by Amending the Laws Governing Access to Prescription Monitoring Information* – Public Law 2017, [chapter 87](#).

This new law amends current law to permit staff members of hospitals, who are authorized by the chief medical officer of the hospital, and staff members of a pharmacist, who are authorized by the pharmacist on duty, to monitor the prescribing of controlled substances and to access prescription monitoring information.

LD 272, *An Act Requiring Meningococcal Meningitis Vaccinations for Teenagers* – [Carried Over](#).

LD 445, *An Act to Encourage Maine Consumers to Comparison-shop for Certain Health Care Procedures and to Lower Health Care Costs* – Public Law 2017, [chapter 232](#).

This new law encourages patients to consider health care cost comparisons for health care services. The law requires that the patient must be notified, at the time a particular health care service is recommended, that the patient has the right to obtain services from a different provider. The notice must also include information about health care transparency tools provided by the patient’s insurance carrier, and specific information about the medical procedure including codes or other terminology to enable the patient to compare costs.

The law also requires the Maine Health Data Organization to include in its online cost comparison database, “comparable health services” for certain nonemergency, outpatient health services. Health insurance carriers and other payors are required to provide information to the MHDO regarding these “comparable health services.” The law prohibits denial of a referral by an out-of-network provider after January 1, 2018 solely due to the referral being made by a provider who is not a member of the carrier’s provider network. This law directs health insurance carriers of small group health plans to utilize incentive tools, including but not limited to cash payments, to encourage patients to comparison-shop for health services. This law also provides that if

a patient finds a comparable health service at the same or lower rate as the statewide average from an out-of-network provider, the health carrier must treat the service as it would for an in-network provider for purposes of the patient's cost-sharing obligation.

Finally, this law authorizes the Superintendent of the Bureau of Insurance to adopt rules to implement the law, and that such rules are considered routine technical rules.

LD 470, *An Act to Strengthen Maine's Hospitals and Increase Access to Health Care* – [Carried Over](#).

LD 479, *An Act to Inform Patients of the Dangers of Addicting Opioids* – Public Law 2017, [chapter 186](#).

This new law requires all health care entities that employ licensed nurses, osteopathic physicians, physicians and surgeons, podiatrists and dentists, who prescribe opioids, to adopt by January 1, 2018 an opioid medication prescribing policy. The policy must include procedures and practices related to risk assessment, informed consent, and counseling on the risk of opioid use.

(Not Enacted) LD 487, *An Act to Promote Keeping Workers in Maine*.

This bill, which was not enacted, proposed to regulate the use of non-compete agreements by public and private employers. Specifically, the bill sought to prohibit the use of non-compete agreements for low-wage employees, restrict their use to those situations where necessary to protect the employer's trade secrets or confidential information and limit their duration to promote renegotiation. The bill also would have required employers to disclose the requirement for a non-compete agreement to prospective employees, by including a statement in the job advertisement and providing a copy of the agreement prior to extending an offer, and to pay additional compensation to any employee who agreed to sign a non-compete agreement. Lastly, the bill sought to create a cause of action for any employee harmed by the unlawful use of a non-compete agreement, including an award of attorneys' fees and court costs.

LD 562, *An Act Concerning the Department of Health and Human Services* – [Carried Over](#).

LD 764, *An Act To Limit the Exclusion of a Patient from Eligibility for an Organ Transplant Based on Medical Marijuana Use* – Public Law 2017, [chapter 252](#).

This new law directs a transplant evaluator to treat a qualifying patient's use of medical marijuana like any other medication a patient may be taking when evaluating the patient for an organ transplant. The qualifying patient may be found unsuitable for an organ transplant if the qualifying patient does not limit his or her use of medical marijuana to the forms of marijuana that are not smoked or vaporized. Further, the transplant evaluator may require the medical marijuana being used by a qualifying patient to be tested for fungal contamination.

LD 801, *An Act to Allow a Physical Therapist to Administer Certain Coagulation Tests in a Patient's Home* – Public Law 2017, [chapter 80](#). **This emergency law became effective on May 26.**

This new law authorizes a licensed physical therapist to perform a finger stick blood test in a person's home for the purpose of assessing blood clotting levels. Should this occur, the physical therapist is required to report the results to the health care provider who prescribed the physical therapy and only that provider can interpret the results and make adjustments to the person's plan of care or medication.

LD 952, *An Act to Ensure Opiate Addiction Treatment in Maine* – Public Law 2017, [chapter 305](#).

This new law permits registered professional nurses, certified nurse practitioners, and practical nurses to dispense opioid medication for substance abuse treatment to patients who are in an opioid treatment program. The dispenser must administer the medication at the direction of the medical director of the opioid treatment program. The law also provides for amendments to allow for an increase in the reimbursement rate paid by the State to opioid treatment providers, and to allow an outpatient treatment center to be open only six days a week instead of the current requisite seven days a week.

LD 958, *An Act to Enact the Uniform Emergency Volunteer Health Practitioners Act* – [Carried Over](#).

LD 1031, *An Act To Clarify the Opioid Medication Prescribing Limits Laws* – Public Law 2017, [chapter 213](#). **This emergency law became effective on June 16.**

This new law makes certain changes to the opioid prescription limit laws passed by the 127th Legislature. This new law: 1) clarifies that palliative care is not limited to hospice care; 2) clarifies that a serious illness may include chronic, unremitting, or intractable pain; 3) limits the definition of a dispenser to a licensed pharmacist and removes licensed health care professionals from the definition of dispenser; 4) adds a provision that if a controlled substance is being dispensed in a hospital emergency room to a patient for use during a 48-hour period, the dispenser does not need to comply with all of the reporting requirements under the law; 5) expands the authority to access prescription monitoring information to staff of a group practice of prescribers so long as the information relates to the care of a patient of that group practice; 6) clarifies that a health provider does not need to check the prescription monitoring information if the prescription is being given in connection with a surgical procedure; 7) removes the requirement that a dispenser contact the Controlled Substances Prescription Monitoring Program when fraud is suspected and maintains the requirement that the dispenser contact the prescriber; 8) clarifies that all rules adopted after July 1, 2017 pursuant to this law are major substantive rules; and 9) provides an exemption to the seven-day prescription limit for opioids that are labeled by the federal Food and Drug Administration to be dispensed only in a supply that exceeds seven days, in which case the supply may not exceed 14 days.

LD 1108, *An Act to Restore Public Health Nursing Services* – Public Law 2017, [chapter 312](#).

This new law makes changes to the Public Health Nursing Program within the Department of Health and Human Services (DHHS). The law removes discretionary authority from the director of the program, and provides that the Public Health Nursing Program must provide certain services. Those services include, but are not limited to treatment for at-risk individuals, support for Maine Center for Disease Prevention and Control programs, and the assessment of unmet health needs in rural and elderly communities.

The law further provides that the Department must promptly fill all public health nurse positions within the program. The law also provides that notwithstanding any other provision of law, the Department may not transfer funds from the Public Health Nursing Program. Additionally, the Department is required to provide office space and support staff to the program on a regional basis.

LD 1112, *An Act Regarding the Maternal and Infant Death Review Panel* – Public Law 2017, [chapter 203](#).

This new law changes the name of the Maternal and Infant Death Review Panel to the Maternal, Fetal and Infant Mortality Review Panel. This new law authorizes the panel coordinator of the review panel to obtain, without the individual's or family's consent, the health information of a woman who died during pregnancy or within 42 days of giving birth, a child who died within one year of birth, or a mother of a child who died within one year of birth, including fetal deaths after 28 weeks of gestation. This new law also requires the review panel to meet at least twice per year and study the causes of maternal, fetal, and infant mortality in the State.

LD 1134, *An Act to Amend the Laws Governing Nursing Facilities To Permit Nurse Practitioners, Clinical Nurse Specialists and Physician Assistants To Perform Certain Physician Tasks* – Public Law 2017, [chapter 145](#). **This emergency law became effective on June 8.**

This new law conforms the State statutes to federal regulations allowing a physician assistant, nurse practitioner, or clinical nurse specialist to perform certain tasks for nursing home residents receiving nursing facility services. These tasks include: the initial medical visit that establishes a plan for the resident; alternate required visits with the physician; necessary medical visits within the authorized scope; and certification and recertifications. This new law also authorizes a physician assistant, nurse practitioner, or clinical nurse specialist who is not employed by the facility, but is licensed or certified by the State, to perform any physician task within the authorized scope. This includes, but is not limited to, the resident's initial visit that establishes a plan and any required medical visit.

LD 1170, *An Act to Reduce Youth Access to Tobacco Products* – Public Law 2017, [chapter 308](#).

This new law changes the legal age for purchasing tobacco products in Maine to 21. The law redefines a "tobacco product" to mean broadly any inhalation or ingestion mechanism. This law includes but is not limited

to a cigarette and an electronic smoking device. The law also updates the requirements for retailers to oversee sales of tobacco products from a vending machine, and to ensure proper notification of the 21 year age requirement with vending machine sales. This law adds a provision that tobacco may not be sold to anyone who is not at least 21 years old, unless the person has turned 18 by July 1, 2018. The law provides that tobacco products may not be sold to anyone who is not at least 30 years old unless the seller first verifies that person's age using a photographic identification. The law adds "that a person appeared to be 30 years of age or older does not constitute a defense to a violation of this section." The law sets forth the civil penalties for violation of the statute, which include fines and community service requirements.

LD 1385, *An Act Governing Direct Primary Care Service Agreements* – Public Law 2017, [chapter 112](#).

This law defines a direct primary care service agreement as a contract between a direct primary care provider or group of providers and an individual patient or legal representative of the patient for which the provider agrees to provide a certain scope of primary care services for a determined fee over a determined time period. This new law clarifies that a direct primary care service agreement is not insurance, and therefore is not regulated by the Department of Professional and Financial Regulation, Bureau of Insurance, nor does it satisfy any federal individual health insurance mandate.

LD 1619, *An Act to Report Limited Information to the Controlled Substances Prescription Monitoring Program Concerning Methadone* – Public Law 2017, [chapter 243](#).

This new law enacts certain reporting and consent requirements related to methadone and the Controlled Substances Prescription Monitoring Program. The law requires that in a medical emergency, a patient's records of treatment with methadone may only be disclosed if it is a medical necessity in which the patient's prior informed consent cannot be obtained. Further, any such disclosure must be documented, and the method of documentation is set forth in this new law. The new law also requires that the Department of Health and Human Services develop a consent form for all patients receiving methadone treatment for opioid dependency. The contents of this form may only be disclosed under a medical emergency and under the circumstances outlined above.

Healthcare – Health Information Technology

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LD 183, *An Act Requiring the Use of the Electronic Death Registration System* – Public Law 2017, [chapter 37](#).

This new law provides that starting on July 1, 2018, a certificate of death must be filed by an authorized person using the electronic death registration system maintained by the State Registrar of Vital Statistics.

Healthcare Insurance

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LD 6, *An Act To Prohibit Insurance Carriers from Charging Enrollees for Prescription Drugs in Amounts That Exceed the Drugs' Costs* – Public Law 2017, [chapter 44](#).

This new law prohibits a carrier or pharmacy benefits manager from imposing on an enrollee a copayment or other charge that exceeds the claim cost of a prescription medication. This new law also prohibits a carrier or pharmacy benefits manager from penalizing a pharmacy for disclosing to the policy holder relevant information about the cost or effectiveness of a medication or information comparing the medication to another medication.

LD 12, *An Act to Incorporate Protections for Living Donors into Maine Law* – Public Law 2017, [chapter 20](#).

This new law prohibits an insurer from raising premium rates on a policy holder who voluntarily donates an organ while they are still living. The law also prohibits an insurer from denying coverage of life, disability, or long-term care insurance for individuals who have voluntarily donated an organ while living.

LD 185, *An Act to Establish a Pilot Project for Medicaid Reimbursement for Acupuncture Treatment of Substance Abuse Disorders* – Public Law 2017, [chapter 184](#).

This new law directs that by January 1, 2018, the State's Department of Health and Human Services is to apply for authorization from the United States Department of Health and Human Services Centers for Medicare and Medicaid Services to develop a pilot project to treat alcohol abuse disorders, substance abuse disorders, and co-occurring disorders using National Acupuncture Detoxification Association auricular acupuncture protocol. This law requires the Department to consult with a statewide association representing licensed acupuncturists and that the treatment be provided by staff who are licensed to practice acupuncture in the State. The project is to be completed within two years. The Department must report on the pilot project results to the Joint Standing Committee on Health and Human Services.

LD 192, *An Act to Require Insurance Coverage for Hearing Aids* – [Carried Over](#).

LD 386, *An Act to Establish Universal Health Care for Maine* – [Carried Over](#).

LD 453, *Resolve, Regarding Insurance Coverage for Alternative Therapies for Addiction and Recovery* – [Carried Over](#).

LD 659, *An Act to Amend the Maine Guaranteed Access Reinsurance Association Act* – Public Law 2017, [chapter 124](#).

This law further extends the suspension of operations of the Maine Guaranteed Access Reinsurance Association until December 31, 2023. This law authorizes the Superintendent of Insurance to resume operations prior to December 31, 2023 in accordance with the board's revised plan if it will provide significant benefits to Maine's health insurance market and if the Superintendent is in receipt of a federal waiver from certain provisions of the Affordable Care Act, or need for such a waiver is removed by subsequent federal legislation that amends or repeals those Affordable Care Act waiver requirements.

LD 1205, *Resolve, Regarding Legislative Review of Portions of Chapter 101: MaineCare Benefits Manual, Chapter III, Section 21, Allowances for Home and Community Services for Adults with Intellectual Disabilities or Autism Spectrum Disorder, a Late-filed Major Substantive Rule of the Department of Health and Human Services* – Resolve 2017, [chapter 15](#). **This emergency resolve became effective on June 8.**

This resolve directs the Department of Health and Human Services to adopt modifications to portions of Chapter 101: MaineCare Benefits Manual, Chapter III, Section 21, Allowances for Home and Community Services for Adults with Intellectual Disabilities or Autism Spectrum Disorder. The resolve changes the definition of "per diem" to:

1. Remove the requirement that a provider bill for days that a member is receiving per diem home support at 11:59 p.m.;
2. Clarify that there is no requirement that a provider bill only for days that a member is physically present in the home at 11:59 p.m.;
3. Clarify that on days that a member is transitioning from providers of home support, only the provider providing home support services at 11:59 p.m. may bill; and
4. Requires documentation showing the hours and the name of direct staff scheduled to work at the facility.

LD 1237, *An Act to Require Insurance Coverage for Contraceptive Supplies* – Public Law 2017, [chapter 190](#).

This new law mandates that on or after January 1, 2019, health insurance policies in Maine must provide coverage for contraceptive supplies without any deductible, co-insurance or copayment owed by the insured.

The law requires that health insurance policies provide this coverage “for at least one contraceptive supply within each method of contraception identified by the federal Food and Drug Administration (FDA) to prevent an unwanted pregnancy.” However, the law also provides that if there is a therapeutic equivalent of a contraceptive supply, approved by the FDA, then the insurer may provide coverage for more than one contraceptive supply and may require a deductible, co-insurance or copayment from the insured, so long as at least one contraceptive supply within the same method is also covered at no cost to the insured. Additionally, the law requires that coverage must include a 12-month supply, which may be dispensed all at once or over the course of the 12 months, at the discretion of the health care provider. Finally, the law also provides that if a health care provider recommends a particular contraceptive due to medical necessity, the insurer must defer to the health care provider’s judgment and provide that contraceptive without any cost to the insured.

LD 1476, *An Act to Ensure Continued Coverage for Essential Health Care* – [Carried Over](#).

LD 1557, *An Act to Protect Maine Consumers from Unexpected Medical Bills* – Public Law 2017, [chapter 218](#). This new law, which takes effect on January 1, 2018, defines a “surprise bill” for purposes of certain health care billing practices. A surprise bill is defined as a bill for non-emergency health care services that contains costs for an out-of-network provider’s services that were rendered by that out-of-network provider at a network provider, during a service or procedure performed by a network provider or during a service or procedure that was previously authorized by the health insurance carrier and the patient did not knowingly elect to obtain such services from that out-of-network provider. For these surprise bills, a health insurance carrier may only require the patient to pay the co-insurance, copayment or other cost-sharing expense that would otherwise be imposed if the services had been performed by a network provider.

The law also requires health insurance carriers to provide and make publicly available a current directory of providers in each of its networks. The directory is to include a description of the criteria the carrier used to build its provider network, as well as the criteria the carrier used to tier providers, and how the carrier designates the different provider levels. The electronic database must be searchable using various fields, and must contain contact information for the health care professionals, as well as board certification information and languages, other than English, spoken by the clinical staff of the provider.

LD 1612, *An Act to Support Maine Families through Universal Family Care* – [Carried Over](#).

Healthcare Licensure

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LD 593, *An Act to Update the Licensure Renewal Provision of the Board of Licensure in Medicine* – Public Law 2017, [chapter 63](#).

This new law updates the current license renewal provision of the Board of Licensure in Medicine for a physician whose license has expired or is about to expire. The Board must notify physicians at least 60 days prior to expiration date of the requirement to renew the license. If the license renewal application is not received prior to the expiration date, the license automatically expires. This law allows the Board to reinstate the license of a physician if the renewal application is submitted within 90 days following the expiration date of the license and upon payment of the renewal fee and a late fee. If the renewal application is not completed within the 90 days, the license automatically lapses.

LD 985, *An Act to Promote Medical Care for Visiting Athletic Teams* – Public Law 2017, [chapter 119](#).

This new law provides an exemption from Maine physician licensing laws for certain licensed individuals who accompany a visiting athletic team. The law allows licensed doctors, surgeons, and osteopathic doctors to provide medical services to members of an athletic team without having to obtain a license in Maine. However, the law does prohibit such an individual from providing medical services at a health care facility such as a hospital or ambulatory surgical center.

LD 1085, *An Act to Amend the Requirements for Licensure as an Independent Practice Dental Hygienist* – Public Law 2017, [chapter 139](#). **This emergency law became effective on June 7.**

This new law removes the time restriction during which an applicant for independent practice dental hygienist authority must complete a specified number of hours of clinical practice and simply requires 2,000 work hours of clinical practice.

LD 1200, *An Act Relating to the Licensure of Physicians* – Public Law 2017, [chapter 189](#).

This new law provides that the Board of Osteopathic Licensure may not require an applicant for an initial license or license renewal as an osteopathic physician to obtain certification from a specialty medical board. The law also prohibits the Board from requiring the applicant to obtain osteopathic continuous certification as a condition of receiving their license.

This law also prohibits the Board of Licensure in Medicine from requiring an applicant for an initial license or license renewal to practice medicine to obtain certification from a specialty medical board or to obtain a maintenance of certification as a condition of licensure.

LD 1359, *An Act to Adopt the Interstate Medical Licensure Compact* – Public Law 2017, [chapter 253](#).

This comprehensive new law enacts the Interstate Medical Licensure Compact in Maine, which renders Maine a member state. This Compact permits a physician licensed in one member state to apply for and receive an expedited license, which will provide a full and unrestricted license to engage in the practice of medicine in another member state. Maine will now be allowed to appoint two representatives to serve on the Interstate Commission.

The law lays out the power, duties, and organizational and operational frameworks of the Interstate Commission. The law also sets forth the requirements and procedures for eligible physicians to apply for and receive an expedited license, and outlines the interstate agreements in the Compact, including interstate cooperation and jurisdiction over physicians with a multistate license. The Maine Legislature enacted additional provisions to the Compact authorizing Maine's Boards of Licensure in Medicine and Osteopathic Licensure to require state and national background checks and providing a set of procedures for those background checks for any physician, osteopathic physician or surgeon who seeks an expedited license under the Interstate Medical Licensure Compact.

The law also establishes a coordinated information system, which is to include a database of all physicians who have obtained or applied for an expedited license. Information in the coordinated system includes disciplinary action or investigatory information deemed necessary and proper by rule of the Interstate Commission. The law provides for reciprocity between member states when a physician's license is suspended or revoked.

Additionally, this comprehensive law provides procedures for amending the Compact, dispute resolutions and withdrawal from the Compact.

LD 1376, *An Act To Remove Barriers to Workforce Development in Alcohol and Drug Counseling* – Public Law 2017, [chapter 265](#).

This new law directs the Department of Health and Human Services to reimburse a licensed clinical professional counselor at the same rate as a licensed clinical social worker for MaineCare Benefits. This law allows a person to qualify as a licensed alcohol and drug counselor if that person holds an associate or bachelor's degree in clinically-based behavioral sciences, addiction counseling, or related field and completes 4,000 hours of practice in alcohol and drug counseling. This law allows a person to qualify as a licensed alcohol and drug counselor if that person holds a master's degree in clinically-based behavioral sciences, addiction counseling, or related field and completes 2,000 hours of practice in alcohol and drug counseling.

This new law also directs the Department of Professional and Financial Regulations, State Board of Alcohol and Drug Counselors to amend its rules regarding the number of required contact hours in continuing education by January 1, 2018 as follows:

1. For certified alcohol and drug counselors, reduce the number of required contact hours from 24 hours every 2 years to 18 hours every 2 years;
2. For licensed alcohol and drug counselors, reduce the number of contact hours from 36 hours every 2 years to 25 hours every 2 years;
3. For certified alcohol and drug counselors who are also certified clinical supervisors, reduce the number of contact hours from 48 hours every 2 years to 37 hours every 2 years; and
4. For all continuing education programs, increase the hours allowed for distance learning from 10 hours to 20 hours.

LD 1410, *An Act to Adopt the Nurse Licensure Compact* – Public Law 2017, [chapter 258](#).

This new law adopts in Maine statutes the Nurse Licensure Compact as revised by the National Council of State Boards of Nursing. The law, which was minimally revised to conform to Maine statutory conventions, will bring Maine's nursing licensure laws into conformity with those of other states that have adopted the Compact. Some highlights of the Compact are as follows:

1. The law sets forth the requirements that an applicant for a multistate license must meet in order to obtain the license. This license is first issued in the applicant's "home state," and it is the obligation of the "home state" to ensure that the licensing requirements are met before issuing a new nursing license.
2. The law authorizes a state within the Compact to take action such as revocation or suspension, against the holder of a nurse's multistate license.
3. A nurse may hold a multistate license issued by the home state in only one state at a time.
4. The law establishes an information system and provides guidelines for the exchange of information between states that are party to the Compact.
5. The law provides that Maine will be a part of the Interstate Commission of Nurse Licensure Compact Administrators, and outlines the roles and responsibilities of the Commission.
6. The law provides a process for rulemaking by the Commission.
7. The law sets forth procedures for oversight, dispute resolution, and enforcement.
8. As required by the Compact agreement, this law also requires any new licensed nurses in Maine to be subject to a federal fingerprint background check, and prescribes the requirements of that background check.

Pharmacy

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LD 273, *An Act to Add an Exception to Prescription Monitoring Program Requirements* – Public Law 2017, [chapter 122](#).

This new law provides exemptions from the general requirement that all dispensers and health care professionals administering opioids and benzodiazepines must check the prescription monitoring program before dispensing the drug. The new exemptions provide that a health care professional need not check the prescription monitoring program if he/she is dispensing an opioid or benzodiazepine to a person in an emergency room, inpatient hospital, or long-term care setting. Additionally, the prescription monitoring program does not need to be checked when a health care professional directly orders, prescribes or administers a benzodiazepine or opioid medication to a person suffering from pain associated with end-of-life or hospice care.

LD 911, *An Act to Prohibit Certain Gifts to Health Care Practitioners* – Public Law 2017, [chapter 267](#).

This new law adds a new provision to the Maine Pharmacy Act to prohibit licensed pharmaceutical manufacturers and wholesalers from providing cash gifts, or gifts for which reciprocity is expected or implied, to any health practitioner. The law does permit licensed pharmaceutical manufacturers and wholesalers to give certain other items to health practitioners, including non-cash items of minimal value such as prescription drug samples for distribution to patients, educational materials and meals and refreshments associated with a meeting or presentation regarding prescription drugs, medical devices, or other scientific information.

The law also provides an exception to allow licensed manufacturers and wholesalers to give funding to academic institutions and residency and fellowship programs to support the participation of doctors, nurses, etc., in professional meetings. Licensed manufacturers and wholesalers may also give reasonable honoraria to a practitioner, and may make certain payments for health practitioners to attend professional or educational conferences or meetings.

Rules adopted pursuant to this new law are major substantive rules.

LD 1273, *Resolve, To Redispense Donated Prescription Drugs* – [Carried Over](#).

LD 1280, *An Act to Require Drug Manufacturers to Comply with Federal Law* – [Carried Over](#).

LD 1406, *An Act to Promote Prescription Drug Price Transparency* – [Carried Over](#).

LD 1407, *An Act Regarding Prescription Drug Step Therapy* – [Carried Over](#).

Insurance

If you have a question about any of the new laws summarized in the Insurance section of this report, what the statutory changes mean for you and your business, or how to prepare for the next legislative session, please contact one of the attorneys listed below or a member of our Government Relations Group: [Andrea Cianchette Maker](#) – 207.791.1101; [John D. Delahanty](#) – 207.791.1222; or [Ann R. Robinson](#) – 207.791.1186.

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LD 658, *An Act to Conform Maine Law Regarding Insurer Privacy Notices to Federal Law* – Public Law 2017, [chapter 36](#).

This new law makes two changes to the law requiring insurance carriers to notify policy holders of a change in the insurer's privacy policies. Under existing law, a privacy notice must be sent by the insurer to the insured if the insured's policy is being renewed, unless the personal information is collected only from the policy holder or from public records, or if a notice had already been given within the 24 months prior. The new law adds that the notice must only be sent if a change in benefits occurs. This new law adds that, in the case of a policy renewal or change in insurance benefits, the privacy notice need only be sent by the insurer if there has been a change in the insurer's information practices.

LD 1229, *An Act To Ensure Life Insurance Claims Are Paid* – Public Law 2017, [chapter 129](#).

This new law, which adopts most of the National Conference of Insurance Legislators' model law for unclaimed life insurance policies, requires an insurer to make regular searches of the Social Security death master file to determine whether any policy holder is deceased. If the policy holder is deceased, the insurer is required to make good faith efforts to locate the beneficiaries, and to provide the information needed for the beneficiaries to claim the funds. The law prescribes the method and manner in which the insurer is to check for deceased policy holders and work to notify beneficiaries.

LD 1386, *An Act to Clarify the Public Nature of Annual Statements of Life Settlement Providers* – Public Law 2017, [chapter 75](#).

This new law clarifies that annual statements filed by life settlement providers with the Superintendent of Insurance are public records.

LD 1466, *An Act to Address Severe and Ongoing Shortfalls in the Funding of Direct Care Workers in Long-term Care Settings and to Establish the Commission to Study Long-term Care Workforce Issues* – [Carried Over](#).

LD 1486, *An Act to Clarify the Status of the Financial Industry Regulatory Authority and the National Association of Registered Agents and Brokers under the Maine Insurance Code* – Public Law 2017, [chapter 115](#).

This law requires the Superintendent of Insurance to maintain as confidential a document or information received from the Financial Industry Regulatory Authority or the National Association of Registered Agents and Brokers if the document or information has been provided to the Superintendent with notice that it is confidential under the laws of the jurisdiction that is the source of the document or information. The law authorizes the Bureau of Insurance to enter into agreements for the sharing of otherwise confidential information with the Financial Industry Regulatory Authority and the National Association of Registered Agents and Brokers if the recipient of the information agrees to maintain the same level of confidentiality as is available under Maine law and has demonstrated that it has the legal authority to do so. The law also sets license fees for non-residents acting in this State as insurance producers pursuant to a national non-resident insurance producer license issued by the National Association of Registered Agents and Brokers. It also requires them to be appointed by the insurers they represent according to the procedures otherwise applicable to the appointment of producers, including the payment of appointment fees.

LD 1544, *An Act To Update the Maine Insurance Code to Maintain Conformance with Uniform National Standards* – Public Law 2017, [chapter 169](#).

This new law makes a number of changes to the Maine insurance code to align the code with nationally recognized standards for state insurance codes as adopted by the National Association of Insurance Commissions (NAIC). The law makes changes to the code's provisions on: corporate governance annual disclosure; annual and interim reports of every health maintenance organization; internationally active insurance groups; group-wide supervision; and reinsurance. The law also makes dozens of small technical changes to update the use of certain terminology throughout the code. This law was originally introduced as legislation at the request of the Maine Bureau of Insurance.

Litigation

If you have a question about any of the new laws summarized in the Litigation section of this report, what the statutory changes mean for you and your business, or how to prepare for the next legislative session, please contact one of the attorneys listed below or a member of our Government Relations Group: [Andrea Cianchette Maker](#) – 207.791.1101; [John D. Delahanty](#) – 207.791.1222; or [Ann R. Robinson](#) – 207.791.1186.

General

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LD 329, *An Act Concerning the Law Governing the Posting of Newspaper Legal Notices and the Statewide Repository for Legal Notices* – Public Law 2017, [chapter 19](#).

The Governor vetoed this bill, but the Legislature successfully voted to override the Governor's veto, and the law will go into effect over the Governor's objection. Summarily, in 2013, the Legislature enacted a law requiring newspapers to post any legal notices that appear in print newspaper also on a newspaper's publicly accessible website. The notices on the website must be placed no later than the same day the notice appears in the print newspaper; must be presented in a conspicuous manner; must be searchable; and the newspaper is not allowed to charge an additional fee for placing the legal notice on the website. There is a sunset provision on the current law, however, whereby it was scheduled to be repealed on January 1, 2018. The new law, however, removes the sunset provision. Therefore, the law regarding the posting of legal notices on websites remains in effect indefinitely.

LD 1048, *An Act to Reclassify Certain Offenses and Increase the Efficiency of the Criminal Justice System* – [Carried Over](#).

Judicial Process Reforms

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LD 123, *An Act to Recodify and Revise the Maine Probate Code* – [Carried Over](#).

LD 821, *An Act to Enact the Revised Uniform Unclaimed Property Act* – [Carried Over](#).

LD 969, *An Act Regarding Nonprobate Transfers on Death* – [Carried Over](#).

Real Estate

If you have a question about any of the new laws summarized in the Real Estate section of this report, what the statutory changes mean for you and your business, or how to prepare for the next legislative session, please contact one of the attorneys listed below or a member of our Government Relations Group: [Andrea Cianchette Maker](#) – 207.791.1101; [John D. Delahanty](#) – 207.791.1222; or [Ann R. Robinson](#) – 207.791.1186.

General

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LD 871, *An Act to Require Disclosures Relating to the Sale of Residential Property Accessible by a Public Way and Any Means Other than a Public Way* – Public Law 2017, [chapter 181](#).

This new law requires the seller of residential real property to describe the means of accessing the property. If the property is accessible by any means other than a public way, the seller must disclose who is responsible for maintaining that access, including any road association, if known by the seller.

LD 1311, *An Act to Amend the Law Regarding Notice of Claim Recordings by Statutory Road Associations* – Public Law 2017, [chapter 306](#).

This new law provides that outstanding dues owed to a road association may not be considered a burden that runs with the property. However, the outstanding dues may be considered a burden that runs with the property if a notice of claim is recorded in the county's registry of deeds prior to the transfer. The law provides that a notice of claim filed with the registry of deeds expires 18 months from the date of recording unless it is extended prior to the end of the 18-month period. The notice of claim may be extended for additional 18-month periods until the claim is paid. The law also authorizes a representative of the road association to include the cost of filing the notice of claim in the total dues owed by the landowner.

LD 1459, *An Act to Protect the Public from Dangerous Buildings* – Public Law 2017, [chapter 136](#).

This new law provides that a municipality may delay taking action to remove or demolish a dangerous building if an owner or party-in-interest has an interest or is willing to rehabilitate the building. The law also provides a standard by which a municipality may judge a building to be considered dangerous. Finally, the law makes clear that all expenses incurred by the municipality related to an order that a building is dangerous, must be repaid by the owner within 30 days after demand.

LD 1461, *An Act to Encourage the Construction of Affordable Housing* – [Carried Over](#).

LD 1529, *An Act to Protect Consumers during Residential Construction* – Public Law 2017, [chapter 166](#).

The new law adds the term "construction" to the home repair fraud protection law. The law defines home construction or repair services as building or constructing a residence, which includes structural work along with a long list of other home improvement services, and adds carpeting to that list of services. This law extends the class D crime for intentionally or knowingly misrepresenting material information related to home repairs to home construction as well.

Landlord-Tenant

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LD 136, *An Act Regarding the Eviction Process* – Public Law 2017, [chapter 103](#).

This new law adds two additional causes for a seven-day notice of termination of tenancy. Specifically, it provides that a tenant may be evicted with a seven-day notice of termination of tenancy for the violent act of the tenant, the tenant's guest, or an invitee of the tenant against another tenant, a tenant's guest, the landlord, or an agent of the landlord. However, the law does provide an exception when the tenant is a victim and has taken reasonable action to comply with the landlord's request for protection of these occupants. This new law also adds that a seven-day notice of termination of tenancy may be given when the person occupying the rental space is not authorized to be an occupant of the premises.

LD 198, *An Act to Protect Landlords from Lawsuits for Damage or Harm Caused by Assistance Animals* – Public Law 2017, [chapter 61](#).

This law explicitly protects landlords and their agents from any civil liability for damages arising out of an occurrence with an assistance animal on the landlord's property. This new law supplements existing law, whereby a person with a disability who uses an assistance animal is liable for property damages done by that animal, and owners or keepers of animals generally (not just assistance animals) are civilly liable if a person is injured or if a person's property is damaged by that animal, unless the person injured was at fault. The scope of the new law protects landlords from liability, including personal injury, death, property damages, and other damages, with certain important exceptions. Namely, a landlord cannot avail himself of the protections under the law in cases of gross negligence, recklessness, or intentional misconduct; or when the assistance animal at issue is owned by, or in the care of, the landlord.

LD 1340, *An Act to Amend the Laws Governing the Maine State Housing Authority* – Public Law 2017, [chapter 234](#).

This new law is an omnibus law that amends and updates various provisions of the statutes governing the Maine State Housing Authority (MSHA). This summary will highlight a few of the amendments.

Among other things, the new law clarifies that the MSHA may administer project-based vouchers and specialty vouchers for certain services within the area of operation of municipal housing authorities. The municipal housing authority continues to maintain jurisdiction over administering tenant-based housing choice vouchers.

The amended law requires municipal housing authorities and the MSHA to provide municipal officers an opportunity to review and discuss development projects prior to filing the development plans with the municipality.

The amendments also provide that the application materials of potential employees and employees' records are confidential and not open to public inspection, except in certain circumstances, and provide that the employee or former employee has a right to review that employee's personnel file.

The amendments also provide that a municipality with a housing authority shall meet annually with the MSHA and remove various requirements that the MSHA report annually to the Legislature and governmental agencies regarding specific programs. The amendments also authorize the MSHA to make certain changes to the MSHA's loan-making authority for first-time home buyers and grant-issuing authority to abate lead and arsenic for low-income residents with private wells.

Mortgage

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LD 72, *An Act to Clarify the Tax Laws for Title to Real Estate by Releasing Inheritance Tax Liens* – Public Law 2017, [chapter 16](#).

This new law releases liens on property tax for inheritance tax resulting from a death that occurred prior to July 1, 1986.

LD 880, *An Act to Protect a Homeowner's Equity of Redemption in a Foreclosure Action* – Public Law 2017, [chapter 133](#).

This new law provides that when a mortgagor is occupying the property as his or her primary residence and the mortgage secures a loan for personal, family, or household use, a court may not issue an order granting the right of possession of the mortgaged property to the mortgagee until after the period of redemption has elapsed. The law also provides that during this period, a mortgagee may exercise rights set forth in the mortgage in order to protect the mortgaged property.

LD 1275, *An Act to Amend and Remove the Need for Periodic Update of the Laws Governing the Validation of Title Defects* – Public Law 2017, [chapter 196](#).

This new law makes several changes to the statutes on title defects in real property, but generally it has made otherwise defective instruments valid if they have been of record for two years. The new law provides that a deed or other instrument for the conveyance of real property that has been of record for two years shall be considered valid even if the deed or other instrument did not include an acknowledgement or the acknowledgement was incomplete or defective. The law also makes a number of technical changes to title defects relating to corporations, omission of consideration or failure to seal, and discharge or assignment of mortgage, failure to secure bond or comply with licensing, foreclosure by publication, and abstracts of divorce decrees. The law also makes certain changes to the law regarding defects for plats, including making plats valid if they were recorded with the registry of deeds for at least two years even if the plat was not approved by municipal officers or by the municipal reviewing authority.

LD 1292, *An Act to Improve the Foreclosure Process by Regulating Mortgage Loan Servicers* – Public Law 2017, [chapter 106](#).

This law generally amends the Maine Consumer Credit Code to regulate servicers of consumer mortgage loans by including them within the definition of "creditor," and expressly including loan servicing within many of the substantive provisions of the Code.

LD 1355, *An Act to Ensure the Timely and Proper Completion of Residential Foreclosures* – [Carried Over](#).

Tax

If you have a question about any of the new laws summarized in the Tax section of this report, what the statutory changes mean for you and your business, or how to prepare for the next legislative session, please contact one of the attorneys listed below or a member of our Government Relations Group: [Andrea Cianchette Maker](#) – 207.791.1101; [John D. Delahanty](#) – 207.791.1222; or [Ann R. Robinson](#) – 207.791.1186.

General

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LD 1551, *An Act to Amend the Maine Tax Laws* – Public Law 2017, [chapter 211](#).

This new law makes numerous changes to Maine's tax laws, many of which are technical in nature. Below is a selection of some of the more substantive changes implemented in this new law.

- The law removes services from the definitions of retail sales activity and retail sales facility under the Business Equipment Tax Exemption program (BETE). This change was made to align the retail sales activity and retail sales facility definitions of BETE with the definitions found in the Business Equipment Tax Relief program (BETR).
- The law changes the year, under the BETR program, upon which to determine whether an energy facility is excluded from the BETR Program. An energy facility is disqualified from BETR if it is used to produce or transmit energy primarily for sale. The calculation of whether energy is considered primarily for sale will now be made in the property tax year for which the claim is made rather than the property tax year immediately preceding the property tax year for which a claim is made.
- The law extends by one month the deadline for filing financial institution franchise tax returns to the 15th day of the 4th month following the end of the financial institution's fiscal year.
- The law repeals the additional extension of 30 days beyond the federal extension due date for filing Maine income tax returns for corporations and financial institutions for tax years beginning on or after January 1, 2017. When a taxable corporation or a financial institution is granted an extension to file its federal income tax return, the Maine return will now be automatically extended for an equivalent period as the federal extension.
- The law moves up the filing deadline for information returns to January 31 of each year. The previous deadline was February 28th.

LD 1565, *An Act to Ensure the Effectiveness of Tax Increment Financing* – [Carried Over](#).

LD 1572, *An Act to Implement Recommendations of the Government Oversight Committee to Improve the Efficiency and Effectiveness of Legislative Reviews of Tax Expenditures* – Public Law 2017, [chapter 266](#).

This law seeks to improve the efficiency and effectiveness of tax expenditure evaluations conducted by the Office of Program Evaluation and Government Accountability (OPEGA) for the Legislature. The law removes statutory deadlines to provide more flexibility in scheduling, completion and reporting on full evaluations to allow for a better fit with legislative schedules and to ensure that OPEGA can complete a comprehensive and quality review of each program within its available capacity.

Income Tax

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LD 442, *An Act to Create a Family Caregiver Income Tax Credit* – [Carried Over](#).

LD 571, *An Act to Eliminate the 3 Percent Surcharge on Certain Income and Provide an Alternative Funding Source for the Fund to Advance Public Kindergarten to Grade 12 Education* – [Carried Over](#).

LD 1317, *An Act to Encourage Family-friendly Businesses through a Tax Credit for Child Care* – [Carried Over](#).

LD 1639, *An Act to Promote Major Business Headquarters Expansions in Maine, Promote the Commercialization of Research and Development in Maine and Create Jobs* – Public Law 2017, [chapter 297](#).

This new law enacts a refundable tax credit for certain business headquarters' expansions in Maine. The law establishes a process by which a business looking to expand its headquarters in Maine can apply to be certified to receive the credit. Any qualified applicant for the tax credit must seek a certificate of approval from the Commissioner of the Department of Economic and Community Development (DECD). To be a qualified applicant for the tax credit, a business must be headquartered in Maine, employ at least 5,000 individuals worldwide of which 25% must be based in Maine, and have business locations in at least three other states or foreign countries. Additionally, the business must demonstrate that it intends to make a qualified investment of at least \$35 million dollars to expand its headquarters in Maine within five years of the date of application to the DECD.

The Commissioner of the DECD must determine, within 30 days of the receipt of an application, whether the applicant is qualified and issue either a certificate of approval or a written denial indicating why the applicant is not qualified. The law also sets forth certain provisions that the applicant must meet in order to transfer either a certificate of approval, or a certificate of completion. A business that has received a certificate of approval may apply for a certificate of completion from the Commissioner of the DECD, and a certificate of completion will be issued if the Commissioner determines that the investment has been made and that at least 25% of the company's full-time employees are based in the State. The Commissioner may not issue certificates of approval that total an aggregate of more than \$100 million, and may not issue a certificate of approval for a qualified investment over \$40 million for any individual company. Investments made after December 31, 2022 do not qualify.

The law provides that, beginning in the tax year in which a certificate of completion is issued or the tax year beginning 2020, whichever is later, a certified applicant may credit 2% of its qualified investment against its tax liability for a total of 20 years. The law sets forth certain job creation requirements and provides that a tax credit may not be taken in any year in which the company did not meet or exceed the job creation requirements. In the first ten years, the company must have added at least 80 full-time employees whose jobs were added since the first day of the first tax year the credit was claimed, multiplied by the number of years for which the credit has been claimed. For each tax year after the first ten years, the company must employ a total of 800 additional full-time employees based in the State whose jobs were added since the first day of the first tax year for which the credit was claimed. Finally, cumulative credits may not exceed \$16 million for any one certificate of completion.

The law also sets forth reporting requirements for both the company and the Commissioner of the DECD, including reporting on the number of full-time employees added to the company in the previous year, the incremental amount of qualified investment made in the prior year and aggregate data on employment levels and qualified investments from all certified companies. The law also requires the Office of Program Evaluation and Government Accountability to review the design of this tax credit program and authorizes the Joint

Standing Committee on Taxation to report out a bill to the Second Regular Session of the 128th Legislature regarding the program if it desires changes to the design.

Transactional (Sales) Tax

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LD 1212, *An Act to Amend the Definition of “Eligible Business Equipment” for the Purposes of the Business Equipment Tax Exemption Program* – [Carried Over](#).

LD 1405, *An Act to Require Remote Sellers to Collect and Remit Sales and Use Tax on Sales into Maine* – Public Law 2017, [chapter 245](#).

This law requires remote sellers (i.e., out-of-state sellers) selling taxable tangible personal property, products transferred electronically or services for delivery into Maine to collect and remit the associated sales tax to the State if: (1) the party’s gross revenue from sales into Maine, in the previous calendar year or current calendar year, exceeds \$100,000; or (2) the party made at least 200 separate sales into Maine in the previous calendar year or the current calendar year.

The law potentially conflicts with the U.S. Supreme Court decision in *Quill Corp. v. North Dakota*, 504 U.S. 298 (1992), which prohibits states from imposing a sales tax collection duty on retailers that have no physical presence within their borders. The Legislature acknowledged that the constitutionality of this new law will be ultimately decided by the courts. In anticipation of that litigation, the law specifically provides that the State may bring a declaratory judgment action against any party that the state believes is covered by the law. The law also provides that the court must give priority to the action and instructs the court to bar the State from collecting the tax from any party until the underlying action is resolved.

Property Tax

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LD 117, *An Act to Strengthen the Farm and Open Space Tax Law* – Public Law 2017, [chapter 183](#).

This new law clarifies that a parcel of land that is located on an island is not considered contiguous to another parcel of land on a different island if the parcels are separated by water at the normal high water mark. Additionally, this law provides that a parcel of land located on an island that was considered farmland before April 1, 2017 but would be excluded from that classification under this new law, will be considered open space land unless the owner withdraws the land from classification.

LD 1479, *An Act to Modernize and Improve Maine’s Property Tax System* – [Carried Over](#).

LD 1599, *An Act to Improve the Maine Tree Growth Tax Law* – [Carried Over](#).

Trusts & Estates

If you have a question about any of the new laws summarized in the Trusts & Estates section of this report, what the statutory changes mean for you and your business, or how to prepare for the next legislative session, please contact one of the attorneys listed below or a member of our Government Relations Group: [Andrea Cianchette Maker](#) – 207.791.1101; [John D. Delahanty](#) – 207.791.1222; or [Ann R. Robinson](#) – 207.791.1186.

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LD 21, *An Act to Amend the Law Regarding the Execution of Temporary Powers of Attorney* – Public Law 2017, [chapter 42](#).

A parent or guardian may execute a power of attorney for the purpose of providing for the temporary care of a minor. A federally tax exempt entity (other than an organization primarily engaged in providing free legal services) that assists parents or guardians with the process of executing such powers of attorney has to ensure that a background check is conducted for the agent and any adult members of the agent's household.

The Legislature added a paragraph to the statute to make clear that regardless of whether an organization is included or excluded from the background requirements, nothing in this section changes the restriction on the unauthorized practice of law with regard to the preparation of powers of attorney.

LD 83, *An Act Regarding Changing the Designation of a Parent on the Birth Certificate of an Adult* – Public Law 2017, [chapter 5](#).

A person 18 years of age or older can now have his or her birth certificate changed to identify a genetic parent who was not known or listed at the time of birth, provided the state registrar receives the following:

- A) A signed, notarized request from the subject of the birth certificate that the birth certificate be amended;
- B) Either written, notarized consent of the genetic parent to be named on the amended birth certificate or a certified copy of the death certificate of the genetic parent to be named on the amended birth certificate; and
- C) Evidence of genetic parentage based on testing of deoxyribonucleic acid (“DNA”), that includes: (1) a notarized report of the results of the DNA testing; and (2) notarized documentation of the chain of custody of the blood and tissue samples examined in the testing.

The required DNA testing must be of a type generally acknowledged as reliable by accreditation bodies designated by the federal Secretary of Health and Human Services, and it must be performed by a laboratory approved by an accreditation body designated by the federal Secretary of Health and Human Services.

As it relates to the effect such amendment may have on the right of inheritance or descent, only amendments to a birth certificate with the consent of the genetic parent affect the rights of inheritance or descent. An amended birth certificate permitted by submission of a certified copy of a death certificate will have no effect on the rights of inheritance or descent.

LD 135, *An Act to Authorize the Department of Health and Human Services to Disclose Information to the Personal Representative of the Estate of an Incapacitated or Dependent Adult Who Dies While Under Public Guardianship or Public Conservatorship* – Public Law 2017, [chapter 55](#).

This new law provides that the Department of Health and Human Services may, at its option, disclose any relevant information that it has under the Adult Protective Services Act regarding an individual to the personal

representative of the estate of an incapacitated or dependent adult who died while under public guardianship or public conservatorship.

LD 223, *An Act to Ensure the Timely Final Disposition of Human Remains* – Public Law 2017, [chapter 38](#).

When a person dies in the State of Maine, the custody and control of that deceased person's remains are governed by the provisions of 22 MRS § 2843-A, subsection 2, which provides the following in the order of priority: (1) if the person designated another person to have custody and control in a written and signed document, custody and control belongs to the designated person; (2) if the deceased person has not left a written and signed document or the person named refuses to so act, custody and control belong to the next of kin; and (3) if the next of kin is two or more persons with the same relationship, the majority of the next of kin have custody and control; however, if the next of kin cannot, by majority vote, make such a decision, the court shall make the decision.

The Legislature amended 22 MRS § 2843-A, subsection 2 to provide that if a person who has custody and control over the body of a deceased person does not complete decision making regarding the final disposition of such deceased person's body within 30 days after taking custody and control, a funeral director or practitioner of funeral service who has physical possession of the remains or dead body may bury the remains or dead body at the expense of the funeral director or practitioner.

LD 331, *An Act to Correct the Maine Uniform Trust Code Concerning Certain Beneficiaries* – Public Law 2017, [chapter 39](#).

This law, which will go into effect without the Governor's signature, amends the current law so as not to conflict with the Uniform Trust Code. Prior to being amended, charitable organizations designated to receive distributions under a charitable trust had the rights of a qualified beneficiary under Maine's Uniform Trust Code only under specific circumstances, one of which dictated that the charitable organization has the rights of a qualified beneficiary if it would be a distributee or permissible distributee on the date that the charitable organization's status was being determined. That provision, however, conflicts with the Uniform Trust Code, which provides that a charitable organization has the rights of a qualified beneficiary if it is a distributee or permissible distributee *if the trust were to terminate* on the date that the charitable organization's status was determined. The new law simply amends the current law to bring it in line with the Uniform Trust Code. Thus, a charitable organization has the rights of a qualified beneficiary in three circumstances: (1) if the charitable organization "is a distributee or permissible distributee of trust income or principal" on the date the charitable organization's status is being determined; (2) if the charitable organization would be a distributee or permissible distributee upon the termination of other distributees' or permissible distributees' interests on the date the charitable organization's status is being determined; or (3) if the charitable organization "[w]ould be a distributee or permissible distributee of trust income or principal if the trust terminated" on the date the charitable organization's status is being determined.



PRACTICE AREAS

- Admiralty & Maritime
- Antitrust
- Banking & Financial Services
- Bankruptcy & Creditors' Rights
- Business
- Construction
- Employee Benefits
- Employment
- Energy
- Enterprise Procurement
- Environmental & Land Use
- Federal Tax
- Government Relations
- Immigration
- Intellectual Property & Technology
- Litigation
- Patent
- Privacy & Data Security
- Real Estate
- State & Local Tax
- Trademark
- Trusts & Estates

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- **63** are rated "AV Preeminent" by Martindale-Hubbell
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- **3** have served as Special Master to the United States Supreme Court
- **2** have served as Chief Justice of the Maine Supreme Judicial Court
- **1** is currently serving as U.S. Senator from New Hampshire
- **1** is currently serving as a judge on the U.S. Court of Appeals for the First Circuit
- **1** is currently serving as a judge on the New Hampshire Superior Court
- **1** is currently serving as U.S. Magistrate Judge for the District of Maine.

Our attorneys have also served in many prominent roles within the legal community including as President of the Maine Trial Lawyers Association, President of the Maine Bar Association, President of the Boston Bar Association, President of the American College of Trial Lawyers, and Independent Counsel investigating allegations against a U.S. Secretary of Labor.

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