



2018 Summary of New Maine Laws

State of Maine 128th Legislature, 2nd Regular Session

May 31, 2018

Pierce Atwood. There's a reason...

PIERCEATWOOD.COM

Table of Contents

Section	Page Number
Overview - 2018 Summary of New Maine Laws	4
User Guide	4
For More Information	4
Disclaimer	4
Bond Issues	5
Business	7
Banking and Financial Services	7
Commerce and Trade	8
Economic Development	8
Food, Alcohol and Marijuana	9
Motor Vehicle	11
Municipal / State Related	11
Education & Workforce Development	12
Primary and Secondary Education	12
Post-Secondary Education	13
Workforce Development	13
Election Laws	15
Employment	16
General	16
Workers' Compensation	16
Energy	17
Natural Gas	17
Electricity	17
Utilities	18
Telecommunication	18
Environmental & Renewables	20
Air Quality	20
Chemical Control	20
Environmental Enforcement and Liability	20
Environmental Permitting and Land Use	21
Legislative/Executive Process	21
Marine Resources	21
Oil and Oil Storage	21
Waste and Recycling	22
Water	22

Table of Contents

Section	Page Number
Government Relations & Public Affairs	24
Appropriations	24
Legislative/Executive Process	24
Health Care	25
Health Care Delivery	25
Pharmacy	26
Insurance	27
General	27
Health Care Insurance	27
Litigation	29
General	29
Judicial Process Reforms	31
Real Estate	33
General	33
Mortgage	33
Tax	34
General	34
Income Tax	34
Tax Credits and Incentives	35
Transactional (Sales) Tax	35
Property Tax	36
Trusts & Estates	37
Pierce Atwood. There’s a Reason	40
Practice Areas	40
Honors & Distinctions	40

Overview - 2018 Summary of New Maine Laws

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 new laws of interest includes legislation in the 128th Maine Legislature's Second Regular session that was either:

- Enacted as regular legislation,
- Enacted as emergency legislation,
- Carried over to any Special Session of the 128th Legislature, or
- Defeated but noteworthy.

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 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 Second Regular Session is August 1, 2018. Emergency bills became effective as law on the date they were signed by the Governor, or the date the Governor's veto was overridden by the Legislature, 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 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 [Alexander Price](#) – 207.629-5904.

You may access the *2018 Summary of New Maine Laws & Carry Over Legislation* under the Publications tab on the [Government Relations](#) page on Pierce Atwood's website.

Disclaimer

The *2018 Summary of New Maine Laws* 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.

Bond Issues

If you have a question about any of the new laws summarized in the Bond Issues 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.

Contact

[Andrea Cianchette Maker](#) – 207.791.1101

[Ann R. Robinson](#) – 207.791.1186

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

Pursuant to Joint Order SP 748, carried over to any Special Session of the 128th Legislature that may convene prior to the start of the 129th Legislature.

(Not Enacted) 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*.

This bill did not become law.

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](#).

Pursuant to Joint Order SP 748, carried over to any Special Session of the 128th Legislature that may convene prior to the start of the 129th Legislature.

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

Pursuant to Joint Order SP 748, carried over to any Special Session of the 128th Legislature that may convene prior to the start of the 129th Legislature.

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

Pursuant to Joint Order SP 748, carried over to any Special Session of the 128th Legislature that may convene prior to the start of the 129th Legislature.

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

Pursuant to Joint Order SP 748, carried over to any Special Session of the 128th Legislature that may convene prior to the start of the 129th Legislature.

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

Pursuant to Joint Order SP 748, carried over to any Special Session of the 128th Legislature that may convene prior to the start of the 129th Legislature.

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](#).

Pursuant to Joint Order SP 748, carried over to any Special Session of the 128th Legislature that may convene prior to the start of the 129th Legislature.

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

Pursuant to Joint Order SP 748, carried over to any Special Session of the 128th Legislature that may convene prior to the start of the 129th Legislature.

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](#).

Pursuant to Joint Order SP 748, carried over to any Special Session of the 128th Legislature that may convene prior to the start of the 129th Legislature.

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

Pursuant to Joint Order SP 748, carried over to any Special Session of the 128th Legislature that may convene prior to the start of the 129th Legislature.

LD 1760, *An Act to Authorize a General Fund Bond Issue to Acquire Significant Historic Properties for Resale and Rehabilitation* – [Carried Over](#).

Pursuant to Joint Order SP 748, carried over to any Special Session of the 128th Legislature that may convene prior to the start of the 129th Legislature.

LD 1834, *An Act to Authorize a General Fund Bond Issue to Provide for Student Loan Debt Relief* – [Carried Over](#).

Pursuant to Joint Order SP 748, carried over to any Special Session of the 128th Legislature that may convene prior to the start of the 129th Legislature.

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; [Ann R. Robinson](#) – 207.791.1186; or [John D. Delahanty](#) – 207.791.1222.

Banking and Financial Services

Contact

[Keith Cunningham](#) – 207.791.1187
[Jacob A. Manheimer](#) – 207.791.1338
[Ann R. Robinson](#) – 207.791.1186

(Not Enacted) [LD 389](#), *An Act to Promote Access to Financial Institutions by Entities that Are Authorized under State Law.*

This bill did not become law.

(Not Enacted) [LD 660](#), *An Act to Allow Credit and Debit Card Surcharges.*

This bill did not become law.

LD 846, *An Act to Enact the Revised Uniform Fiduciary Access to Digital Assets Act* – Public Law 2017, [chapter 359](#). **This emergency law will become effective July 1, 2018.**

This law adopts the Revised Uniform Fiduciary Access to Digital Assets Act, which establishes procedures and legal responsibilities related to the management of digital assets. The law establishes procedures for the use of an online tool for a consumer to use to direct or authorize the custodian of the digital assets to disclose information to a designated recipient. The law sets specific guidance for interpreting wills, trusts, and powers of attorney in the context of the disclosure of digital assets. The law sets up a procedure for the custodian of digital assets to disclose information to a fiduciary or designated recipient. It provides a process for a custodian to manage the disclosure of assets when such disclosure would cause an undue burden on the custodian. The law provides a process for handling the disclosure of the digital assets of a deceased individual, as well as for assets held in trust, and the assets of a protected person assigned a court conservator. The law sets forth the legal duties of a fiduciary with care of digital assets, and the compliance requirements for custodians.

LD 1663, *An Act to Improve the Regulation of Debt Collectors* – Public Law 2017, [chapter 317](#).

This law amends the Maine Fair Debt Collection Practices Act by removing the requirement that a debt collector solicit business from creditors “face to face” before obtaining a license, but still requires the debt collector to obtain a license before attempting to collect debts from Maine consumers, regardless of where the debt collector is located.

LD 1881, *An Act to Authorize the Treasurer of State to Facilitate the Establishment of ABLE Accounts for Qualified Persons* – Public Law 2017, [chapter 394](#). **This emergency law became effective on April 18, 2018.**

This new law authorizes the Treasurer of State to establish the ABLE ME Savings Program, which will allow disabled individuals to establish a federal tax-advantage savings account to pay for the individual's care without jeopardizing eligibility for certain disability benefits. The program must comply with the federal Achieving a Better Life Experience Act of 2014. The law gives the Treasurer of State the authority to adopt routine technical rules to implement the terms and conditions of the program.

Commerce and Trade

Contacts

[Matthew Stein](#) – 207.791.1206

[Ann R. Robinson](#) – 207.791-1186

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

Pursuant to Joint Order SP 748, carried over to any Special Session of the 128th Legislature that may convene prior to the start of the 129th Legislature.

(Not Enacted) LD 1610, *An Act to Protect Privacy of Online Customer Personal Information*.

This bill did not become law.

LD 1772, *Resolve, Directing the Attorney General to Update the Portions of the Consumer Law Guide Pertaining to Implied Warranties* – Resolve 2017, [chapter 42](#). **This emergency resolve became effective on April 5, 2018.**

This resolve directs the Attorney General to review and update the Attorney General's Consumer Law Guide as it pertains to implied warranties on consumer goods other than motor vehicles by July 1, 2018. Maine's implied warranty law protects Maine consumers from being sold seriously defective items. It can be an unfair trade practice to refuse to honor Maine's implied warranty law within four years of sale. At a minimum, such update shall clarify (i) a consumer's responsibility to follow the operation and maintenance guidelines contained in the manufacturer's user manual, and (ii) the effect on the availability of relief under implied warranty provisions of Maine's laws from a consumer's failure to follow those guidelines.

Economic Development

Contacts

[Jon Block](#) – 207.791.1173

[Kris J. Eimicke](#) – 207.791.1248

[Andrea Cianchette Maker](#) – 207.791.1101

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

Pursuant to Joint Order SP 748, carried over to any Special Session of the 128th Legislature that may convene prior to the start of the 129th Legislature.

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

Pursuant to Joint Order SP 748, carried over to any Special Session of the 128th Legislature that may convene prior to the start of the 129th Legislature.

(Not Enacted) LD 1244, *An Act to Support Small Manufacturers in the State*.

This bill did not become law.

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

Pursuant to Joint Order SP 748, carried over to any Special Session of the 128th Legislature that may convene prior to the start of the 129th Legislature.

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

Pursuant to Joint Order SP 748, carried over to any Special Session of the 128th Legislature that may convene prior to the start of the 129th Legislature.

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

Pursuant to Joint Order SP 748, carried over to any Special Session of the 128th Legislature that may convene prior to the start of the 129th Legislature.

(Not Enacted) LD 1435, *An Act to Ensure Transparency in the Distribution of Federal Block Grant Funds*. This bill did not become law.

LD 1654, *An Act to Protect Economic Competitiveness in Maine by Extending the End Date for Pine Tree Development Zone Benefits and Making Other Changes to the Program* – [Carried Over](#).

This bill, which has been carried-over to any special session of the 128th Legislature, proposes to extend the end date of Pine Tree Development Zone certification and benefits by three years. The bill would add annual reporting requirements to qualified Pine Tree Development Zone businesses, the State Tax Assessor and the Commissioner of Economic and Community Development. The bill also would require ongoing legislative review of the Pine Tree Development Zone program through the Office of Program Evaluation and Government Accountability and the Department of Economic and Community Development. Among other changes to the current program, the bill would change the sales tax exemption for certain purchases to a sales tax reimbursement to be triggered when the business hires at least one new qualified employee. It also limits the sales tax reimbursement for purchases of tangible personal property and electricity to a period of two years.

LD 1837, *An Act to Allow Cash Prizes for Certain Raffles Conducted by Charitable Organizations* – Public Law 2017, [chapter 365](#). **This emergency law became effective on April 8, 2018.**

This law amends 17 MRS §1837-A by providing that a person or organization is not required to register with the Gambling Control Unit within the Department of Public Safety to conduct a raffle in which the total value of the prize offered does not exceed \$2,500, which is an increase from the prior limit of \$1,000. The law also allows an eligible organization that has registered with the Gambling Control Unit to conduct one raffle in a 12-month period awarding (in addition to noncash prizes up to \$75,000 in value) total cash prizes up to \$20,000, with no more than one \$10,000 prize for the holder of a winning chance.

Food, Alcohol and Marijuana

Contact

[Andrea Cianchette Maker](#) – 207.791.1101

[Ann R. Robinson](#) – 207.791.1186

(Not Enacted) LD 855, *An Act to Protect Children from Edible Cannabis Products*. This bill did not become law.

(Not Enacted) LD 1329, *An Act to Allow Tobacco Retail Establishments to Serve Alcohol*. This bill did not become law.

LD 1534, *An Act to Reduce Food Waste in Maine* – Public Law 2017, [chapter 369](#).

This law directs the Department of Environmental Protection to develop and maintain a food recovery database on its publicly accessible website. As part of the database, the Department may include guidance documents, model policies, program resources, and other educational and technical materials relevant to food recovery and food waste reduction efforts that may be implemented by government entities, counties, municipalities, educational institutions, businesses, and members of the public.

LD 1693, *An Act to Clarify the Law Governing the Separation of a Class A Restaurant and an Off-premises Retail Licensee Located on the Same Premises* – Public Law 2017, [chapter 324](#).

This law clarifies that a provision of the Maine liquor laws, which requires a complete separation of two retail liquor establishments at the same location, does not apply to a manufacturing facility and a retail establishment at the same location.

LD 1719, *An Act to Implement a Regulatory Structure for Adult Use Marijuana* – Public Law 2017, [chapter 409](#). This emergency law became effective on May 2, 2018.

This law, otherwise known as the “Marijuana Legalization Act,” provides a comprehensive legal and regulatory framework for the sale and possession of recreational marijuana by Maine adults over 21 years of age. The law allows for the sale of recreational marijuana pursuant to the passage of a citizen-initiated referendum in 2016. The law itself is over 74 pages long and creates a new Title, Title 28-B in the Maine Revised Statutes.

In sum, the new Title 28-B provides the following elements of law for recreational marijuana sales: definitions; authorized and unauthorized conduct and penalties; implementation; administration; enforcement; and rulemaking. It provides regulatory jurisdiction to the Department of Administrative and Financial Services (DAFS), but requires DAFS to consult with other agencies including the Department of Agriculture, Conservation and Forestry, the Department of Labor, and the Department of Public Safety.

The law establishes the basic regulatory framework for the testing of marijuana products, licensing of cultivators, and licensing of retail establishments, including authorizing an individual to have three marijuana plants for personal use. It also sets guidelines for workplace policies on marijuana, as well as enforcement and discipline. There is a 10% retail sales tax and an excise tax on wholesale transactions, the collection of which will be added to the Marijuana Public Health and Safety Fund, which is the primary funding mechanism for the regulatory scheme. The law also establishes a Marijuana Advisory Commission, whose role is to conduct an ongoing study of the laws related to marijuana use in Maine and to report annually to the Legislature.

LD 1725, *An Act to Ensure Stability for Certain Holders of Liquor Licenses* – Public Law 2017, [chapter 341](#).

This law amends 28-A MRS §1355 by prohibiting the Bureau of Alcoholic Beverages and Lottery Operations from suspending, revoking, or refusing to renew certain liquor licenses issued prior to January 1, 2018 based solely on: (i) a change in the Bureau’s interpretation after the license was issued to find that it no longer is “exclusively held or exclusively owned by a person licensed to manufacture liquor”; or (ii) a violation of 28 MRS §707(2), (3), or (4), provided that the violation existed at the time the license was issued or renewed. A licensee will not be grandfathered, however, if the reason for the change in interpretations by the Bureau is due to substantial misrepresentation or failure to disclose material facts at the time the license was issued or renewed.

LD 1738, *An Act to Permit the Sale and Consumption of Alcohol in an Area That Is Not Contiguous to Licensed Premises* – Public Law 2017, [chapter 337](#).

This law gives the Bureau of Alcoholic Beverages and Lottery Operations discretion to allow a liquor licensee to use noncontiguous land in connection with its licensed operations if (i) the land is owned by the municipality in which the land is located, and (ii) the municipality approves of such use. If such use is authorized, only employees of the licensee may transport liquor between the establishment and the noncontiguous land. The law also restricts the times when the licensee may serve liquor on such noncontiguous land.

LD 1786, *An Act Regarding Maine’s Liquor Laws* – Public Law 2017, [chapter 347](#).

This law repeals 28-A MRS §9, which requires the Bureau of Alcoholic Beverages and Lottery Operations to establish rules for the separation of areas where the privilege of a liquor license may or may not be exercised. The law also amends provisions in existing law authorizing a licensed manufacturer to hold a license for a retail establishment where liquor is consumed on the premises. Specifically, the law clarifies that: (i) a manufacturer in Maine is entitled to have a retail license under the MRS, Title 28-A, chapter 43 per licensed manufacturing location, either on the premises of the manufacturing facility or at another location; and (ii) liquor sold under a retail license issued pursuant to chapter 43 may not be consumed on any part of the premises where patrons are not generally permitted. Lastly, this law provides that distilled spirits may be donated to charitable organizations, by both in-state and out-of-state manufacturers, and clarifies how those donations are processed by the State or the State’s wholesale liquor provider.

Motor Vehicle

Contact

[Andrea Cianchette Maker](#) – 207.791.1101

[Ann Robinson](#) – 207.791.1186

(Not Enacted) [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.*

This bill did not become law.

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

Pursuant to Joint Order SP 748, carried over to any Special Session of the 128th Legislature that may convene prior to the start of the 129th Legislature.

(Not Enacted) [LD 1481](#), *Resolve, To Establish a Pilot Project to Provide Travel Vouchers to Persons with Disabilities in Rural Communities.*

This resolve did not become law.

(Not Enacted) [LD 1595](#), *An Act Regarding Inspection Requirements for Public Safety and Municipal Vehicles Owned by Island Communities.*

This bill did not become law.

Municipal / State Related

Contact

[Kris J. Eimicke](#) – 207.791.1248

[Andrea Cianchette Maker](#) – 207.791.1101

LD 209, *An Act to Amend the Laws Governing Temporary Sign Usage* – Public Law 2017, [chapter 321](#).

This law amends the existing requirements governing temporary signs placed in a public right-of-way. This law changes the number of weeks that these temporary signs may be in place from six weeks per calendar year to 12 weeks per calendar year, and requires that they be marked with the date the sign was erected within the public right-of-way.

(Not Enacted) [LD 473](#), *An Act to Quantitatively Evaluate State Contracts.*

This bill did not become law.

(Not Enacted) [LD 584](#), *An Act to Create the Fund for Municipalities to Improve Pedestrian Safety.*

This bill did not become law.

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

Pursuant to Joint Order SP 748, carried over to any Special Session of the 128th Legislature that may convene prior to the start of the 129th Legislature.

(Not Enacted) [LD 1400](#), *An Act to Create the Bar Harbor Port Authority.*

This bill did not become law.

LD 1787, *An Act to Provide for the 2018 and 2019 Allocations of the State Ceiling on Private Activity Bonds* – Private & Special Law 2017, [chapter 12](#). **This emergency law became effective on March 23, 2018.**

This law establishes the allocations of the state ceiling on issuance of tax-exempt private activity bonds for calendar years 2018 and 2019 among the state-level issuers of tax-exempt bonds. The law will not have a net effect on the State's general or moral obligation debt.

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](#) – 207.791.1101 or [Ann R. Robinson](#) – 207.791.1186.

Primary and Secondary Education

Contact

[Andrea Cianchette Maker](#) - 207.791.1101

[Margaret LePage](#) – 207.791.1382

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

Pursuant to Joint Order SP 748, carried over to any Special Session of the 128th Legislature that may convene prior to the start of the 129th Legislature.

LD 51, *An Act to Amend the Process for a Single Municipality to Withdraw from a Regional School Unit* – Public Law 2017, [chapter 385](#).

This new law adds requirements to the process for a single municipality to withdraw from a regional school unit. The agreement presented to the commissioner by the withdrawal committee must provide for child nutrition services in compliance with state and federal laws, as well as the anticipated budget of the petitioning municipality. Once the agreement has been submitted, the commissioner must schedule a vote on whether to approve the withdrawal no later than November 30th of the year prior to the intended July 1st date that the municipality will withdraw.

(Not Enacted) LD 228, *An Act to Amend the Mathematics Requirements for High School Graduation*.

This bill did not become law.

(Not Enacted) LD 334, *An Act to Clarify the Uses of the Fund to Advance Public Kindergarten to Grade 12 Education*.

This bill did not become law.

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

Pursuant to Joint Order SP 748, carried over to any Special Session of the 128th Legislature that may convene prior to the start of the 129th Legislature.

(Not Enacted) LD 999, *An Act to Provide a Healthy Learning Environment in Early Care Settings by Requiring Rules Concerning Nutrition and Physical Activity*.

This bill did not become law.

(Not Enacted) LD 1016, *An Act to Provide Funding for Career and Technical Education Based on Projected Enrollment*.

This bill did not become law.

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

Pursuant to Joint Order SP 748, carried over to any Special Session of the 128th Legislature that may convene prior to the start of the 129th Legislature.

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](#).

Pursuant to Joint Order SP 748, carried over to any Special Session of the 128th Legislature that may convene prior to the start of the 129th Legislature.

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

Pursuant to Joint Order SP 748, carried over to any Special Session of the 128th Legislature that may convene prior to the start of the 129th Legislature.

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

Pursuant to Joint Order SP 748, carried over to any Special Session of the 128th Legislature that may convene prior to the start of the 129th Legislature.

LD 1861, *Resolve, To Implement Certain Recommendations of the Computer Science Education Task Force and To Update and Implement the Department of Education's Statewide Strategic Plan for Science, Technology, Engineering and Mathematics* – [Carried Over](#).

This resolve, which has been carried-over to any Special Session of the 128th Legislature, proposes to adopt certain recommendations from the Computer Science Task Force, which undertook a study of K-12 computer science education in Maine at the direction of the Legislature. The Computer Science Task Force reported its final recommendations regarding K-12 computer science education in Maine, and LD 1861 would adopt some of those recommendations, including providing a part-time employee for the Department of Education. This person would develop and implement a statewide plan for computer science in Maine and help to update Maine's science, technology, engineering and mathematics education plan. On the date of adjournment, LD 1861 had been approved in the House and Senate and was sitting on the Special Appropriations Table. It would need to be approved by the Appropriations Committee before being finally enacted.

Post-Secondary Education

Contact

[Andrea Cianchette Maker](#) – 207.791.1101

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

Pursuant to Joint Order SP 748, carried over to any Special Session of the 128th Legislature that may convene prior to the start of the 129th Legislature.

(Not Enacted) LD 376, *An Act to Authorize a General Fund Bond Issue for a New Engineering Design and Education Center at the University of Maine*.

This bill did not become law.

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](#).

Pursuant to Joint Order SP 748, carried over to any Special Session of the 128th Legislature that may convene prior to the start of the 129th Legislature.

Workforce Development

Contact

[Andrea Cianchette Maker](#) – 207.791.1101

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

Pursuant to Joint Order SP 748, carried over to any Special Session of the 128th Legislature that may convene prior to the start of the 129th Legislature.

(Not Enacted) LD 669, *An Act to Address the Unmet Workforce Needs of Employers and To Improve the Economic Future of Workers*.

This bill did not become law.

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](#).

Pursuant to Joint Order SP 748, carried over to any Special Session of the 128th Legislature that may convene prior to the start of the 129th Legislature.

LD 1537, *An Act to Replace the Educational Opportunity Tax Credit with the Student Loan Repayment Credit for Maine Residents* – [Carried Over](#).

This bill, which has been carried over to any Special Session of the 128th Legislature, proposes to replace the Educational Opportunity Tax Credit with the Student Loan Repayment Credit. The bill would allow employers to pay up to 20 percent of an employee's college debt each year, and receive a Maine income tax credit for those payments, dollar for dollar. Alternatively, the bill would allow an individual to qualify for a Maine income tax credit, dollar for dollar, towards their college loan payments up to 15 percent of their loan amount per year.

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

Pursuant to Joint Order SP 748, carried over to any Special Session of the 128th Legislature that may convene prior to the start of the 129th Legislature.

LD 1834, *An Act to Authorize a General Fund Bond Issue to Provide for Student Loan Debt Relief* – [Carried Over](#).

Pursuant to Joint Order SP 748, carried over to any Special Session of the 128th Legislature that may convene prior to the start of the 129th Legislature.

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; [Ann R. Robinson](#) – 207.791.1186; or [John D. Delahanty](#) – 207.791.1222.

Contact

[Ann R. Robinson](#) – 207.791.1186

[Joshua D. Dunlap](#) – 207.791.1103

[Andrea Cianchette Maker](#) – 207.791.1101

(Not Enacted) LD 31, RESOLUTION, Proposing an Amendment to the Constitution of Maine to Require That Signatures on a Direct Initiative of Legislation Come from Each Congressional District.

The legislation proposed a constitutional amendment to change the citizen-initiated referendum process. Currently, to qualify as a citizen-initiated referendum on the ballot, signature gatherers must collect certified signatures totaling at least 10% of the last voting electorate in the most recent governor's race. This legislation proposed to require that 10% come from the 1st Congressional District, and 10% come from the 2nd Congressional District. This legislation is dead, having failed to receive the necessary 2/3 vote to enact a proposed constitutional amendment.

LD 1646, An Act to Implement Ranked-choice Voting in 2021 – Public Law 2017, [chapter 316](#).

This law, passed during the First Special Session of the 128th Legislature, places a moratorium on the enactment of the 2016 citizen-initiated ranked-choice voting referendum, and would permanently repeal that law in 2021 if a constitutional amendment has not been adopted by that time. Though this law should have taken effect on Monday, February 5, 2018, it was successfully suspended by a people's veto, and will be placed on the June 2018 statewide ballot as a referendum question to voters.

LD 1780, An Act to Transfer Funds to the Maine Clean Election Fund to Provide Adequate Funding for Maine Clean Election Fund Candidates – [Carried Over](#).

Pursuant to Joint Order SP 748, carried over to any Special Session of the 128th Legislature that may convene prior to the start of the 129th Legislature.

LD 1840, An Act to Revise the Municipal Consolidation Referendum Process – Public Law 2017, [chapter 398](#).

This new law changes certain requirements needed to satisfy a petition for municipal consolidation. Under this law, the petition filed by voters of a municipality must be signed by at least 10% of the total number of votes cast in the municipality in the last gubernatorial election. However, in municipalities with more than 10,000 voters, the law limits the number of signatures to 1,000, unless the municipal charter requires more. Once the petition has been successfully filed, each municipality must conduct a referendum on the question of consolidation. If the voters of each municipality vote in favor of consolidation, then a municipal consolidation agreement is approved. However, if the voters of a municipality reject the consolidation agreement, that municipality may not be party to any consolidation for six years. However, that municipality may seek an exception to the waiting period by filing a petition signed by at least 30% of the votes cast in the last gubernatorial election. Alternatively, a majority of the municipal officers can vote to hold municipal elections to elect members of a joint charter commission to draft a consolidation agreement.

LD 1865, An Act to Increase Transparency in the Direct Initiative Process – [Carried Over](#).

Pursuant to Joint Order SP 748, carried over to any Special Session of the 128th Legislature that may convene prior to the start of the 129th Legislature.

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](mailto:Andrea.Cianchette@mainebar.com) – 207.791.1101; [Ann R. Robinson](mailto:Ann.Robinson@mainebar.com) – 207.791.1186; or [John D. Delahanty](mailto:John.D.Delahanty@mainebar.com) – 207.791.1222.

General

Contact

[James R. Erwin](mailto:James.R.Erwin@mainebar.com) – 207.791.1237

[Allan M. Muir](mailto:Allan.M.Muir@mainebar.com) – 207.791.1365

[Charles S. Einsiedler](mailto:Charles.S.Einsiedler@mainebar.com) – 207.791.1388

LD 1719, *An Act to Implement a Regulatory Structure for Adult Use Marijuana* – Public Law 2017, [chapter 409](#). **This emergency law became effective on May 2, 2018.**

After more than a year of political wrangling, the Maine Legislature overrode a second veto by Governor LePage and enacted the Marijuana Legalization Act on May 2. The Act modifies the legislative framework created by Question 1, the voter referendum passed in November 2016, which first legalized the possession, use, and cultivation of marijuana for adults in Maine without a qualifying medical condition under the existing Maine medical marijuana laws. The Act requires licenses for the cultivation and sale of recreational marijuana and allows for the limited possession, cultivation, and use of marijuana by adults aged 21 and over. Because it was passed as emergency legislation, it went into effect immediately. Employers may prohibit all recreational marijuana-related activities in the workplace and during work-related activities, provided that they have clearly articulated policies in place.

The Act has scrapped the anti-discrimination provision that appeared in Question 1, so Maine law no longer expressly prohibits employers from refusing to employ persons who use recreational marijuana outside of work. However, there is sufficient ambiguity about this point that employers need to use caution in taking action against employees for lawful use outside the workplace. The Act makes no substantial changes to existing medical marijuana law.

Workers' Compensation

Contact

[James R. Erwin](mailto:James.R.Erwin@mainebar.com) – 207.791.1237

[Allan M. Muir](mailto:Allan.M.Muir@mainebar.com) – 207.791.1365

LD 1888, *An Act to Amend the Workers' Compensation Laws Governing Affiliated Self-insurance Groups* – Public Law 2017, [chapter 401](#).

This law amends the workers' compensation laws governing workers' compensation group self-insurers. It allows that the Superintendent of Insurance may authorize an affiliated group self-insurer meeting certain requirements to secure the liabilities of each of its members. It requires that if the status of a group self-insurer is terminated the required security remains subject to the control of the Workers' Compensation Board until claims against the group self-insurer have been discharged. Finally, it authorizes a successor employer of a member to apply for continuing membership in the group self-insurer.

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; [Ann R. Robinson](#) – 207.791.1186; or [John D. Delahanty](#) – 207.791.1222.

Natural Gas

Contact

[John W. Gulliver](#) – 207.791.1296

[Sarah B. Tracy](#) – 207.791.1299

[Andrea Cianchette Maker](#) – 207.791.1101

LD 822, *An Act to Ensure Fairness among Large Consumers of Natural Gas* – Public Law 2017, [chapter 358](#).

The new law expands the existing statutory cap on the natural gas efficiency assessment to include large-volume agricultural businesses. Now, utilities may only collect the natural gas efficiency assessment on the first one million (1,000,000) centum cubic feet of natural gas usage by large-volume manufacturers and large-volume agricultural businesses. Large-volume agricultural businesses are defined under this statute as a commercial grower of plants or aquaculture that purchases at least one million (1,000,000) centum cubic feet of natural gas per year.

Electricity

Contact

[Jared S. des Rosiers](#) – 207.791.1390

[John W. Gulliver](#) – 207.791.1296

[Andrea Cianchette Maker](#) – 207.791.1101

(Not Enacted) LD 532, *An Act to Remove the 100-megawatt Limit on Hydroelectric Generators under the Renewable Resources Laws*.

This bill did not become law.

(Not Enacted) 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*.

This bill did not become law.

(Not Enacted) LD 1632, *An Act to Establish the Manufacturing Jobs Energy Program*.

This bill did not become law.

LD 1729, *An Act Regarding Compensation by Large Transmission and Distribution Utilities* – [Carried Over](#).

Pursuant to Joint Order SP 748, carried over to any Special Session of the 128th Legislature that may convene prior to the start of the 129th Legislature.

LD 1799, *Resolve, Regarding Legislative Review of Portions of Chapter 308: Standards of Conduct for Transmission and Distribution Utilities and Affiliated Generators, a Major Substantive Rule of the Public Utilities Commission* – Resolve 2017, [chapter 49](#). **This emergency resolve became effective on April 18, 2018.**

In January 2018, the Maine PUC enacted Chapter 308, Standards of Conduct for Transmission and Distribution (“T&D”) Utilities and Affiliated Generators (Docket No. 2017-00262). As part of its statutory obligation to review and approve major substantive rules of the Maine Public Utilities Commission (“Maine PUC”), the Legislature approved Chapter 308 providing that the Maine PUC adopt the following amendments to the rule: (1) add a provision that an individual generator may file a complaint for a T&D utility’s acts or omissions that are discriminatory, unreasonable, preferential, or anticompetitive and that such complaint falls under the

Maine PUC's jurisdiction and shall be treated in the same manner as a ten-person complaint; (2) include a clarification that Chapter 308 applies to certain specified types of affiliated generators listed in the amendment; (3) add the specified definitions of "directly interconnected" and "service territory"; (4) clarify that a T&D utility's affiliate is prohibited from owning generation or generation-related assets "that are directly interconnected to any facilities owned or operated by the transmission and distribution utility or if the point of interconnection of generation or generation-related assets of the affiliate is within the service territory of the transmission and distribution utility"; (5) add a general standard of conduct that prohibits preferential, discriminatory, or other anticompetitive conduct by a T&D utility; (6) clarify that Commission access to a T&D utility's or an affiliate generator's books and records is for the purpose of verifying compliance to standards of conduct and that such access encompasses books and records that pre-date the application of the rule to affiliated generators; and (7) clarify that employee training required to ensure compliance with the rule is limited to employees of the T&D utility and affiliated generators who have or may have access to the types of confidential information that Chapter 308 prohibits the entities from disclosing to each other.

LD 1848, *An Act to Extend Arrearage Management Programs* – Public Law 2017, [chapter 414](#).

This amendment requires the existing arrearage management statute to allow for consumer-owned transmission and distribution (T&D) utilities to elect whether to implement an arrearage management program for low-income residential customers. Under the revised statute, investor-owned T&D utilities are still required to implement an arrearage management program for low-income residential customers. The amendment also provides that arrearages that the T&D utilities forgive as bad debt for purposes of cost-recovery cannot be included as reasonable costs to be recovered in rates by the T&D utilities. This amendment also requires that the Maine PUC issue a report to the Legislature on the effectiveness of arrearage management programs by January 28, 2021. The amendment also extends the sunset provision for the arrearage management program requirement from January 28, 2018 to January 28, 2021.

Utilities

Contact

[Jared S. des Rosiers](#) – 207.791.1390

[Sarah B. Tracy](#) – 207.791.1299

[Andrea Cianchette Maker](#) – 207.791.1101

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

Pursuant to Joint Order SP 748, carried over to any Special Session of the 128th Legislature that may convene prior to the start of the 129th Legislature.

Telecommunication

Contact

[Jared S. des Rosiers](#) – 207.791.1390

[Sarah B. Tracy](#) – 207.791.1299

[Andrea Cianchette Maker](#) – 207.791.1101

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

Pursuant to Joint Order SP 748, carried over to any Special Session of the 128th Legislature that may convene prior to the start of the 129th Legislature.

LD 1472, *An Act to Lower the Costs of Broadband Service by Coordinating the Installation of Broadband Infrastructure* – Public Law 2017, [chapter 344](#).

This amendment revises the notice requirements for applications to obtain a permit to locate facilities in a public way. The amendment requires an application for a permit for a proposed underground facility in excess of 500 feet in length to provide notice describing the proposed facility and identifying its location to ConnectME within five (5) days of submitting a permit application to the applicable authority. ConnectME is

required to disseminate such information to all parties potentially interested in installing broadband in the area of the proposed facility.

LD 1798, *Resolve, Regarding Legislative Review of Portions of Chapter 101: ConnectME Authority, a Major Substantive Rule of the ConnectME Authority* – Resolve 2017, [chapter 44](#). **This emergency resolve became effective on April 8, 2018.**

As part of its statutory obligation to review and approve major substantive rules of ConnectME, the Legislature approved this rule only if ConnectME adopted the following changes: (1) amend “advanced communications technology infrastructure” definition to clarify that infrastructure improvement projects expand the deployment of or improve the quality of broadband service, wireless service, or both; (2) acknowledge ConnectME’s authority to request and permit service providers to voluntarily submit additional information useful to determine service availability in specific geographic areas and to designate such information as confidential under 35-A MRS § 9207, (3) prohibit the release of information for seven (7) days following denial of a stay request, and (4) specify that service providers must complete projects and submit a report demonstrating such completion within one year of receiving funding or 180 days of receiving all necessary permits, whichever is later.

LD 1872, *An Act to Enhance the Operations of the Telecommunications Relay Services Advisory Council* - Public Law 2017, [chapter 408](#). **This emergency law became effective on May 1, 2018.**

The amendment updates several aspects in the operation of the Telecommunications Relay Services Advisory Council. The revisions change the following: renames the Telecommunications Relay Services Advisory Council the Telecommunications Relay Services Council (the “Council”); establishes the Telecommunications Relay Services Council Fund and authorizes an allocation up to a maximum of \$600,000 annually; authorizes reimbursement to Council members for certain expenses not related to attendance or participation in regular Council meetings; authorizes the Council’s payment of expenses associated with regular Council meetings; and amends the Council-member duties to include the power to enter into contracts, organize and fund projects, and develop and fund pilot projects.

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](mailto:Andrea.Cianchette@legis.nh.gov) – 207.791.1101; [Ann R. Robinson](mailto:Ann.R.Robinson@legis.nh.gov) – 207.791.1186; or [John D. Delahanty](mailto:John.D.Delahanty@legis.nh.gov) – 207.791.1222.

Air Quality

Contact

[Dixon P. Pike](mailto:Dixon.P.Pike@legis.nh.gov) – 207.791.1374

[Lisa A. Gilbreath](mailto:Lisa.A.Gilbreath@legis.nh.gov) – 207.791.1397

LD 1657, *An Act to Update the Allowance Budget for the Regional Greenhouse Gas Initiative* – Public Law 2017, [chapter 323](#).

This amendment sets the annual carbon dioxide emissions budget to reflect an approval of a 2.5% annual decline from 2020 through 2030. This amount establishes the allowances the State can auction in the regional greenhouse gas initiative (“RGGI”).

Chemical Control

Contact

[Kenneth F. Gray](mailto:Kenneth.F.Gray@legis.nh.gov) – 207.791.1212

[Dixon P. Pike](mailto:Dixon.P.Pike@legis.nh.gov) – 207.791.1374

[John D. Delahanty](mailto:John.D.Delahanty@legis.nh.gov) – 207.731.1222

[Ann R. Robinson](mailto:Ann.R.Robinson@legis.nh.gov) – 207.791.1186

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](#).

Pursuant to Joint Order SP 748, carried over to any Special Session of the 128th Legislature that may convene prior to the start of the 129th Legislature.

Environmental Enforcement and Liability

Contact

[Matthew D. Manahan](mailto:Matthew.D.Manahan@legis.nh.gov) – 207.791.1189

[Andrea Cianchette Maker](mailto:Andrea.Cianchette@legis.nh.gov) – 207.791.1101

LD 1808, *An Act to Implement Recommendations Resulting from a State Government Evaluation Act Review of the Department of Environmental Protection by the Joint Standing Committee on Environment and Natural Resources* – Public Law 2017, [chapter 376](#).

The law updates the applicability and use of supplemental environmental projects in two respects. First, it allows settlements of civil enforcement actions to include supplemental environmental projects to mitigate one hundred percent (100%) of the assessed penalty, an increase from the previous eighty percent (80%) threshold. Second, it expands the applicability of supplemental environmental projects to allow their use in offsetting penalties for repeat violations of the same or a similar law. In addition, the law now requires biennial solid waste reporting.

Environmental Permitting and Land Use

Contact

[Thomas R. Doyle](#) – 207.791.1214
[Matthew D. Manahan](#) – 207.791.1189
[Brian M. Rayback](#) – 207.791.1188
[Andrea Cianchette Maker](#) – 207.791.1101

(Not Enacted) LD 131, *An Act to Protect the Biomass Industry*.
 This bill did not become law.

(Not Enacted) LD 672, *An Act to Clarify a Municipality's Authority to Adopt and Enforce Land Use Regulations for Marijuana Facilities*.
 This bill did not become law.

Legislative/Executive Process

Contact

[Matthew D. Manahan](#) – 207.791.1189
[John D. Delahanty](#) – 207.791.1222

LD 1807, *An Act to Implement Recommendations Resulting from a State Government Evaluation Act Review of the Board of Environmental Protection by the Joint Standing Committee on Environment and Natural Resources* - Public Law 2017, [chapter 334](#).

The law clarifies that a member of the Board of Environmental Protection (“Board”) continues to serve until reappointed or until a successor is appointed. It further provides that if no such reappointment or appoint has occurred within one year of the member’s term expiration, the member can no longer serve on the Board.

Marine Resources

Contact

[William E. Taylor](#) – 207.791.1213
[Matthew D. Manahan](#) – 207.791.1189
[Brian M. Rayback](#) – 207.791.1188
[Andrea Cianchette Maker](#) – 207.791.1101

(Not Enacted) LD 703, *An Act to Address Marine Debris Resulting from Commercial Activities*.
 This bill did not become law.

Oil and Oil Storage

Contact

[Kenneth F. Gray](#) – 207.791.1212
[Lisa A. Gilbreath](#) – 207.791.1397

LD 1784, *An Act to Update the Laws Governing the Department of Environmental Protection's Rule-making Authority Concerning Underground Oil Storage Facilities to Align with Federal Regulations* – Public Law 2017, [chapter 333](#). **This emergency law became effective on March 7, 2018.**

This law revises Maine’s statutes to be consistent with recent changes to EPA’s underground storage tank rules, and to clarify DEP’s decision making authority. The most important substantive changes are (1) a tank may only remain out of service for 12 months before proper closure, rather than 24 months, unless DEP expressly approves bringing the tank back into service, and (2) DEP may now regulate certain wastewater treatment tank systems that meet the definition of “underground oil storage tank” that are not already regulated.

Waste and Recycling

Contact

[Thomas R. Doyle](#) – 207.791.1214

[Kenneth F. Gray](#) – 207.791.1212

[Lisa A. Gilbreath](#) – 207.791.1397

[John D. Delahanty](#) – 207.791.1222

LD 399, *An Act Regarding Municipal Satellite Wastewater Collection Systems* – Public Law 2017, [chapter 353](#). This law defines municipal satellite collection systems and requires such systems to register with and provide operational, schematic, and contact information to the Department of Environmental Protection (“DEP”). The law further requires the owner or operator of the system to report to the DEP any unauthorized discharges of wastewater from the system (1) orally within twenty-four (24) hours of becoming aware of such discharge and (2) in writing within five days of such discharge. If the discharge has not been ameliorated by the time the written notice is required, such notice will also include the estimated time that the operator expects the unauthorized discharge to continue and remediation plans to reduce and eliminate current discharge and prevent future occurrences.

LD 1847, *An Act to Amend the State’s Electronic Waste Laws* – Public Law 2017, [chapter 391](#).

The law implements three changes, several of which were consistent with the DEP’s recent Product Stewardship report. First, it simplifies definitions for covered electronic devices, and adds smaller 3-D printers. Second, and most importantly, it changes the means of funding the recycling program to the proportion of manufacturer’s market share. Finally, manufacturers are now required to complete their annual State registration by April 1st.

LD 1797, *Resolve, Regarding Legislative Review of Chapter 418: Maine Solid Waste Management Rules: Beneficial Use of Solid Wastes, a Major Substantive Rule of the Department of Environmental Protection* – Resolve 2017, [chapter 39](#). **This emergency resolve became effective on April 4, 2018.**

As part of its statutory obligation to review and approve major substantive rules of the Maine DEP, the Legislature authorized adoption of the Department’s provisionally adopted Chapter 418 revisions provided that the DEP adopts the following changes: (1) require a full beneficial use license for the beneficial use of emulsified asphalt encapsulated contaminated soil if such soil is produced from soil contaminated “with contaminants other than oil”; and (2) allow the DEP to require a beneficial use licensee authorized to use secondary material as construction fill to implement an environmental monitoring plan, subject to DEP’s review and approval.

Water

Contact

[William E. Taylor](#) – 207.791.1213

[Andrea Cianchette Maker](#) – 207.791.1101

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

Pursuant to Joint Order SP 748, carried over to any Special Session of the 128th Legislature that may convene prior to the start of the 129th Legislature.

LD 1298, *An Act to Update Maine’s Water Quality Standards* – Public Law 2017, [chapter 319](#).

The Legislature updated Maine’s water quality standards (“WQS”) in several respects. First, the law amended numeric criteria for E. coli bacteria. Additionally, the law removes the discharge licensing exemption previously applicable to DEP, the IFW, and its agents for pesticide application to control invasive plants and mosquito-borne disease. This update aligns Maine’s WQS with the Federal Clean Water Act. The law further authorizes DEP to assess the impact of nutrients on WQS using an alternative low-flow requirement for nutrients regulated under section 420 or specified by DEP rules.

LD 1674, *Resolve, Regarding Legislative Review of Portions of Chapter 502: Direct Watersheds of Lakes Most at Risk from New Development, Urban Impaired Streams, a Major Substantive Rule of the Department of Environmental Protection* – Resolve 2017, [chapter 30](#). This emergency resolve became effective on February 18, 2018.

The Legislature approved Chapter 502 rule amendments provisionally adopted by the DEP. The rule amendments added seven urban streams and five lakes to the list of waterbodies impaired or at risk. Projects in these listed waterbodies with 20,000 square feet of impervious area will now be required to implement post-construction management and treatment of the stormwater. Please refer to Chapter 502 for the updated list of affected waterbodies.

Government Relations & Public Affairs

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: [Andrea Cianchette Maker](mailto:Andrea.Cianchette.Maker@legis.maine.gov) – 207.791.1101; [Ann R. Robinson](mailto:Ann.R.Robinson@legis.maine.gov) – 207.791.1186; or [John D. Delahanty](mailto:John.D.Delahanty@legis.maine.gov) – 207.791.1222.

Appropriations

Contact

[Andrea Cianchette Maker](mailto:Andrea.Cianchette.Maker@legis.maine.gov) – 207.791.1101

[Ann R. Robinson](mailto:Ann.R.Robinson@legis.maine.gov) – 207.791.1186

[John D. Delahanty](mailto:John.D.Delahanty@legis.maine.gov) – 207.791.1222

LD 1649, *An Act to Provide Funding for Geographic Information System Services* – Public Law 2017, [chapter 315](#). **This emergency law became effective on October 31, 2017.**

This law corrects an error in the biennial budget that inadvertently cut off funding for the Office of Geographic Information Systems and the Maine Library of Geographic Information. The law provides funding to the programs through the current biennium.

LD 1855, *An Act to Fund the Reorganization of the Department of Public Safety, State Bureau of Identification* – Public Law 2017, [chapter 383](#). **This emergency law became effective on April 1, 2018.**

This new law provides funding for the reorganization of the State Bureau of Identification. Specifically, it provides for a number of new positions and for the reallocation of monies from the General Fund and the Highway Fund to a Special Revenue Fund.

Legislative/Executive Process

Contact

[Andrea Cianchette Maker](mailto:Andrea.Cianchette.Maker@legis.maine.gov) – 207.791.1101

[Ann R. Robinson](mailto:Ann.R.Robinson@legis.maine.gov) – 207.791.1186

[John D. Delahanty](mailto:John.D.Delahanty@legis.maine.gov) – 207.791.1222

LD 1842, *An Act to Require Education and Training Regarding Harassment for Legislators, Legislative Staff and Lobbyists* – [Carried Over](#).

Pursuant to Joint Order SP 748, carried over to any Special Session of the 128th Legislature that may convene prior to the start of the 129th Legislature.

LD 1894, *An Act to Correct Errors and Inconsistencies in the Laws of Maine* – [Carried Over](#).

Pursuant to Joint Order SP 748, carried over to any Special Session of the 128th Legislature that may convene prior to the start of the 129th Legislature.

Health Care

If you have a question about any of the new laws summarized in the Health Care 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; [Ann R. Robinson](#) – 207.791.1186; or [John D. Delahanty](#) – 207.791.1222.

Health Care Delivery

Contact

[Emily L. Cooke](#) – 207.791.1396

[Ann R. Robinson](#) – 207.791.1186

[Andrea Cianchette Maker](#) – 207.791.1101

(Not Enacted) [LD 272](#), *An Act Requiring Meningococcal Meningitis Vaccinations for Teenagers*. This bill did not become law, in light of LD 1664.

(Not Enacted) [LD 470](#), *An Act to Strengthen Maine’s Hospitals and Increase Access to Health Care*. This bill did not become law.

(Not Enacted) [LD 562](#), *An Act Concerning the Department of Health and Human Services*. This bill did not become law.

LD 565, *An Act Regarding the Prescribing and Dispensing of Naloxone Hydrochloride by Pharmacists* – Public Law 2017, [chapter 364](#).

Current law allows a pharmacist to prescribe naloxone hydrochloride to: an individual at risk of experiencing an opioid-related drug overdose; a member of that individual’s immediate family; a friend of the individual; or another person in a position to assist the individual if the individual is at risk of experiencing an opioid-related drug overdose. However, this authority is supposed to sunset on July 1, 2019. This new law removes the sunset provision.

LD 958, *An Act to Enact the Uniform Emergency Volunteer Health Practitioners Act* – Public Law 2017, [chapter 396](#).

This new law enacts certain provisions of the Uniform Emergency Volunteer Health Practitioners Act into Maine law. Under this law, the Department of Health and Human Services, in coordination with the Maine Emergency Management Agency, has the authority to implement rules and regulate the services of volunteer health practitioners providing health services or veterinary services while an emergency declaration is in effect. The law sets forth the requirements necessary for volunteer health practitioner registration systems, and allows for volunteer health practitioners from other states to practice in Maine during an emergency declaration if that person is registered and in good standing in all states where the person is registered. Lastly, this law adds volunteer health practitioners to the list of individuals who are immune from civil liability for volunteer activities, as provided in the Maine Health Security Act.

LD 1664, *Resolve, Regarding Legislative Review of Portions of Chapters 126 and 261: Immunization Requirements for School Children, Joint Major Substantive Rules of the Department of Education and the Department of Health and Human Services* – Resolve 2017, [chapter 32](#). **This emergency resolve became effective on March 7, 2018.**

This resolve was passed as an emergency measure and became effective on March 7, 2018 when it was signed by the Governor. The law authorizes the Department of Health and Human Services, Center for Disease Control (CDC), and the Department of Education (DOE) to jointly adopt a rule to require meningococcal disease vaccination for K-12 students. The rule requires students entering the 7th grade to receive an initial dose of the meningococcal conjugate vaccine, with a booster dose due before the student enters 12th grade.

The CDC and the DOE finally adopted the immunization requirement rule on April 18, 2018, and the rule was effective on May 10, 2018, in time for the start of the 2018-2019 school year.

LD 1713, *An Act to Improve Housing Support in the Bridging Rental Assistance Program* – [Carried Over](#). Pursuant to Joint Order SP 748, carried over to any Special Session of the 128th Legislature that may convene prior to the start of the 129th Legislature.

LD 1735, *An Act to Authorize Regional Medical Control Committees to Have Access to Maine Emergency Medical Services Data for Purposes of Quality Improvement* – Public Law 2017, [chapter 373](#). **This emergency law became effective April 10, 2018.**

This new law amends the Maine Emergency Medical Services Act of 1982 to allow a regional medical control committee to carry out a plan of quality improvement that has been approved by the Board of Emergency Medical Services. The new law also ensures that any confidential information submitted by an entity to Maine Emergency Medical Services be easily accessible by the entity for purposes of enabling the entity to comply with federal and state patient privacy laws.

Pharmacy

Contact

[Ann R. Robinson](#) – 207.791.1186

(Not Enacted) LD 1273, *Resolve, To Redispense Donated Prescription Drugs*. This bill did not become law.

LD 1280, *An Act to Require Drug Manufacturers to Comply with Federal Law* – [Carried Over](#). Pursuant to Joint Order SP 748, carried over to any Special Session of the 128th Legislature that may convene prior to the start of the 129th Legislature.

LD 1406, *An Act to Promote Prescription Drug Price Transparency* – Public Law 2017, [chapter 406](#). This new law attempts to provide more drug price transparency in the state for both brand name and generic prescription drugs by requiring the Maine Health Data Organization to submit a report that contains the most frequently prescribed drugs, the costliest drugs by total amount spent on those drugs, and the highest year-over-year cost increases as determined by the total amount spent on those drugs. The Maine Health Data Organization must submit this information each year, with the first report due on December 1, 2018. Additionally, this new law requires the Maine Health Data Organization to develop a plan with manufacturers that helps explain these drug prices. This plan must be submitted to the legislature by April 1, 2019. The new law also provides a one-time allocation of \$25,000 to the Maine Health Data Organization to help with the collection of this data.

LD 1407, *An Act Regarding Prescription Drug Step Therapy* – [Carried Over](#). Pursuant to Joint Order SP 748, carried over to any Special Session of the 128th Legislature that may convene prior to the start of the 129th Legislature.

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; [Ann R. Robinson](#) – 207.791.1186; or [John D. Delahanty](#) – 207.791.1222.

General

Contact

[Ann R. Robinson](#) – 207.791.1186

[John D. Delahanty](#) – 207.791.1222

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](#).

Pursuant to Joint Order SP 748, carried over to any Special Session of the 128th Legislature that may convene prior to the start of the 129th Legislature.

Health Care Insurance

Contact

[Ann R. Robinson](#) – 207.791.1186

[Christopher E. Howard](#) – 207.791.1335

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

Pursuant to Joint Order SP 748, carried over to any Special Session of the 128th Legislature that may convene prior to the start of the 129th Legislature.

(Not Enacted) LD 386, *An Act to Establish Universal Health Care for Maine*.

This bill did not become law.

LD 1030, *An Act to Require Health Insurance Coverage for Covered Services Provided by Naturopathic Doctors* – Public Law 2017, [chapter 340](#).

This new law requires health plans to cover health care services provided by a licensed naturopathic doctor as long as those services are covered under the health plan if provided by any other health care provider. Likewise, health plans may charge copayments, deductibles, and coinsurances for charges by a naturopathic doctor as long as they do not exceed those for similar services provided by other health care providers. Further, health insurer networks must include reasonable access to naturopathic doctor services, but health insurers do not need to cover services offered by a naturopathic doctor if the services would normally fall outside the scope of the health care plan. In addition, health insurers may not exclude a provider from their network solely because the provider is a naturopathic doctor. This law will apply to health plans in effect on or after January 1, 2019.

LD 1476, *An Act to Ensure Continued Coverage for Essential Health Care* – Public Law 2017, [chapter 343](#).

This new law provides for a minimum number of preventive care services that a health plan must cover. These include evidence-based items or services that have a rating of A or B from various health organizations; recommended immunizations provided by various health organizations; evidence-informed preventive care and screenings for infants, children, and adolescents as provided by various health organizations; and preventive care and screenings for women as provided by various health organizations. This law will apply to health insurance coverage provided on or after January 1, 2019.

(Not Enacted) [LD 1612](#), An Act to Support Maine Families through Universal Family Care.
This bill did not become law.

LD 1875, *An Act to Amend the Maine Life and Health Insurance Guaranty Association Act* – Public Law 2017, [chapter 382](#).

This new law modifies the Maine Life and Health Insurance Guaranty Association Act by adopting changes made by the National Association of Insurance Commissioners (NAIC) to its Life and Health Insurance Guaranty Model Act (Model). The bill itself was 14 pages long and proposed numerous technical and other changes to conform Maine's Life and Health Insurance Guaranty Association Act and Insurance Rehabilitation and Liquidation Law to the NAIC's Model. Most importantly, this new law amends how the Maine Life and Health Insurance Guaranty Association Act (Association) allocates assessments for insolvencies and impairments, occurring on or after July 1, 2018, arising out of long-term care (LTC) insurance business. Currently, assessments associated with these insolvencies and impairments are allocated in full only to health insurers. The new law brings health maintenance organizations (HMOs) into the Association, making them subject to assessment for LTC insurer failures. This law also assures that these assessments are divided equally between carriers of life and health insurance, including HMOs.

The law also provides that an insurer that is a member of the Association but not subject to the insurance premium tax may take a tax credit against its income tax liabilities or, if a member is exempt from both income tax and premium tax liability, it may otherwise recoup the assessment.

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; [Ann R. Robinson](#) – 207.791.1186; or [John D. Delahanty](#) – 207.791.1222.

General

Contact

[John J. Aromando](#) – 207.791.1302

LD 449, *An Act To Add Domestic Violence against the Victim as an Aggravating Factor in Sentencing for Murder* – Public Law 2017, [chapter 374](#).

The Act adds a factor that a court must consider when sentencing a person convicted of murder. If the victim is a family member who has suffered domestic violence at the hands of the convicted person, that history must now be considered as an aggravating factor at sentencing.

LD 858, *An Act To Strengthen the Law Regarding Dangerous Dogs and Nuisance Dogs* – Public Law 2017, [chapter 404](#).

The new law amends the definitions of "dangerous dog" and "nuisance dog." A dangerous dog is a dog that: (1) causes the death of, or serious bodily injury to, a person or domesticated animal; (2) causes a reasonable person to fear serious bodily injury; or (3) inflicts bodily injury on a domesticated animal and has previously been determined to be a nuisance dog. A "nuisance dog" is a dog that: (1) causes some level of bodily injury to a person or domesticated animal; (2) causes a reasonable person to fear bodily injury; or (3) causes damage to property or crops.

Anyone who is assaulted or threatened by a dog, or whose property or crops have been damaged by a dog, may file a written complaint with law enforcement within 30 days. If the dog poses an immediate threat to the public, local authorities may order the owner to muzzle, confine, or surrender the dog. Otherwise, animal control or local law enforcement will investigate. If the investigation concludes that the dog is dangerous or a nuisance, a civil summons to the dog's owner will issue. If the court finds the dog dangerous, it will impose a fine and select from a wide variety of additional measures including: mandatory confinement, muzzling, microchipping, euthanasia, etc. If the court confirms that the dog is a nuisance, the court will order a fine. Should an owner violate a court order pursuant to a dangerous or nuisance dog finding, the owner is in civil contempt and may be guilty of a Class D crime.

The law also establishes miscellaneous regulatory requirements. For example, it directs the Department of Agriculture, Conservation and Forestry to develop and implement a dog licensing database to track dangerous and nuisance dogs. Additionally, each municipality must file an annual report detailing the animal complaints it has received and the outcome of each investigation.

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

Pursuant to Joint Order SP 748, carried over to any Special Session of the 128th Legislature that may convene prior to the start of the 129th Legislature.

LD 1705, *An Act To Strengthen Crime Victims' Rights* – Public Law 2017, [chapter 386](#).

Prior to LD 1705, Maine law allowed victims of crimes to request notification when the perpetrator of the crime was released from incarceration or granted probation. The Act expands that law to allow victims to request notification that a defendant has escaped a correctional or mental health facility. Such notification must include all basic details of the escape (such as date, manner, and place of escape).

LD 1740, *An Act Regarding Criminal Forced Labor, Aggravated Criminal Forced Labor, Sex Trafficking and Human Trafficking* – Public Law 2017, [chapter 416](#).

The law establishes the crimes of criminal forced labor, a Class C crime, and aggravated criminal forced labor, a Class B crime. The law defines criminal forced labor broadly to include, among other things, withholding drugs or alcohol from an addicted person, withholding medication, confiscating a person's passport, or causing the individual to fear physical injury, destruction of property, or publication of a secret, in order to compel the provision of labor or services of economic value. The crime is aggravated if the victim is under 18 years old. The law also adds both offenses to the definition of human trafficking for purpose of civil remedies. The law provides an affirmative defense for a person who violates the Act because he or she was also subject to compulsion.

Finally, the law requires that the Department of Transportation, the Maine Turnpike Authority and certain businesses display signs that contain a telephone number for a national human trafficking hotline. Private entities that fail to post the signs will be subject to a \$300 fine per violation. These businesses include, but are not limited to, some medical facilities, adult entertainment businesses, money transmitters, and currency exchange businesses.

LD 1751, *An Act Regarding the Victims' Compensation Fund* – Public Law 2017, [chapter 348](#).

This law revises the criteria for compensation from the Victims' Compensation Fund. The law allows a claimant to seek compensation from the Fund when the victim died in a criminal homicide – provided that the claimant was not involved in, nor contributed to, the death of the victim.

LD 1776, *An Act To Establish Requirements for Civil Deputies* – Public Law 2017, [chapter 332](#).

This new law clarifies the duties of a sheriff's civil deputy. As a general matter, civil deputies are responsible for serving and executing legal process at the sheriff's direction. The law also authorizes sheriffs to adopt rules, procedures, and requirements applicable to civil deputies – including training and job requirements.

LD 1838, *An Act To Include in the Crime of Harassment by Telephone or by Electronic Communication Device the Distribution of Certain Photographic Images and Videos* – Public Law 2017, [chapter 397](#).

The law prohibits electronic transmission of sexual images or videos to minors and non-consenting recipients. The law establishes a Class D criminal violation for any person who transmits sexual images or videos to a person under 14 years old. The law also establishes a Class D criminal violation for a sender if the recipient is 14 or 15 years old and the sender is at least five years older. Finally, the law expands the prohibition to include transmission of sexual images or videos to any person who has not consented to receiving such images. Sending sexually explicit images or videos to a non-consenting person is a Class E crime.

LD 1877, *An Act To Expand and Clarify the Areas Subject to Municipal Residency Restrictions for Sex Offenders* – Public Law 2017, [chapter 393](#).

The law expands the area from which a sex offender may be excluded from residing. The new law allows municipalities to pass ordinances precluding sex offenders from residing within 750 feet of a municipally owned or state-owned park, athletic field or recreational facility that is open to the public where children are the primary users, or elementary, middle, or secondary schools.

LD 1897, *An Act To Reinstate Certain Other Special Revenue Funds Allocations for the Maine Commission on Indigent Legal Services* – Public Law 2017, [chapter 395](#).

The biennial budget omitted funds raised from the reimbursement of counsel fees paid by indigent legal services recipients as well as the payment of conference and training fees by attorneys. This law allocates those funds to the All Other account of the Maine Commission on Indigent Legal Services.

Judicial Process Reforms

Contact

[Ann R. Robinson](#) – 207.791.1186

(Not Enacted) [LD 821](#), *An Act to Enact the Revised Uniform Unclaimed Property Act*.
This bill did not become law.

(Not Enacted) [LD 969](#), *An Act Regarding Nonprobate Transfers on Death*.
This bill did not become law.

LD 1670, *An Act To Revise the Grandparents Visitation Act* – Public Law 2017, [chapter 328](#).

In 2016, the Supreme Judicial Court decided *Dorr v. Woodard*, 2016 ME 79, 140 A.3d 467. In that case, a grandparent pursued visitation rights under the Grandparents Visitation Act. The Court held that the Act, as written, unconstitutionally infringed on the parents' rights because it allowed for visitation petitions without a showing of an "urgent need" for such visitations, and therefore concluded that the grandparent lacked standing to pursue litigation. The Court invited the Legislature to amend the law to address this constitutional issue.

The new amending law sets forth a revised scheme for grandparents to establish standing. First, from a procedural standpoint, grandparents must file an affidavit alleging satisfaction of the Act's revised standing requirements. Second, the law updates the standing criteria for grandparents to seek visitation. They must demonstrate either a sufficient existing relationship with the child or a compelling interest in permitting visitation. In addition, the law prohibits a court from ordering the parties to engage in mediation and clarifies grandparents' right to seek de facto parentage or guardianship.

LD 1678, *An Act To Amend the Law Affecting the Judicial Branch Regarding Railroad Trespass Civil Violations and Fines for Civil Violations* – Public Law 2017, [chapter 329](#).

The new law allows the District Court's violations bureau to handle certain railroad trespass offenses (e.g., standing or walking on a railroad track or bridge) as it would traffic violations. Similar to the procedure for traffic offenses, a civil violator of railroad trespass laws may admit to the violation and pay a fine in lieu of a court appearance. The law also tasks the chief judge with establishing reasonable fines for other civil violators who wish to waive court appearances.

LD 1728, *An Act To Amend Maine Criminal Code Sentencing Provisions Relating To Increased Sentencing Class Based on Multiple Prior Convictions for Certain Violent or Sexual Crimes* – Public Law 2017, [chapter 336](#).

Maine law provides that a defendant convicted of certain notable crimes (such as violent crimes, sexual assault, or kidnapping), will face an increase in sentencing class if the defendant has two or more prior convictions of such crimes. The law expands the list of eligible crimes to include sexual exploitation of minors (such as sex trafficking, prostitution, and public indecency). If the person is already charged with a Class A crime, then the sentencing class will not be increased, but the past convictions must be "given serious consideration by the court when imposing a sentence."

LD 1795, *An Act To Amend the Maine Criminal Code and Related Statutes as Recommended by the Criminal Law Advisory Commission* – Public Law 2017, [chapter 377](#). **This emergency law became effective on April 11, 2018.**

The Act makes necessary corrections to three existing Maine laws.

First, the law amends legislation, adopted in 2017, that established a procedure for the service of criminal process to electronic communications providers governed by foreign law. That legislation did not distinguish between entities governed by the laws of other states and entities governed by the laws of foreign countries. The amending law distinguishes these two types of entities and provides a cross-reference to the Maine Rules of Evidence for each type.

Second, the law corrects current Maine law regarding prosecution of marijuana offenses. When Maine recently revised its marijuana laws, the new statutory language repealed the option of bringing civil violations against persons under the age of 18 found in possession of up to 2 ½ ounces of marijuana. The current law restores the option to prosecute such conduct as a civil violation unless the person is a qualified patient for the purposes of the Medical Use of Marijuana Act.

Third, the law amended a law adopted in 2017 that modified the crime of gross sexual assault to include engaging in a sexual act with another person when that person has not acquiesced to the sexual act. That law did not create a registration provision for the newly defined category of gross sexual assault. The law designates gross sexual assault based on lack of acquiescence to the sexual act as a Tier II offense under the Sex Offender Registration and Notification Act of 2013. The registration obligation is not retrospective.

LD 1812, *Resolve, Directing an Independent, Nonpartisan, Objective Evaluation of the Provision of Indigent Legal Services* – Resolve 2017, [chapter 52](#). **This emergency resolve became effective on April 21, 2018.**

The resolve directs the Legislative Council to contract with a nonprofit organization for an independent, nonpartisan, objective evaluation of and report on the provision of indigent legal services in the State of Maine.

LD 1813, *An Act To Protect Children under 14 Years of Age from Being Photographed by Certain Persons* – Public Law 2017, [chapter 354](#).

Once an individual has been convicted of a crime against a child, usually a sexually related offense, that individual may be prohibited from contact with minors. This law prohibits an individual who has been convicted of sexual assault against, or sexual exploitation of, a minor (a person under 14) from photographing a minor. The prohibition applies when the person is on written notice from a law enforcement officer, corrections officer, or judicial officer.

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; [Ann R. Robinson](#) – 207.791.1186; or [John D. Delahanty](#) – 207.791.1222.

General

Contact

[Eben A. Adams](#) – 207.791.1175

[Andrea Cianchette Maker](#) – 207.791.1101

(Not Enacted) LD 1461, *An Act to Encourage the Construction of Affordable Housing*.
This bill did not become law.

LD 1588, *An Act To Maintain Access to Property on Discontinued Roads* – Public Law 2017, [chapter 345](#).

This new law requires the seller of real property, except residential real property consisting of one or not more than four residential dwelling units, to disclose any abandoned or discontinued town ways, any public easements, and any private roads on or abutting the property, if known by the seller. The seller must also disclose who is responsible for maintaining any such roads, including any road association. Transfers pursuant to court order, testate or intestate succession, or divorce are exempt from the disclosure requirement as are transfers to a living trust, to a mortgagee by a mortgagor in default, or among co-owners.

For town ways or public easements that are not discontinued as of October 1, 2018, the law also expands the information that a municipality must provide to owners of property abutting town ways or public easements that the municipality proposes to discontinue, including specific information regarding the right of property owners to create private easements if the abutting property is not accessible by another public way.

When there is property that is not accessible by another public way, the municipality must wait one year after giving notice to abutting property owners before proceeding to discontinue the town way, and it may do so only if a public easement is retained or if private easements are recorded with the registry of deeds that allow travel along the way for all abutting property owners and their lessees and guests.

LD 1679, *An Act Regarding the Registry of Deeds in Oxford County* – Public Law 2017, [chapter 330](#). **This emergency law became effective on March 7, 2018.**

This new law facilitates the closure of the western district office of the Oxford County registry of deeds in Fryeburg by eliminating the position of register of deeds for the western district of Oxford County and providing that the current western registry district office shall operate as the western subregistry of deeds beginning on January 1, 2019. The law authorizes the Oxford County Commissioners to close the western subregistry office after holding public hearings, taking specific actions to preserve and provide public access to the record books of the western subregistry, making all files and documents available online, and providing for the electronic recording of documents.

Mortgage

Contact

[Eben A. Adams](#) – 207.791.1175

[Andrea Cianchette Maker](#) - 207.791.1101

(Not Enacted) LD 1355, *An Act to Ensure the Timely and Proper Completion of Residential Foreclosures*.
This bill did not become law.

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; [Ann R. Robinson](#) – 207.791.1186; or [John D. Delahanty](#) – 207.791.1222.

General

Contact

[Jonathan A. Block](#) – 207.791.1173

[Kris J. Eimicke](#) – 207.791.1248

[Andrea Cianchette Maker](#) – 207.791.1101

(Not Enacted) [LD 1565](#), *An Act to Ensure the Effectiveness of Tax Increment Financing*.
This bill did not become law.

Income Tax

Contact

[Jonathan A. Block](#) – 207.791.1173

[Kris J. Eimicke](#) – 207.791.1248

[Andrea Cianchette Maker](#) – 207.791.1101

(Not Enacted) [LD 442](#), *An Act to Create a Family Caregiver Income Tax Credit*.
This bill did not become law.

LD 1317, *An Act to Encourage Family-friendly Businesses through a Tax Credit for Child Care* – [Carried Over](#). Pursuant to Joint Order SP 748, carried over to any Special Session of the 128th Legislature that may convene prior to the start of the 129th Legislature.

LD 1655, *An Act to Update References to the United States Internal Revenue Code of 1986 Contained in the Maine Revised Statutes* – [Carried Over](#).

This bill, which has been carried-over to any Special Session of the 128th Legislature, proposes to conform Maine's income tax law and certain other state taxes to the newly enacted Federal Tax Cuts and Jobs Act.

LD 1781, *An Act To Encourage New Major Investments in Shipbuilding Facilities and the Preservation of Jobs* – Public Law 2017, [chapter 361](#).

This law provides an income tax credit equal to 3% of a taxpayer's qualifying investment in a Maine shipbuilding facility, as long as certain employment levels are maintained. A qualifying investment is an investment of at least \$100,000,000 made during the first ten years of the program (beginning January 1, 2018), with the ability for an applicant to make an additional \$100,000,000 investment prior to January 1, 2025. The credit lasts for a maximum of 15 years and is capped at a total of \$45,000,000. The credit requires the shipbuilding facility to employ at least 5,000 qualified employees throughout the credit period, and provides for a reduced credit if employment dips below 5,500 (and an accelerated credit if employment exceeds 6,000). The law fills a gap left by Maine's previous shipbuilding facilities credit, which expired in 2017, and is designed to support Bath Iron Works' continued growth and ensure that Bath Iron Works remains competitive as it contends for government shipbuilding contracts.

LD 1805, *An Act To Amend the Maine Tax Laws* – Public Law 2017, [chapter 375](#).

This law makes certain amendments and technical changes to the Maine credit for major business headquarters expansion, which was enacted in 2017. The law clarifies that the Commissioner must revoke a certificate of approval or a certificate of completion if the applicant or transferee ceases operations of their headquarters in Maine. The amount to be returned to Maine once a certificate of approval or completion has

been revoked is subject to collection and enforcement provisions, including the application of applicable interest and penalties, and the amount must be added to the tax imposed for the taxable year during which the certificate is revoked. In addition, the law clarifies that the credit is not allowed for any tax year during which the taxpayer does not meet or exceed employment targets for additional full-time employees for each of the first ten tax years for which the credit is claimed, including the tax year for which the credit is currently being claimed. The law provides that “additional full-time employees” does not include employees who are shifted to a certified applicant’s headquarters in Maine from an affiliated business in Maine.

Tax Credits and Incentives

Contact

[Jonathan A. Block](#) – 207.791.1173

[Kris J. Eimicke](#) – 207.791.1248

[Andrea Cianchette Maker](#) - 207.791.1101

LD 1796, *An Act To Improve the Effectiveness of the New Markets Capital Investment Credit* – Public Law 2017, [chapter 339](#).

This law modifies the definition of “qualified low-income community investment” for purposes of the State’s new markets capital investment credit. The amended definition excludes from the definition of “qualified low-income community investment” a capital or equity investment made after November 9, 2015 if more than 5% of the investment is used to refinance costs, expenses or investments incurred or paid by the qualified active low-income community business or a party related to the qualified active low-income community business prior to the date of the qualified low-income community investment; make equity distributions from the qualified active low-income community business to its owners; acquire an existing business or enterprise in the State; or pay transaction fees. The effect of this law is to codify a regulatory amendment previously made by the Finance Authority of Maine, the new markets capital investment credit program’s chief regulator.

Transactional (Sales) Tax

Contact

[Jonathan A. Block](#) – 207.791.1173

[Kris J. Eimicke](#) – 207.791.1248

[Andrea Cianchette Maker](#) - 207.791.1101

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

Pursuant to Joint Order SP 748, carried over to any Special Session of the 128th Legislature that may convene prior to the start of the 129th Legislature.

LD 1755, *An Act To Provide a Sales Tax Exemption for Nonprofit Heating Assistance Organizations* – Public Law 2017, [chapter 399](#).

Beginning October 1, 2018, this law provides an exemption from Maine sales and use tax for sales to organizations that are exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, and whose primary purpose is to provide residential heating assistance to low-income individuals.

LD 1805, *An Act To Amend the Maine Tax Laws* – Public Law 2017, [chapter 375](#).

This law expands Maine’s sales tax law to require the collection of sales tax on room rentals. The law expands the definition of “sale price” to include consideration and service charges received for renting living quarters by (i) a room remarketer, (ii) an operator of a transient rental platform, or (iii) a person on behalf of either (i) or (ii). A “room remarketer” is a person who reserves, arranges for, offers, furnishes, or collects or receives consideration for the rental of living quarters, either directly or indirectly, pursuant to an arrangement with the owner of the living quarters. A “transient rental platform” is an electronic or other system that allows the owner or occupant of living quarters to offer the living quarters for rent and that arranges for payment of rental charges.

The law also provides an exemption from sales and use tax for the sale of a vehicle, railroad rolling stock, aircraft, or watercraft that is placed in use by the purchaser as an instrumentality of interstate or foreign commerce within 30 days after that sale and that is used by the purchaser for not less than 80% of the days in use during the next two years as an instrumentality of interstate or foreign commerce. The State Tax Assessor may for good cause extend for not more than 60 days the time for placing the instrumentality in use in interstate or foreign commerce. The exemption is applicable to purchases made on or after January 1, 2012.

Property Tax

Contact

[Jonathan A. Block](#) – 207.791.1173

[Kris J. Eimicke](#) – 207.791.1248

[Andrea Cianchette Maker](#) - 207.791.1101

LD 1479, *An Act To Modernize and Improve Maine's Property Tax System* – Public Law 2017, [chapter 367](#).

This law implements certain changes to the State's property tax assessment, review, and appeals processes. This law grew out of discussions at the Maine Pulp and Paper Association Summit held in late 2015, at which the State's property tax system, particularly the State's high industrial property tax valuations and cumbersome appeal process, was identified as one of the industry's challenges. LD 1479, sponsored by Rep. Steve Stanley of Medway, was first introduced in 2017, and was carried over to the 2018 session. After negotiations with stakeholders, the measure underwent a number of changes before ultimately being passed into law in April 2018. The new law represents a compromise among municipal interests, taxpayers, and other stakeholders. The law makes several key changes to the State's property tax system:

- Beginning August 1, 2018, at least one member of the State Board of Property Tax Review must be a person with expertise in taxation, finance, or property valuation matters. This new Board position will be appointed by the Governor.
- The parties must engage in a mediation process for all appeals filed with the State Board of Property Tax Review.
- The law clarifies the statute governing information requests made by assessors to taxpayers.
- Most importantly, the law creates a nine member task force, the Task Force to Restructure and Improve the Efficiency of the State Board of Property Tax Review. The Task Force will study, assess, and evaluate the process of, and the duties assigned to, the State Board of Property Tax Review and will develop recommendations for restructuring the Board as necessary by February 2019. Two of the members of the Task Force will be appointed by the Governor to represent large industrial property taxpayers.

(Not Enacted) [LD 1599](#), *An Act to Improve the Maine Tree Growth Tax Law*.

This bill did not become law.

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](mailto:Andrea.Cianchette.Maker@mainebar.org) – 207.791.1101; [Ann R. Robinson](mailto:Ann.R.Robinson@mainebar.org) – 207.791.1186; or [John D. Delahanty](mailto:John.D.Delahanty@mainebar.org) – 207.791.1222.

Contact

[Molly P. Liddell](mailto:Molly.P.Liddell@mainebar.org) – 207.791.1153

[Barbara K. Wheaton](mailto:Barbara.K.Wheaton@mainebar.org) – 207.791.1339

LD 123, *An Act to Recodify and Revise the Maine Probate Code* – Public Law 2017, [chapter 402](#).

On April 20, 2018, the Maine Legislature enacted a sweeping overhaul of the Maine Probate Code, which Governor LePage signed into law that same day. Maine's new Probate Code will be codified as Title 18-C of the Maine Revised Statutes and is a significant update to the current law, which first became effective in 1981. **Please note that comprehensive coverage and analysis of the new Maine Probate Code is beyond the scope of this publication. The following provides selected coverage only.**

LD 123 becomes law effective July 17, 2018, although the provisions of the new Maine Probate Code, by their own terms, do not become effective until **July 1, 2019**. Some provisions, including rules of construction, may apply retroactively to non-will documents including documents governing multiparty accounts opened prior to July 1, 2019 (§ 8-301(E)). **Financial institutions and estate planners will need to consider the application of the new Maine Probate Code to account and estate planning documents currently in effect.**

With regard to estate planning and administration broadly, the new Probate Code will increase modestly allowances for homestead (§ 2-402), exempt property (§ 2-403) and family (§ 2-405) to \$22,500, \$15,000, and \$27,000 respectively. These allowances together with the intestate share of a surviving spouse (§ 2-102) are now also inflation-indexed for decedents dying after 2018 (§ 1-108). The availability of collecting estate property by affidavit will also be available for estates not exceeding \$40,000 (§ 3-1201), up from \$20,000, which may help more estates avoid probate when the client's *intent* is to fully fund revocable trusts. Note that the spouse's elective share is now 50% of the "marital portion" of the augmented estate (§ 2-202), which is determined with reference to an increasing percentage of the augmented estate based on years of marriage (§ 2-203). This will have a bearing on premarital planning. LD 123 also introduces two important uniform acts to Maine's probate code, namely the Uniform Disclaimer of Property Interests Act (§ 2-901 et seq.), which replaces the current renunciation statute, and the Uniform Estate Tax Apportionment Act (§ 3-916 et seq.). Under LD 123, the statutory Rule Against Perpetuities is recast with the repeal of Chapter 5 of Title 33 and the enactment of new Chapter 5-A, although trusts may still affirmatively "opt out" of the Rule (33 MRS § 114(7)). The new Probate Code also makes changes to the statute of limitations for testacy and appointment proceedings, including providing for limited formal and informal proceedings more than three years from date of death (§ 3-108(D) and (E)).

Of interest to financial institutions and estate planners will be Parts 6 and 7 of Article 2 of the new Maine Probate Code, which provides rules of construction that apply (1) to wills only (§ 2-601 et seq.) and (2) to both wills and other estate planning documents (§ 2-701 et seq.), including specifically beneficiary designation forms for certain life insurance products, retirement plans, POD/TOD accounts, and trusts. Part 7 also contains new statutory protections for financial institutions (and other "payors") who make payments under beneficiary designations (§ 2-706(4)). New statutory defaults also apply to future interests in trusts when a beneficiary fails to survive the distribution date (§ 2-707).

Particularly relevant to fiduciary and probate litigation, the new Probate Code introduces two new probate remedies in Maine: reformation of wills to correct mistakes absent ambiguity in the document (§ 2-805) and

modification to achieve a transferor's tax objectives (§ 2-806). Under prior law, these remedies were only available to trusts. The new probate code also requires an interest in or claim against an estate exceeding \$5,000 (up from \$1,000) before a demand for bond may be made (§ 3-605). With a view to procedure, under the new law, petitions for orders restraining personal representatives now must be heard by the court as soon as practicable (3-607(2)).

The new Maine Probate Code works a variety of changes to the law governing protective proceedings, including guardianships and conservatorships, including new Parts 2, 3, and 4 of Article 5 that govern procedure for the appointment of guardians of minors (§ 5-201 et seq.), adult guardianships (§ 5-301 et seq.), and conservatorships (§ 5-401 et seq.). Some discrete changes include a new provision for a person to make payments of property up to \$10,000 directly to an emancipated minor and clarification that payment may also be made to the custodian of a Maine UTMA account (§ 5-103). The new Code also provides new statutory bases for a third party to refuse to recognize the authority of a guardian or conservator. Specifically, a third party *must* refuse to recognize the authority of a guardian or conservator if that person has actual knowledge that the guardian or conservator is exceeding his or her authority or is acting under invalid letters of authority (§ 5-122(1)). A third party *may* refuse to recognize the authority of a guardian or conservator if a proposed action is inconsistent with the new Probate Code or the third party makes a report (or has actual knowledge of the report of another) to protective services in good faith alleging financial abuse, neglect, exploitation or abandonment by the guardian or conservator or by a person acting with the guardian or conservator (§ 5-122(2)). Any refusal must be reported to the court ((§ 5-122(3)). Under the new Probate Code, both guardians and conservators may delegate authority to agents (§ 5-124). Court-ordered single transaction authority is also repackaged under the new law (§ 5-503). With respect to powers of attorney, the new law provides a limited savings provision for powers that include defective or incomplete statutory notices. Under prior law, for a power to be valid, the document had to contain the express statutory notice language required by § 5-905. In the event the document contains defective or incomplete notices, the document becomes effective nevertheless two years after execution (§ 5-906).

Article Sixth of the current probate code, which applies to non-probate transfers and multiple-party accounts, has also been reworked in its entirety by the new Title 18-C. Important changes include a new statutory form, the "Uniform Single-Party or Multiple-Party Account Form" (§ 6-204), and the provision for multi-party account owners to designate a single agent to act on behalf of all owners (§ 6-205). The statutory protections for financial institutions have been recast and include protection for payments to the account holders' designated agent (§ 6-224) and express authority for a financial institution to make payment to a designated beneficiary who is a minor in accordance with the Maine Uniform Transfers to Minors Act (§ 6-225).

The new Code adds the Uniform Real Property Transfer on Death Act as a new Part 4 to Article Sixth. This addition provides new statutory law governing so-called transfer-on-death deeds, which establish revocable non-testamentary transfers of real property to designated beneficiaries effective upon death. It includes a statutory form, the "Revocable Transfer on Death Deed."

While the Uniform Principal and Income Act of 1997 appears to remain intact and unchanged, Article 7 of the new Probate Code makes some changes to the law governing "common trust funds" maintained by banks and trust companies (§ 7-201 et seq.). Finally, some important updates have been made to Part 2 of Maine's Adoption Act under Article 9 of the new Probate Code (§ 9-201 et seq.) largely in an effort to accommodate a more contemporary view of parentage and family structures.

LD 968, *An Act to Help Prevent Financial Elder Abuse* – Public Law 2017, [chapter 390](#).

When a person dies owning a bank account jointly with another person, the general rule is that the surviving joint owner inherits the account. Not all account holders know that and, instead, may add a joint owner for convenience purposes for check signing, bill pay, and assistance with administrative duties, not understanding that the joint owner will inherit the entire account.

The law amends 9-B MRS §427, sub-§13 and 18-A MRS §6-105 to require, effective January 1, 2019, that, at the time a multiple-party account is established or when a single party account is converted to a multiple-

party account with a financial institution, the document establishing the account include for each party to the account the following question: "Do you intend for the sum remaining upon your death to belong to the surviving party or parties? Yes or No?" The answer must be answered in writing on the form by each party prior to the account being opened.

LD 1827, *An Act to Amend the Maine Uniform Trust Code Regarding Reporting by Trustees and the Duties of Trustees to Settlers* – Public Law 2017, [chapter 349](#).

The Maine Uniform Trust Code allows a person who creates a trust (the "settlor") to waive or modify one or more of the duties of a trustee to inform and report to the beneficiaries in two circumstances: 1) when a trust is for the benefit of a surviving spouse, the settlor can waive the duty to inform and report to all qualified beneficiaries, excluding the surviving spouse, during the lifetime of the surviving spouse; and 2) when a trust is for the benefit of someone other than a surviving spouse, the settlor can waive or modify the duty to inform and report to all beneficiaries, provided the settlor designates a person or persons to receive notices and act in good faith to protect the interest of the current beneficiaries who are not receiving notice.

The law amends 18-B MRS §105, sub-§3 to include among the duties of a trustee that a settlor may waive or modify is the duty under 18-B MRS §813, sub-§3 to annually send to the qualified beneficiaries a report of the trust property, liabilities, receipts, and disbursements.

The Legislature also amended 18-B MRS §813, sub-§6 to make clear that during the lifetime of a settlor of a *revocable* trust, the trustee's duty to inform and report is owed exclusively to the settlor and that the trustee has no duty to provide information or reports to any other beneficiary.

FIRM OVERVIEW

Pierce Atwood. There's a Reason...

There's a reason why informed decision makers nationwide turn to Pierce Atwood LLP. The reason is not just that we deliver exceptional service and value to our clients. It's "how" we do it. We start by attracting and retaining superb legal talent. We add to that a cost structure and a partnership system that allows us to put our clients first in all instances and to offer a reasonable rate structure including options for alternative fee arrangements, in addition to the billable hour. By rewarding our attorneys for teamwork and collaboration, our clients get the right lawyer for the right job.

Pierce Atwood is a member of The Bridge Group, a network of law firms in the U.S., England, France, Belgium and Germany that call upon each other to cover far reaching geographic areas and to address different areas of expertise in order to provide the highest level of quality and service to our clients.

Practice Areas

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

Honors & Distinctions

We are a team of 160 responsive, creative, collaborative, and hard-working professionals who serve our clients from offices located in four New England states, the District of Columbia, and Stockholm, Sweden. Of our attorneys, past and present:

72 are listed in *The Best Lawyers in America® 2018*, covering 60 areas of law

63 are rated "AV Preeminent" by Martindale-Hubbell

37 are recognized in the 2018 edition of *Chambers USA*

4 have been elected members of the American College of Trial Lawyers

3 have been elected Fellows of the American College of Construction Lawyers

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 also serve in many prominent roles within the legal community including as immediate past president of the Maine Trial Lawyers Association, past president of the Boston Bar Association, former head of the American College of Trial Lawyers, and former Independent Counsel investigating allegations against a U.S. Secretary of Labor.

BTI Consulting Group, the leading provider of strategic research to the legal industry, has consistently recognized Pierce Atwood. We made the *BTI Client Service A-Team 2018* (for the second consecutive year), described as "law firms considered by clients to deliver the absolute best levels of client service." In 2017, we were named by top legal decision makers for "Leading Collaboration." And, in the 2015 *BTI Brand Elite* research study, Pierce Atwood was recognized for leadership, value, and innovation.

OFFICE LOCATIONS

PORTLAND, ME BOSTON, MA PORTSMOUTH, NH PROVIDENCE, RI AUGUSTA, ME STOCKHOLM, SE WASHINGTON, DC