

MAINE STATE LEGISLATURE

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123rd MAINE LEGISLATURE

SECOND REGULAR SESSION-2008

Legislative Document

No. 2247

H.P. 1608

House of Representatives, March 5, 2008

An Act To Continue Maine's Leadership in Covering the Uninsured

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Reference to the Committee on Insurance and Financial Services suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative PINGREE of North Haven.
Cosponsored by Senator SULLIVAN of York and
Representatives: BRAUTIGAM of Falmouth, CANAVAN of Waterville, CROCKETT of
Augusta, Speaker CUMMINGS of Portland, FAIRCLOTH of Bangor, PRIEST of Brunswick,
Senators: BOWMAN of York, President EDMONDS of Cumberland, MARTIN of Aroostook,
MITCHELL of Kennebec.

1 C. "Health and medical services" includes, but is not limited to, any services
2 included in the furnishing of medical care, dental care to the extent covered under a
3 medical insurance policy, pharmaceutical benefits or hospitalization, including but
4 not limited to services provided in a hospital or other medical facility; ancillary
5 services, including but not limited to ambulatory services; physician and other
6 practitioner services, including but not limited to services provided by a physician's
7 assistant, nurse practitioner or midwife; and behavioral health services, including but
8 not limited to mental health and substance abuse services.

9 **4. Rulemaking.** The board may adopt any rules necessary to implement this section.
10 Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5,
11 chapter 375, subchapter 2-A.

12 **Sec. E-3. 24-A MRSA §6915,** as amended by PL 2005, c. 386, Pt. D, §3, is
13 further amended to read:

14 **§6915. Dirigo Health Enterprise Fund**

15 The Dirigo Health Enterprise Fund is created as an enterprise fund for the deposit of
16 any funds advanced for initial operating expenses, payments made by employers and
17 individuals, any ~~savings-offset~~ payments made pursuant to former section 6913 and
18 section 6913-A, revenues transferred pursuant to Title 36, chapters 703 and 704 and any
19 funds received from any public or private source for the Dirigo Health Program and the
20 Maine Individual Reinsurance Association. An amount equal to 20% of the deposits
21 received by the Dirigo Health Enterprise Fund in the preceding month must be transferred
22 to the Maine Individual Reinsurance Association established by chapter 54 by the first of
23 each month beginning July 1, 2009. The fund may not lapse, but must be carried forward
24 to carry out the purposes of this chapter.

25 **Sec. E-4. 36 MRSA §4361, sub-§1-A,** as amended by PL 1997, c. 458, §1, is
26 further amended to read:

27 **1-A. Cigarette.** "Cigarette" means a cigarette, as defined in Section 5702 of the
28 Code;

29 A. Any roll of tobacco that is wrapped in paper or in any substance not containing
30 tobacco; or

31 B. Any roll of tobacco that is wrapped in a reconstituted tobacco sheet or any other
32 substance, other than leaf tobacco, containing tobacco and that:

33 (1) Has a typical cigarette size and shape, with a cellulose acetate or other
34 cigarette-type integrated filter;

35 (2) Is marketed in a traditional cigarette-type package or a package that bears a
36 product designation or tax classification specified in 27 Code of Federal
37 Regulations, Part 40.214(c); or

38 (3) Has a filler that consists primarily of flue-cured, burley, oriental or
39 unfermented tobaccos or any other material that yields the smoking
40 characteristics of any of those tobaccos.

1 For purposes of this subsection, a substance other than leaf tobacco contains tobacco only
2 if it consists of at least 2/3 by weight of tobacco leaf or other fibrous material from the
3 plant Nicotiana tabacum or the plant Nicotiana rustica.

4 **Sec. E-5. 36 MRSA §4365**, as amended by PL 2005, c. 457, Pt. AA, §1 and
5 affected by §8, is further amended to read:

6 **§4365. Rate of tax**

7 A tax is imposed on all cigarettes imported into this State or held in this State by any
8 person for sale at the rate of ~~100~~ 125 mills for each cigarette. Payment of the tax is
9 evidenced by the affixing of stamps to the packages containing the cigarettes.

10 **Sec. E-6. 36 MRSA §4365-F**, as enacted by PL 2005, c. 457, Pt. AA, §3 and
11 affected by §8, is repealed.

12 **Sec. E-7. 36 MRSA §4365-G** is enacted to read:

13 **§4365-G. Application of cigarette tax rate increase**

14 The following provisions apply to cigarettes held for resale on the effective date of
15 this section.

16 **1. Rate.** Cigarettes stamped at the rate of 100 mills per cigarette and held for resale
17 on the effective date of this subsection are subject to tax at the rate of 125 mills per
18 cigarette. Cigarettes not defined as cigarettes prior to the effective date of this section are
19 subject to tax at the rate of 25 mills per cigarette.

20 **2. Liability.** A person possessing cigarettes for resale is liable for a tax equal to 25
21 mills per cigarette. Stamps indicating payment of the tax imposed by this section must be
22 affixed to all packages of cigarettes held for resale as of the effective date of this section,
23 except that cigarettes held in vending machines as of that date do not require that stamp.

24 **3. Vending machines.** Notwithstanding any other provision of this chapter, it is
25 presumed that all cigarette vending machines are filled to capacity on the effective date of
26 this section, and the tax imposed by this section must be reported on that basis. A credit
27 against this inventory tax must be allowed for cigarettes stamped at the rate of 125 mills
28 per cigarette placed in vending machines before the effective date of this section.

29 **4. Payment.** Payment of the tax imposed by this section must be made to the State
30 Tax Assessor accompanied by forms prescribed by the assessor.

31 **Sec. E-8. 36 MRSA §4366-A, sub-§2, ¶D**, as amended by PL 2007, c. 438, §93,
32 is further amended to read:

33 D. For stamps at the face value of 100 mills, the discount rate is 1.15% ; and

34 **Sec. E-9. 36 MRSA §4366-A, sub-§2, ¶E** is enacted to read:

35 E. For stamps at the face value of 125 mills, the discount rate is 0.97%.

1 **Sec. E-10. 36 MRSA §4381** is repealed and the following enacted in its place:

2 **§4381. Tax credited to Dirigo Health Enterprise Fund**

3 The State Controller shall transfer by the 15th of each month from General Fund
4 revenues to the Dirigo Health Enterprise Fund established under Title 24-A, section 6915
5 the amount of tax collected pursuant to this chapter that exceeds the total fiscal year-to-
6 date budget projection for that tax revenue as of the close of the preceding month based
7 on the tax rate for cigarettes that was in effect on July 1, 2008. For purposes of this
8 section, "budget projection" is the amount derived from the March 1, 2008 report of the
9 Revenue Forecasting Committee established under Title 5, section 1710-E regarding the
10 tax that is imposed by this chapter, as determined on a monthly basis by the assessor.

11 **Sec. E-11. 36 MRSA §4401, sub-§1-A** is enacted to read:

12 **1-A. Cigar.** "Cigar" means a tobacco product that:

13 A. Consists of a roll of tobacco wrapped in leaf tobacco; or

14 B. Consists of a roll of tobacco wrapped in a substance other than leaf tobacco and is
15 not defined as a cigarette under section 4361, subsection 1-A.

16 **Sec. E-12. 36 MRSA §4403, sub-§1**, as amended by PL 2005, c. 627, §8, is
17 further amended to read:

18 **1. Smokeless tobacco.** A tax is imposed on all smokeless tobacco, including
19 chewing tobacco and snuff, at the rate of 78% of the wholesale sales price ~~beginning~~
20 ~~October 1, 2005.~~

21 **Sec. E-13. 36 MRSA §4403, sub-§2**, as amended by PL 2005, c. 627, §8, is
22 further amended to read:

23 **2. Other tobacco.** A tax is imposed on cigars, pipe tobacco and other tobacco
24 intended for smoking at the rate of 20% 78% of the wholesale sales price ~~beginning~~
25 ~~October 1, 2005.~~

26 **Sec. E-14. 36 MRSA §4404-D** is enacted to read:

27 **§4404-D. Tax credited to Dirigo Health Enterprise Fund**

28 The State Controller shall transfer by the 15th of each month from General Fund
29 revenues to the Dirigo Health Enterprise Fund established under Title 24-A, section 6915
30 the amount of tax collected pursuant to this chapter that exceeds the total fiscal year-to-
31 date budget projection for that tax revenue as of the close of the preceding month based
32 on the tax rate imposed by this chapter that was in effect on July 1, 2008. For purposes of
33 this section, "budget projection" is the amount derived from the March 1, 2008 report of
34 the Revenue Forecasting Committee established under Title 5, section 1710-E regarding
35 the tax that is imposed by this chapter, as determined on a monthly basis by the assessor.

36 **Sec. E-15. Savings offset payments calculated prior to effective date.**
37 Notwithstanding that section of this Part that repeals the Maine Revised Statutes, Title

1 24-A, section 6913, the savings offset payments that have been calculated and required
2 under former Title 24-A, section 6913 for claims paid prior to the effective date of this
3 Part are due and payable in the same manner and subject to the same procedures set forth
4 in former Title 24-A, section 6913 until the first monthly health access surcharge required
5 under Title 24-A, section 6913-A becomes due and payable.

6 **Sec. E-16. Transfers to Dirigo Health Enterprise Fund in fiscal year**
7 **2008-09.** Notwithstanding the Maine Revised Statutes, Title 36, sections 4381 and
8 4404-D, for fiscal year 2008-09, the total fiscal year-to-date budget projection excludes
9 any period in fiscal year 2008-09 prior to the effective date of this Part.

10 **Sec. E-17. Effective date.** This Part takes effect July 1, 2008 or on the effective
11 date of this Act, whichever occurs later.

12 **PART F**

13 **Sec. F-1. 24-A MRSA §6908, sub-§2, ¶B,** as enacted by PL 2003, c. 469, Pt. A,
14 §8, is amended to read:

15 B. Collect the savings offset payments provided in former section 6913 and the
16 health access surcharge provided in section 6913-A;

17 **Sec. F-2. 24-A MRSA §6908, sub-§2, ¶F,** as amended by PL 2005, c. 400, Pt.
18 C, §6, is repealed.

19 **Sec. F-3. 24-A MRSA §6908, sub-§2, ¶G,** as enacted by PL 2003, c. 469, Pt. A,
20 §8, is amended to read:

21 G. Establish and operate the Maine Quality Forum in accordance with the
22 provisions of section 6951-; and

23 **Sec. F-4. 24-A MRSA §6908, sub-§2, ¶H** is enacted to read:

24 H. On a quarterly basis no less than 60 days from the end of each quarter, collect and
25 report on:

26 (1) The total enrollment in the Dirigo Health Program, including the number of
27 enrollees previously underinsured or uninsured, the number of enrollees
28 previously insured, the number of individual enrollees and the number of
29 enrollees enrolled through small employers;

30 (2) The number of new participating employers in the Dirigo Health Program;

31 (3) The number of employers ceasing to offer coverage through the Dirigo
32 Health Program;

33 (4) The duration of employers' participation in the Dirigo Health Program; and

34 (5) A comparison of actual enrollees in the Dirigo Health Program to projected
35 enrollees.

36 Dirigo Health shall submit the quarterly reports required under this subsection to the
37 superintendent, to the joint standing committee of the Legislature having jurisdiction

1 certification signed by a member in good standing of the American Academy of
2 Actuaries or a successor organization that the carrier's rating methods and practices are in
3 accordance with generally accepted actuarial principles and with the applicable actuarial
4 standards of practice as promulgated by an actuarial standards board. The filing must
5 also certify that the carrier has included in its experience any savings offset payments or
6 recovery of those savings offset payments consistent with former section 6913. The filing
7 also must state the number of policyholders, certificate holders and dependents, as of the
8 close of the preceding calendar year, enrolled in large group health insurance plans
9 offered by the carrier. A filing and supporting information are public records except as
10 provided by Title 1, section 402, subsection 3.

11 **Sec. G-12. 24-A MRSA §6908, sub-§1, ¶A**, as enacted by PL 2003, c. 469, Pt.
12 A, §8, is amended to read:

13 A. Take any legal actions necessary or proper to recover or collect ~~savings offset~~
14 payments due Dirigo Health or that are necessary for the proper administration of
15 Dirigo Health;

16 SUMMARY

17 Part A authorizes the Superintendent of Insurance to approve a pilot project to
18 authorize health insurance carriers to offer individual health insurance products for young
19 people under the age of 30.

20 Part B establishes a reinsurance association for the individual health insurance
21 market, without placing individuals in a separate risk association or providing coverage
22 under different health plans than those available in the individual market. The Part also
23 requires individual premium rates charged by a carrier during a rating period to not
24 exceed 2.5 times the lowest individual rate charged by the carrier. This will lower rates
25 for the younger demographic and limit rate increases on the older demographic.

26 Part B also requires the Superintendent of Insurance to report yearly to the
27 Legislature the impact of changes to the rating provisions in the Maine Revised Statutes,
28 Title 24-A, section 2736-C and the establishment of the Maine Individual Reinsurance
29 Association pursuant to Title 24-A, chapter 54, the total number of individuals enrolled in
30 any health insurance product regulated by the Department of Professional and Financial
31 Regulation, Bureau of Insurance and the numbers of previously uninsured individuals
32 who have enrolled in any health insurance product regulated by the Bureau of Insurance.

33 Part B also allows a carrier that offered individual health plans prior to July 1, 2009
34 to close its book of business and establish a separate community rate for those individuals
35 applying for coverage under an individual health plan on or after July 1, 2009. A carrier
36 must merge the closed book with its open book by July 1, 2012 or when the number of
37 subscribers remaining in a carrier's closed individual book of business is less than 25
38 percent of the carrier's individual health plan subscriber total as of June 30, 2009,
39 whichever is earlier. The Superintendent of Insurance shall develop rules regarding
40 notice requirements and experience pooling in a carrier's open book of business to ensure
41 the availability of affordable options for individuals transitioning from the closed book of
42 business.

1 Part C removes limitations on the ability of Dirigo Health to adjust the subsidy to
2 individuals to ensure affordability.

3 Part D makes permanent the temporary voluntary cost containment targets on hospital
4 consolidated operating margins and cost increases, which were initiated in Public Law
5 2003, chapter 469, Part F, section 1 and were reauthorized in Public Law 2005, chapter
6 394, section 4.

7 Part E makes changes to the funding for the Dirigo Health Program. The Part repeals
8 the savings offset payment and replaces it with a health access surcharge of 1.8% on paid
9 claims. Part E also increases the tax on cigarettes from \$2.00 to \$2.50 a pack and
10 equalizes the rate of tax on all other tobacco products by a change in the taxation of "little
11 cigars" from the tobacco products tax to the cigarette tax and an increase in the tobacco
12 products tax from 20% to 78% of the wholesale price on cigars, pipe tobacco and other
13 smoking tobacco.

14 Part E also requires that all of the revenues from the surcharge and the cigarette tax
15 increases be credited to the Dirigo Health Enterprise Fund to support both the Dirigo
16 Health Program and the Maine Individual Reinsurance Association. Twenty percent of
17 monthly deposits received by the Dirigo Health Enterprise Fund will be transferred to the
18 association.

19 Part F requires that Dirigo Health submit quarterly reports on information regarding
20 enrollment in the Dirigo Health Program. This Part also repeals the Dirigo Health Risk
21 Pool.

22 Part G corrects cross-references to reflect the changes made in the bill.