

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

Amend the amendment in Part E, section 3 in §6915 in the first paragraph in the 3rd line (page 2, line 39 in amendment) by inserting after the following: "individuals," the following: 'revenues transferred pursuant to Title 28-A, section 1652, subsection 5 and Title 36, section 4853,'

Amend the amendment in Part E, section 3 in §6915 in the first paragraph in the 7th line (page 3, line 2 in amendment) by striking out the following: "20%" and inserting the following: '18.8%'

Amend the amendment in Part E, section 3 in §6915 in the first paragraph in the 7th line (page 3, line 2 in amendment) by inserting after the following: "from" the following: 'revenues transferred pursuant to Title 28-A, section 1652, subsection 5 and Title 36, section 4853,'

Amend the amendment in Part E, section 3 in §6915 in the first paragraph in the next to the last line (page 3, line 5 in amendment) by striking out the following: "2009" and inserting the following: '2010'

Amend the amendment on page 3 by inserting after Part E, section 14 the following:

‘Sec. E-15. Transfers to Dirigo Health Enterprise Fund in fiscal year 2008-09. Notwithstanding the Maine Revised Statutes, Title 28-A, section 1652, subsection 5, the total fiscal year-to-date budget projection excludes any period in fiscal year 2008-09 prior to the effective date of this Part.

Amend the bill in Part E by striking out all of section 16 (page 16, lines 6 to 9 in L.D.)

Amend the amendment by striking out all of Part F and inserting the following:

PART F

Sec. F-1. 28-A MRSA §1652, sub-§1, as repealed and replaced by PL 1987, c. 342, §116, is amended to read:

1. Excise tax on malt liquor. An excise tax is imposed on the privilege of manufacturing and selling malt liquor in the State. The Maine manufacturer or importing wholesale licensee shall pay an excise tax of 25¢ per gallon on all malt liquor sold in the State that is manufactured by a manufacturer that produced a total of less than 100,000 barrels of malt liquor in the previous calendar year and 54¢ per gallon on all other malt liquor sold in the State.

Sec. F-2. 28-A MRSA §1652, sub-§2, as amended by PL 1997, c. 767, §4, is repealed and the following enacted in its place:

2. Excise tax on wine; hard cider. An excise tax is imposed on the privilege of manufacturing and selling wine and hard cider in the State. The Maine manufacturer or importing wholesale licensee shall pay an excise tax of:

B. Thirty cents per gallon on all wine, other than sparkling wine, that is manufactured by a manufacturer that produced a total of less than 20,000 gallons of wine, other than sparkling wine, in the previous calendar year;

C. Sixty-five cents per gallon on all wine, other than sparkling wine and except as provided in paragraph B, manufactured in or imported into the State;

D. One dollar per gallon on all sparkling wine manufactured in or imported into the State; and

E. Twenty-five cents per gallon on all hard cider manufactured in or imported into the State.

Sec. F-3. 28-A MRSA §1652, sub-§5 is enacted to read:

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

Sec. F-4. Effective date. This Part takes effect August 1, 2008.

PART G

Sec. G-1. 36 MRSA c. 720 is enacted to read:

CHAPTER 720

SOFT DRINK AND SYRUP TAX

§ 4851. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Bottle. "Bottle" means any closed or sealed glass, metal, paper or plastic container or any other type of container regardless of the size or shape of the container.

2. Bottled soft drink. "Bottled soft drink" means any ready-to-consume soft drink contained in a bottle.

3. Distributor, manufacturer or wholesale dealer. "Distributor, manufacturer or wholesale dealer" means any person who receives, stores, manufactures, bottles or sells bottled soft drinks, syrup, simple syrup or powder or base products for mixing, compounding or making soft drinks for sale to retailers or other manufacturers, wholesale dealers or distributors for resale purposes.

4. Milk. "Milk" means natural liquid milk regardless of animal source or butterfat content; natural milk concentrate, whether or not reconstituted, regardless of animal source or butterfat content; or dehydrated natural milk, whether or not reconstituted.

5. Natural fruit juice. "Natural fruit juice" means the original liquid resulting from the pressing of fruit, the liquid resulting from the reconstitution of fruit juice concentrate or the liquid resulting from the restoration of water to dehydrated fruit juice.

6. Natural vegetable juice. "Natural vegetable juice" means the original liquid resulting from the pressing of vegetables, the liquid resulting from the reconstitution of vegetable juice concentrate or the liquid resulting from the restoration of water to dehydrated vegetable juice.

7. Nonalcoholic beverage. "Nonalcoholic beverage" means any beverage not subject to tax under Title 28-A, Part 4.

8. Place of business. "Place of business" means any place where soft drinks, syrups, simple syrups or powder or base products are manufactured or any place where bottled soft drinks, syrup, simple syrup, powder or base product or any other item taxed under this chapter is received.

9. Powder or base product. "Powder or base product" means a solid mixture of basic ingredients used in making, mixing or compounding soft drinks by mixing the powder or other base with water, ice, syrup, simple syrup, fruits, vegetables, fruit juice, vegetable juice or any other product suitable to make a soft drink.

10. Retailer. "Retailer" means any person, other than a distributor, manufacturer or wholesale dealer, who receives, stores, mixes, compounds or manufactures any soft drink and sells or otherwise dispenses the soft drink to the ultimate consumer.

11. Sale. "Sale" means the transfer of title or possession for a valuable consideration of tangible personal property regardless of the manner by which the transfer is accomplished.

12. Simple syrup. "Simple syrup" means a mixture of sugar and water.

13. Soft drink. "Soft drink" means any nonalcoholic beverage, whether naturally or artificially flavored, whether carbonated or noncarbonated, sold for human consumption, including, but not limited to, soda water, cola and other flavored drinks, any fruit or vegetable drink containing 10% or less of natural fruit juice or natural vegetable juice and all other drinks and beverages commonly referred to as soft drinks, but not including coffee or tea unless the coffee or tea is bottled as a liquid for sale.

14. Syrup. "Syrup" means the liquid mixture of basic ingredients used in making, mixing or compounding soft drinks by mixing the syrup with water, simple syrup, ice, fruits, vegetables, fruit juice, vegetable juice or any other product suitable to make a soft drink.

§ 4852. Tax rate

1. Tax imposed. There is imposed a tax on every distributor, manufacturer or wholesale dealer to be calculated as follows:

- A. Four dollars per gallon of syrup or simple syrup sold or offered for sale;
- B. Forty-two cents per gallon of bottled soft drinks sold or offered for sale; and
- C. When a package or container of powder or base product is sold or offered for sale in the State, the tax on the sale of each package or container is equal to 42¢ for each gallon of soft drink that may be produced from each package or container by following the manufacturer's instructions. This tax applies when the powder or base product is sold to a retailer for sale to the ultimate consumer after the soft drink is produced by the retailer.

2. Purchase from unlicensed seller. A retailer who purchases bottled soft drinks, syrup, simple syrup or powder or base product from an unlicensed distributor, manufacturer or wholesale dealer is liable for the tax imposed in subsection 1.

§ 4853. Tax credited to Dirigo Health Enterprise Fund

The State Controller shall transfer by the 15th of each month from General Fund revenues to the Dirigo Health Enterprise Fund established under Title 24-A, section 6915 the amount of tax collected pursuant to this chapter.

§ 4854. Exemptions

The following are exempt from the tax imposed by section 4852:

1. Sales to Federal Government. Syrups, simple syrups, powder or base products or soft drinks sold to the Federal Government;

2. Products exported from State. Syrups, simple syrups, powder or base products or soft drinks exported from the State by a distributor, manufacturer or wholesale dealer;

3. Coffee or tea base. Any powder or base product used in preparing coffee or tea;

4. Juice or vegetable concentrate. Any frozen, freeze-dried or other concentrate to which only water is added to produce a nonalcoholic beverage containing more than 10% natural fruit juice or natural vegetable juice;

5. Fruit or vegetable juice. Any nonalcoholic beverage containing more than 10% natural fruit juice or natural vegetable juice;

6. Sales to another distributor, manufacturer or wholesale dealer. Syrups, simple syrups, powders or base products or soft drinks sold by a distributor, manufacturer or wholesale dealer to a distributor, manufacturer or wholesale dealer who holds a license under section 4856 if the license

number of the distributor, manufacturer or wholesale dealer to whom the syrups, simple syrups, powder or base products or soft drinks are sold is clearly shown on the invoice for the sale that is claimed to be exempt. This exemption does not apply to any sale to a retailer;

7. Infant formula. Any product, whether sold in liquid or powder form, that is intended by its manufacturer for consumption by infants and that is commonly referred to as infant formula;

8. Water. Water to which no flavoring, whether artificial or natural, has been added and that has not been artificially carbonated;

9. Dietary aids. Any product, whether sold in liquid or powder form, that is intended by its manufacturer for use as a dietary supplement or for weight reduction;

10. Consumer mix. Any powder or base product that is intended by its manufacturer to be sold and used for the purpose of domestically mixing soft drinks by the ultimate consumer; and

11. Milk products. Any product containing milk or milk products.

§ 4855. Reports

A distributor, manufacturer or wholesale dealer and any retailer subject to the tax imposed by this chapter shall file a monthly return with the assessor and pay the tax on or before the 15th day of the month following the month in which the sale or purchase was made. The return must be made on a form prescribed by the assessor. The return must contain any information the assessor requires for the proper administration of this chapter. When a retailer is also acting as a distributor, manufacturer or wholesale dealer, the duty to report and pay the tax imposed by this chapter arises when the property is transferred to a retail store for sale to the ultimate consumer, as reflected by the records of the taxpayer.

§ 4856. Licenses

1. Distributor, manufacturer or wholesale dealer. Any distributor, manufacturer or wholesale dealer who sells or offers for sale to retailers within the State syrups, simple syrups, powder or base products or soft drinks shall obtain from the bureau a license for the privilege of conducting such business within the State.

2. Retailer. Any retailer who purchases syrups, simple syrups, powder or base products or soft drinks from a distributor, manufacturer or wholesale dealer not licensed under subsection 1 shall obtain a license from the bureau for the privilege of conducting such business.

3. Location; display. Any person required to obtain a license under this section shall obtain a license for each place of business owned or operated by that person. The license must be conspicuously displayed at the place of business for which it was issued.

§ 4857. Penalties

1. Failure to file, pay. A person required to file a return and pay tax under this chapter is subject to the same penalties as for failure to file and pay sales tax under Part 3.

2. Failure to obtain license. A person required to obtain a license under section 4856 who fails to do so is subject to the same penalties as for failure to register as a retailer under section 1754-B.

§ 4858. Rules

The assessor may adopt rules under the Maine Administrative Procedure Act to provide for the administration of this chapter. These rules may provide for a fee to cover the cost of issuing licenses required under section 4856. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. G-2. Effective date. This Part takes effect August 1, 2008.

PART H

Sec. H-1. Distribution of Fund for a Healthy Maine deallocation; report required.

The State Budget Officer shall review the programs receiving funds from the Fund for a Healthy Maine and shall make adjustments to each account receiving funding in the All Other line category pursuant to the deallocation in the Department of Administrative and Financial Services included in section 4. The State Budget Officer shall first apply any unexpended balance in the Fund for a Healthy Maine on June 30, 2008 before making any adjustments. These adjustments must be calculated in proportion to each account's allocation in the All Other line category in relation to the total All Other allocation for Fund for a Healthy Maine programs. Notwithstanding any other provision of law, the State Budget Officer shall transfer the identified amounts by financial order upon approval of the Governor. These transfers are considered adjustments to allocations in fiscal year 2008-09. The State Budget Officer shall report on the distribution of savings to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs and the joint standing committee of the Legislature having jurisdiction over health and human services matters by January 1, 2009.

Sec. H-2. Working capital advance. For fiscal year 2008-09, the State Controller is authorized to provide an advance up to \$3,600,000 from the General Fund to the Dirigo Health Enterprise Fund established in the Maine Revised Statutes, Title 24-A, section 6915 to provide funds for allocations from the Dirigo Health Enterprise Fund. These funds must be returned to the General Fund from the Dirigo Health Enterprise Fund no later than June 30, 2009.

Sec. H-3. Transfer from unappropriated surplus at close of fiscal year 2008-09 to the Dirigo Health Enterprise Fund. Notwithstanding any other provision of law, at the close of fiscal year 2008-09, the State Controller shall transfer up to \$3,600,000 from the unappropriated surplus of the General Fund to the Dirigo Health Enterprise Fund established in the Maine Revised Statutes, Title 24-A, section 6915 after all required deductions of appropriations, budgeted financial commitments and adjustments considered necessary by the State Controller have been made and as the first priority after the transfers required pursuant to Title 5, sections 1507 and 1511 and before the transfers required pursuant to Title 5, section 1536.

Sec. H-4. Appropriations and allocations. The following appropriations and allocations are made.

ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF

Fund for a Healthy Maine 0921

Initiative: Reduces funding to allow for the allocation of funds for the Dirigo Health Program. The State Budget Officer shall calculate the amount of the reduction to be achieved from existing balances in the Fund for a Healthy Maine and by deallocations from existing programs, and shall calculate the reductions to the individual Fund for a Healthy Maine program accounts and transfer those amounts by financial order.

FUND FOR A HEALTHY MAINE	2007-08	2008-09
All Other	\$0	(\$5,000,000)
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FUND FOR A HEALTHY MAINE TOTAL	\$0	(\$5,000,000)

ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF DEPARTMENT TOTALS	2007-08	2008-09
FUND FOR A HEALTHY MAINE	\$0	(\$5,000,000)
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DEPARTMENT TOTAL - ALL FUNDS	\$0	(\$5,000,000)

DIRIGO HEALTH

FHM-Dirigo Health N050

Initiative: Allocates funds for the purposes of the Dirigo Health Program.

FUND FOR A HEALTHY MAINE	2007-08	2008-09
All Other	\$0	\$5,000,000
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FUND FOR A HEALTHY MAINE TOTAL	\$0	\$5,000,000

DIRIGO HEALTH DEPARTMENT TOTALS	2007-08	2008-09

FUND FOR A HEALTHY MAINE	\$0	\$5,000,000
DEPARTMENT TOTAL - ALL FUNDS	\$0	\$5,000,000
SECTION TOTALS	2007-08	2008-09
FUND FOR A HEALTHY MAINE	\$0	\$0
SECTION TOTAL - ALL FUNDS	\$0	\$0

PART I

Sec. I-1. Report regarding Fund for a Healthy Maine. The Joint Standing Committee on Health and Human Services shall meet to consider the structure, accountability and appropriate level of legislative and independent oversight of the Fund for a Healthy Maine, established in the Maine Revised Statutes, Title 22, section 1511. The committee shall report back to the Joint Standing Committee on Appropriations and Financial Affairs by October 1, 2008 with recommendations, including necessary implementing legislation, for the structure, accountability and appropriate level and type of oversight of the Fund for a Healthy Maine.

PART J

Sec. J-1. 24-A MRSA §2736-C, sub-§10 is enacted to read:

10. Pilot projects; persons under 30 years of age. The superintendent shall authorize pilot projects in accordance with this subsection that allow a health insurance carrier that offers individual insurance, is marketing an individual insurance policy in this State and has a medical-loss ratio of at least 70% in the individual market to offer individual medical insurance products to persons under 30 years of age beginning July 1, 2009.

A. The superintendent shall review pilot project proposals submitted in accordance with rules adopted pursuant to paragraph E. The superintendent shall approve a pilot project proposal if it meets the minimum benefit requirements set forth in rules adopted pursuant to paragraph E and may not approve a proposal that does not provide such minimum benefit requirements.

B. Notwithstanding any requirements in this Title for specific health services, specific diseases and certain providers of health care services, the superintendent may adopt minimum benefit requirements that exclude certain benefits if determined by the superintendent to provide affordable and attractive individual health plans for persons under 30 years of age.

C. A pilot project approved by the superintendent pursuant to this subsection qualifies as creditable coverage under this Title. Notwithstanding section 2849-B, subsection 4, a policy that replaces coverage issued under a pilot project approved under this subsection is not subject to any preexisting conditions exclusion provisions. Each carrier that offers an individual product pursuant to a pilot project approved under this subsection must combine the experience for that product with other individual products offered by that carrier as filed with the bureau when determining premium rates. The experience of a carrier's closed pool may not be taken into account in determining pilot project premium rates.

D. Beginning in 2010, the superintendent shall report by March 1st annually to the joint standing committee of the Legislature having jurisdiction over insurance matters on the status of any pilot project approved by the superintendent pursuant to this subsection. The report must include an analysis of the effectiveness of the pilot project in encouraging persons under 30 years of age to purchase insurance and an analysis of the impact of the pilot project on the broader insurance market, including any impact on premiums and availability of coverage.

E. The superintendent shall establish by rule procedures and policies that facilitate the implementation of a pilot project pursuant to this subsection, including, but not limited to, a process for submitting a pilot project proposal, minimum requirements for approval of a pilot project and any requirements for minimum benefits. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A and must be adopted no later than 90 days after the effective date of this subsection.

PART K

Sec. K-1. Appropriations and allocations. The following appropriations and allocations are made.

ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF

Revenue Services - Bureau of 0002

Initiative: Provides funds for the administrative costs associated with establishing a soft drink tax, including funds for one Accounting Associate II position and related costs.

GENERAL FUND	2007-08	2008-09
POSITIONS - LEGISLATIVE COUNT	0.000	1.000
Personal Services	\$0	\$54,443
All Other	\$0	\$140,558
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GENERAL FUND TOTAL	\$0	\$195,001

**ADMINISTRATIVE AND FINANCIAL SERVICES,
DEPARTMENT OF
DEPARTMENT TOTALS**

	2007-08	2008-09
GENERAL FUND	\$0	\$195,001
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DEPARTMENT TOTAL - ALL FUNDS	\$0	\$195,001

DIRIGO HEALTH

Dirigo Health Fund 0988

Initiative: Deallocates funds for Dirigo Health costs that were funded by the savings offset payment.

DIRIGO HEALTH FUND	2007-08	2008-09
All Other	\$0	(\$32,900,000)
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DIRIGO HEALTH FUND TOTAL	\$0	(\$32,900,000)

Dirigo Health Fund 0988

Initiative: Allocates Dirigo Health funds from a health access surcharge of 1.8% on all paid claims.

DIRIGO HEALTH FUND	2007-08	2008-09
All Other	\$0	\$33,000,000
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DIRIGO HEALTH FUND TOTAL	\$0	\$33,000,000

Dirigo Health Fund 0988

Initiative: Allocates funds from revenue generated from the new tax on soft drinks.

DIRIGO HEALTH FUND	2007-08	2008-09
All Other	\$0	\$9,200,000
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DIRIGO HEALTH FUND TOTAL	\$0	\$9,200,000

Dirigo Health Fund 0988

Initiative: Allocates funds from the revenue generated from the increased excise tax on malt beverages and wine.

DIRIGO HEALTH FUND	2007-08	2008-09
All Other	\$0	\$7,499,937
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DIRIGO HEALTH FUND TOTAL	\$0	\$7,499,937
DIRIGO HEALTH DEPARTMENT TOTALS	2007-08	2008-09
DIRIGO HEALTH FUND	\$0	\$16,799,937
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DEPARTMENT TOTAL - ALL FUNDS	\$0	\$16,799,937
SECTION TOTALS	2007-08	2008-09
GENERAL FUND	\$0	\$195,001
DIRIGO HEALTH FUND	\$0	\$16,799,937
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SECTION TOTAL - ALL FUNDS	\$0	\$16,994,938

Amend the amendment by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

SUMMARY

This amendment makes the following changes.

It reduces the percentage of revenue that must be transferred from the Dirigo Health Enterprise Fund to the Maine Individual Reinsurance Association from 20% to 18.8% and delays the transfer for one year.

Part F increases the excise tax on malt beverages, except for manufacturers of less than 100,000 barrels annually, from 25 cents per gallon to 54 cents per gallon. Part F also increases, except for manufacturers of less than 20,000 gallons annually, the excise tax on wine manufactured or distributed in this State from 30 cents per gallon to 65 cents per gallon.

Part G imposes a new tax on syrup used to make soft drinks at the rate of \$4 per gallon of syrup and 42 cents per gallon of bottled soft drinks and soft drinks produced using powder.

Part H:

1. Transfers \$5,000,000 from the Fund for a Healthy Maine to the Dirigo Health Enterprise Fund and requires the State Budget Officer to adjust the amount of funding for each program receiving funds from the Fund for a Healthy Maine; and

2. Authorizes the State Controller to provide an advance of up to \$3,600,000 to the Dirigo Health Enterprise Fund. The funds must be returned to the General Fund no later than June 30, 2009.

Part I requires the Joint Standing Committee on Health and Human Services to meet and consider the structure, accountability and appropriate level of legislative and independent oversight of the Fund for a Healthy Maine and submit a report to the Joint Standing Committee on Appropriations and Financial Affairs.

Part J authorizes the Superintendent of Insurance to approve pilot projects to offer health insurance products for people under 30 years of age. The superintendent is authorized to approve pilot projects that do not comply with statutory and regulatory requirements for certain mandated benefits, geographic access standards and standard plans if determined to be appropriate to establish affordable and attractive products.

Part K adds an appropriations and allocations section.

FISCAL NOTE REQUIRED
(See attached)