

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, chapter 65 and Title 36, chapters 704 and 720.'

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: '17.6%'

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, chapter 65 and Title 36, chapters 704 and 720.'

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; Title 36, section 4853; and Title 36, section 4404-D, 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.

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 F-1. 28-A MRSA §1652, sub-§1,** as repealed and replaced by PL 1987, c. 342, §116, is amended to read: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 F-2. 28-A MRSA §1652, sub-§2,** as amended by PL 1997, c. 767, §4, is repealed and the following enacted in its place: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. 36 MRSA §4401, sub-§2-A** is enacted to read:

**2-A. Little cigar.** "Little cigar" means a small cigar, pursuant to Section 5701 of the Code, weighing not more than 3 pounds per thousand.

**Sec. H-2. 36 MRSA §4401, sub-§6-A** is enacted to read:

**6-A. Roll-your-own tobacco.** "Roll-your-own tobacco" means tobacco suitable for making cigarettes as defined in Section 5702 of the Code.

**Sec. H-3. 36 MRSA §4403, sub-§1,** as amended by PL 2005, c. 627, §8, is further amended to read:

**1. Smokeless tobacco.** A tax is imposed on all smokeless tobacco, including chewing tobacco and snuff, at the rate of 78% of the wholesale sales price beginning October 1, 2005 \$2.02 per ounce, with a minimum tax of \$2.02 per package.

**Sec. H-4. 36 MRSA §4403, sub-§2,** as amended by PL 2005, c. 627, §8, is further amended to read:

**2. Other tobacco.** A tax is imposed on cigars, pipe tobacco and other tobacco intended for smoking, other than little cigars and roll-your-own tobacco, at the rate of 20% 25% of the wholesale sales price beginning October 1, 2005.

**Sec. H-5. 36 MRSA §4403, sub-§2-A** is enacted to read:

**2-A. Little cigars and roll-your-own tobacco.** A tax is imposed on little cigars at the rate of 100 mills per little cigar and on roll-your-own tobacco at the rate of 100 mills per 0.036 ounce.

**Sec. H-6. 36 MRSA §4404-D** is enacted to read:

**§ 4404-D. 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 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 imposed by this chapter that was in effect on July 1, 2008. For purposes of this section, "budget projection" means 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 chapter, as determined on a monthly basis by the assessor.

**Sec. H-7. Effective date.** This Part takes effect August 1, 2008.

**PART I**

**Sec. I-1. Transfer of funds; Dirigo Health.** Notwithstanding any other provision of law, the State Controller shall transfer \$3,400,000 in fiscal year 2008-09 from the Fund for a Healthy Maine to the Dirigo Health Enterprise Fund no later than June 30, 2009.

**PART J**

**Sec. J-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.

The joint standing committee of the Legislature having jurisdiction over health and human services matters may submit a bill to the First Regular Session of the 124th Legislature implementing the provisions of the report.

**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 and changing the taxation of certain tobacco products, including funds for one Accounting Associate II position.

<b>GENERAL FUND</b>	<b>2007-08</b>	<b>2008-09</b>
POSITIONS - LEGISLATIVE COUNT	0.000	1.000
Personal Services	\$0	\$54,443
All Other	\$0	\$150,558
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GENERAL FUND TOTAL	\$0	\$205,001

<b>ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF DEPARTMENT TOTALS</b>	<b>2007-08</b>	<b>2008-09</b>
<b>GENERAL FUND</b>	<b>\$0</b>	<b>\$205,001</b>
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<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>\$205,001</b>

**DIRIGO HEALTH**

**Dirigo Health Fund 0988**

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

<b>DIRIGO HEALTH FUND</b>	<b>2007-08</b>	<b>2008-09</b>
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.

<b>DIRIGO HEALTH FUND</b>	<b>2007-08</b>	<b>2008-09</b>
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 transferred from the Fund for a Healthy Maine.

<b>DIRIGO HEALTH FUND</b>	<b>2007-08</b>	<b>2008-09</b>
All Other	\$0	\$3,400,000
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DIRIGO HEALTH FUND TOTAL	\$0	\$3,400,000

**Dirigo Health Fund 0988**

Initiative: Allocates funds from the tobacco products tax changes related to smokeless tobacco.

<b>DIRIGO HEALTH FUND</b>	<b>2007-08</b>	<b>2008-09</b>
All Other	\$0	\$1,696,780
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DIRIGO HEALTH FUND TOTAL	\$0	\$1,696,780

**Dirigo Health Fund 0988**

Initiative: Allocates funds from the tobacco products tax changes related to little cigars and roll-your-own tobacco.

<b>DIRIGO HEALTH FUND</b>	<b>2007-08</b>	<b>2008-09</b>
All Other	\$0	\$3,094,423
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DIRIGO HEALTH FUND TOTAL	\$0	\$3,094,423

**Dirigo Health Fund 0988**

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

<b>DIRIGO HEALTH FUND</b>	<b>2007-08</b>	<b>2008-09</b>
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.

<b>DIRIGO HEALTH FUND</b>	<b>2007-08</b>	<b>2008-09</b>
All Other	\$0	\$7,499,937
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DIRIGO HEALTH FUND TOTAL	\$0	\$7,499,937

**Dirigo Health Fund 0988**

Initiative: Allocates funds from increasing the other tobacco products tax from 20% to 25% of the wholesale sales price.

<b>DIRIGO HEALTH FUND</b>	<b>2007-08</b>	<b>2008-09</b>
All Other	\$0	\$263,937
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DIRIGO HEALTH FUND TOTAL	\$0	\$263,937

<b>DIRIGO HEALTH DEPARTMENT TOTALS</b>	<b>2007-08</b>	<b>2008-09</b>
DIRIGO HEALTH FUND	\$0	\$25,255,077
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DEPARTMENT TOTAL - ALL FUNDS	\$0	\$25,255,077

<b>SECTION TOTALS</b>	<b>2007-08</b>	<b>2008-09</b>
GENERAL FUND	\$0	\$205,001
DIRIGO HEALTH FUND	\$0	\$25,255,077
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SECTION TOTAL - ALL FUNDS	\$0	\$25,460,078

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 17.6%. The intended effect of this reduction is to reduce the amount in the Reserve Association Reserve by approximately \$3,400,000.

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 changes the rate of taxation for tobacco products as follows:

1. The rate of tax on tobacco products intended for smoking, except for cigarettes, little cigars and roll-your-own tobacco, is increased from 20% of the wholesale price to 25% of the wholesale price;

2. The tax on little cigars and roll-your-own tobacco is taxed at a rate equivalent to a tax on cigarettes of \$2.00 per pack; and

3. The tax on smokeless tobacco is changed from an ad valorem rate of 78% of the wholesale price to a weight-based tax of \$2.02 per ounce, with a minimum tax of \$2.02 per package.

Part I transfers \$3,400,000 from the Fund for a Healthy Maine to the Dirigo Health Enterprise Fund.

Part J 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. This Part also allows a bill to be submitted to the 124th Legislature regarding the findings of the Joint Standing Committee on Health and Human Services.

Part K adds an appropriations and allocations section.