

February 25, 2010

**Product stewardship legislation heading to the House of Representatives**

**Natural Resources committee gives unanimous approval to improved version of LD 1631**

As you know, the Maine State Chamber of Commerce has been very engaged this legislative session in the debate on **LD 1631, *An Act to Provide Leadership Regarding the Responsible Recycling of Consumer Products***, sponsored by Rep. Melissa Walsh Innes (D-Yarmouth). The original bill sought to create a “first in the nation” broad framework for identifying products that producers and manufacturers would be responsible for disposing of or recycling at the end of the product life cycle. (See previous editions of *Impact* for complete details about the original draft of the bill).

At the public hearing on Friday,

January 22, the Maine State Chamber opposed the bill and outlined the many concerns our organization had with the legislation. Since the hearing, the bill has changed dramatically – and for the better.

Rep. Innes took the Chamber’s comments seriously, and made wholesale changes to the bill based in large part on the concerns we outlined at the public hearing. On Friday, February 19, the Natural Resources committee voted unanimously in support of the new and markedly improved version of the bill.

The new bill simply directs the Maine DEP to report annually to the Natural  
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Sen. Seth Goodall (D-Sagadahoc) and Rep. Robert Duchesne (D-Old Town) chair the Joint Standing Committee on Natural Resources.

**IFS committee ratifies autism mandate legislation**

**Unanimous report headed to full Legislature; approval likely**

This week, legislation to mandate coverage for the diagnosis and treatment of autism spectrum disorders in children up to five years of age received unanimous approval from the Joint Standing Committee on Insurance and Financial Services.

In a work session on Wednesday, February 24, 2010, the IFS committee finalized their work on **LD 1198, *An Act to Reform Insurance Coverage to Include Diagnosis for Autism Spectrum Disorders***, sponsored by the Senate Chair of the committee, Sen. Peter Bowman, (D-York). The bill had been submitted in the first session of the 124th Legislature, and carried over to this session. At that time, the committee held a lengthy public hearing on this bill and took considerable public testimony, including testimony from the Maine State Chamber in opposition to the bill.

As originally drafted, LD 1198 mandated individual, group and HMO policies sold in Maine provide coverage for the *diagnosis and treatment* of autism spectrum disorders, including habilitative or rehabilitative services, counseling and therapy services, and prescribed drugs for individuals age 0 up to 21 years of age. The proposal did place a limit on coverage of \$36,000 per year. Additionally, the bill defined the phrase “autism spectrum disorder” to include autistic disorder, perva-

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## **Product Stewardship...** *(Continued from Page 1...)*

Resources committee on product stewardship programs already on the books in Maine. The report may contain recommendations for improving existing product stewardship programs, or new products that may be appropriate for product stewardship management in the future. We were also successful in negotiating a “public comment” period for the report of 30 days so that the business community should not be surprised when the annual report is presented to the Natural Resources committee. The bill also gives the Natural Resources committee the option of submitting legislation based on the findings of the annual report from the DEP.

*The rest of the 110-page bill has been deleted.*

This should be seen as an obvious improvement over the original draft of the bill, and – in some very real ways – over the current system used to identify products appropriate for product stewardship. This new framework ensures lots of opportunity for input from the business community: once during the public comment period on the annual report, and again at any subsequent public hearing held by the committee on legislation introduced based on the report findings. It also should prevent legislators from introducing manufacturer take-back legislation on products that were not part of this new process or framework established by LD 1631.

We would like to thank Rep. Innes for her willingness to work with the Maine State Chamber and other members of the business community to ensure a bet-



*Rep. Melissa Walsh Innes (D-Yarmouth) sponsored the original product stewardship legislation. We thank her for her willingness to work with the Maine State Chamber and business leaders to ensure a better outcome on this legislation.*

ter outcome on this legislation. Also, the chairs and leads of the Natural Resources committee were extremely helpful during this entire process. In addition to Rep. Innes, we would like to thank Sen. Seth Goodall (D-Richmond), Rep. Bob Duchesne (D-Hudson), Sen. Doug Smith (R-Dover-Foxcroft), and Rep. Jim Hamper (R-Oxford) for their work to improve the product stewardship bill.

If you have any questions about LD 1631, or about the new process for identifying products covered by this new program, please contact Chris Jackson by calling (207) 623-4568, ext. 18, or by emailing [cjackson@mainechamber.org](mailto:cjackson@mainechamber.org). □

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**About the Maine State Chamber of Commerce:** Since 1889, the Maine State Chamber has been fighting to lower your cost of doing business. Through our Grassroots Action Network and OneVoice program, we work with a network of approximately 5,000 companies statewide who see the value in such a service and provide the financial support that keeps our access, advocacy, and assistance efforts going strong. As Maine's Chamber, we make sure that the business environment of the state continues to thrive. The Maine State Chamber of Commerce advocates on behalf of their interests before the legislature and regulatory agencies and through conferences, seminars, and affiliated programs.

## Autism Mandate...

(Continued from Page 1...)

sive developmental disorder - not otherwise specified (PDD-NOS), and Asperger's Disorder as covered diagnoses.

As we have regarding past health insurance mandate proposals, the Maine State Chamber opposed the bill due to the likely cost associated with its enactment. No matter how well-intentioned a mandated benefit coverage may be, there is a cost associated with its enactment. Over the years, the Maine Legislature has authorized the inclusion of a number of mandated benefits into the state's insurance code. According to the Maine Bureau of Insurance's website, the Legislature has enacted or expanded upon previously established mandated benefit coverage 43 times since 1975. Some of these mandates have larger cost implications than others. However, the Bureau of Insurance has estimated that the total cost implications for non-HMO contracts amount to 8.30 % for groups over 20, 4% for groups of 20 or fewer, and 3.66% for individual ratepayers. The impact on HMO contracts equates to 8.03% for groups over 20, 5.96% for groups 20 or fewer, and 2.95% for individuals. It is important to note that a minority of states - only 19 - currently mandate insurance policies to cover autism spectrum disorders.

After the public hearing, the IFS com-

mittee elected to send the bill out for a "mandate study" to be conducted by the Bureau of Insurance. When the committee reconvened in January, it was presented with the results of the study. Those results showed that the bill, as drafted, could eventually add as much as .08%, or nearly \$3.00 per member per month (PMPM), to the premium of affected policies. If the proposal were enacted, it would make the mandated benefit the fourth most expensive in Maine law, behind the two mental health parity mandates and the chiropractic mandate.

As a result of the proposal's cost implications, considerable concerns were expressed by committee members regarding the best way to limit the bill's scope. After a number of work sessions, the committee developed a somewhat trimmed down mandate that, according to figures quoted in committee, would result in cost increases in the neighborhood of 88 cents PMPM once the coverage was fully implemented.

Although the final language is still being tweaked, the amended bill will mandate coverage in the individual, group, and HMO markets for the diagnosis and treatment of autism spectrum disorders for children up to age five. The amendment required that any treatment services be documented as medically necessary by a licensed physician or psychologist, including applied behavior analysis services. Those services must be provided by a person professionally certified as a behavior analyst. The \$36,000 annual services cap

remains in place, although there is concern that the cap may be made illegal by the federal mental health parity legislation passed by Congress. Lastly, the committee settled on an effective date of January 1, 2011, on policies sold in Maine.

Without question, the services and treatment provided by this mandate are well intended. However, we remain very concerned that should this bill pass, the impact on the health insurance premiums of employers, particularly small employers, could be enough to push more employers and employees into the ranks of the uninsured.

Our 2009-2010 *Where We Stand* survey asked Maine State Chamber members to identify which cost of doing business issue was the most concerning to them. Our respondents picked health insurance costs as their most concerning cost issue. In addition, an overwhelming 82% of responding employers who offer health insurance indicated they have seen an increase in their health insurance premiums during the past 12 months, *much of that increase in the area of between 10% and 30%*. Recent studies by the Bureau of Insurance indicated that on average, the small group market (businesses with less than 50 employees) experienced rate increases of 20% in this last renewal period. Anecdotally, we have heard from small employers who have experienced increases of more than 30%.

Despite the apparent reduction in the scope and cost of the original proposal, we remain opposed to the enactment of LD 1198. When debating the merits of mandating benefits, the Maine State Chamber has said many times that mandated benefits, no matter how well intentioned, serve no purpose if they push health insurance premiums beyond the reach of either the employer or the employee.

Passage of LD 1198 holds the potential for further increases in health care costs in Maine, which are already all too high and beyond the reach of many of Maine's citizens. The imposition of additional mandates will only serve to exacerbate the cost crisis we already face. Given the concerns businesses have regarding the existing cost of health insurance, we are opposed to legislation that may add, even in a small way, to future costs.

For additional information or questions, please contact Peter Gore by calling (207) 623-4568, ext. 17, or by emailing [pgore@mainechamber.org](mailto:pgore@mainechamber.org). □

## Digest of New Legislation

Maine Chamber staff have studied each of these recently printed bills to assess potential impact on business trends. If you have concerns regarding any bill, please communicate those concerns to a member of our governmental services staff at (207) 623-4568.

### ENVIRONMENTAL

**LD 1787, An Act to Provide for Legislative Review of Recently Proposed Revisions to Certain Rules Adopted Pursuant to the Site Location of Development Laws.** (Sen. Goodall, D-Richmond) *Joint Standing Committee on Natural Resources*. This bill requires that rules adopted by the Maine DEP pursuant to site law are major substantive, with the exception of storm water management rules, which remain routine technical.

**LD 1793, An Act to Stabilize Funding for Hazardous Material Emergency Response by the Department of Environmental Protection and Enhance Response Efforts of the Maine Emergency Management Agency.** (Rep. Perry, D-Calais, on behalf of the Governor) *Joint Standing Committee on Natural Resources*. This bill establishes a fee on natural gas transported by pipeline in the state.

### UTILITIES AND ENERGY

**LD 1786, An Act Regarding Energy Infrastructure Development.** (Rep. Hinck, D-Portland) *Joint Standing Committee on Utilities and Energy*. Among other things, this bill establishes a process for the State to use when entering into occupancy agreements for construction and development of energy infrastructure within statutory corridors. □

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## **Public Hearings**

*Public hearings are open to everyone. This public hearing schedule is subject to change. Questions may be directed to the Secretary of the Senate's Office at (207) 287-1540. For the most current schedule, please visit <http://www.mainelegislature.org/legis/lisio/phSched.asp> or contact the committee clerk.*

### **MONDAY, MARCH 1, 2010**

#### **Labor**

##### **1:00 p.m., Room 220, Cross Building**

**LD 1776** (SP 683), An Act To Protect Teacher Retirement Income (SPONSOR: Sen. SIMPSON of Androscoggin)

### **TUESDAY, MARCH 2, 2010**

#### **Health and Human Services**

##### **1:00 p.m., Room 209, Statehouse**

**LD 1706** (HP 1207), An Act To Create the Children's Wireless Protection Act (SPONSOR: Rep. BOLAND of Sanford)

#### **Insurance and Financial Services**

##### **1:00 p.m., Room 427, Statehouse**

**LD 1779** (HP 1266), An Act To Prohibit Surcharges on the Use of Debit Cards (SPONSOR: Rep. TREAT of Hallowell)

#### **Natural Resources**

##### **1:00 p.m., Room 214, Cross Building**

**LD 1787** (SP 698), An Act To Provide for Legislative Review of Recently Proposed Revisions to Certain Rules Adopted Pursuant to the Site Location of Development Laws (SPONSOR: Sen. GOODALL of Sagadahoc)

**LD 1793** (HP 1281), An Act To Stabilize Funding for Hazardous Material Emergency Response by the Department of Environmental Protection and Enhance Response Efforts of the Maine Emergency Management Agency (SPONSOR: Rep. PERRY of Calais)

#### **Taxation**

##### **1:00 p.m., Room 127, Statehouse**

**LD 1785** (HP 1273), An Act To Bolster Maine's Social Safety Net through Voluntary Sales Tax Contributions (SPONSOR: Rep. HAYES of Buckfield)

#### **Utilities and Energy**

##### **1:00 p.m., Room 211, Cross Building**

**LD 1786** (HP 1274), An Act Regarding Energy Infrastructure Development (SPONSOR: Rep. HINCK of Portland)

### **THURSDAY, MARCH 4, 2010**

#### **Business, Research and Economic Development**

##### **1:00 p.m., Room 208, Cross Building**

**LD 1677** (SP 649), An Act To Protect Minors from Pharmaceutical Marketing Practices (SPONSOR: Sen. SCHNEIDER of Penobscot)

#### **Education and Cultural Affairs**

##### **1:00 p.m., Room 202, Cross Building**

**LD 1800** (SP 705), An Act To Adopt the Common Core State Standards Initiative (Governor's Bill; Emergency) (SPONSOR: Sen. ALFOND of Cumberland)

**LD 1801** (SP 706), An Act To Promote the Establishment of Innovative Schools (Governor's Bill; Emergency) (SPONSOR: Sen. ALFOND) □