

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-THIRD LEGISLATURE

SECOND REGULAR SESSION
January 2, 2008 to March 31, 2008

FIRST SPECIAL SESSION
April 1, 2008 to April 18, 2008

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 30, 2008

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
JULY 18, 2008

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Penmor Lithographers
Lewiston, Maine
2008

B. To the extent funds available pursuant to paragraph A are insufficient to fund fully staff support for the council, each member of the council shall enter into an agreement with the ~~State Planning Office~~ Executive Department, Governor's Office of Energy Independence and Security to share in the cost of providing the staff support.

C. The council may seek, and the Public Utilities Commission may provide, funds to the council pursuant to Title 35-A, section 3211-A, subsection 5-A.

Sec. C-5. 5 MRSA §3327, sub-§4, as enacted by PL 2001, c. 630, §1, is amended to read:

4. Report; legislative oversight. By January 15th of each year, the chair of the council shall prepare and submit to the Governor and to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters an annual report describing the council's activities during the previous calendar year and ~~an outline of anticipated activities~~ the council's work plan for the current calendar year. The report must also include an evaluation of the council's effectiveness in meeting the requirements of this chapter and the adequacy of available staffing resources. The report may include recommendations for changes to law regarding energy policy. After ~~receiving a receipt and review of the annual report required under~~ this subsection, the joint standing committee of the Legislature having jurisdiction over utilities and energy matters may ~~report out~~ submit legislation relating to energy policy.

See title page for effective date.

CHAPTER 657

S.P. 847 - L.D. 2199

An Act To Establish a Railroad Crossing Information Council

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 5 MRSA §12004-I, sub-§92 is enacted to read:

92.

<u>Public Advocate</u>	<u>Railroad Crossing Information Council</u>	<u>Not Authorized</u>	<u>35-A MRSA §1712</u>
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Sec. 2. 35-A MRSA §1712 is enacted to read:

§1712. Railroad Crossing Information Council

1. Establishment. The Railroad Crossing Information Council, as established by Title 5, section

12004-I, subsection 92 and referred to in this section as "the council," is created to serve as a repository of information concerning the establishment or maintenance of private railroad crossings, and to provide information and assistance to persons regarding private crossings of railroads.

2. Members. The council is composed of:

A. The Public Advocate; and

B. Four members appointed by the Governor to serve 3-year terms that expire December 31st:

(1) One member who is a representative of the railroad industry;

(2) One member who is a representative of the insurance industry;

(3) One member who is a representative of the real estate industry; and

(4) One member who is a resident of this State and who is not and has never been employed in the railroad industry.

Members under paragraph B may be reappointed for subsequent terms. A vacancy must be filled for the remainder of the unexpired term in the same manner as an original appointment.

3. Chair. The Public Advocate is chair of the council.

4. Duties. The council shall gather and compile information regarding the process of and standards associated with establishing private railroad crossings, including but not limited to costs associated with installation, maintenance and insurance of private railroad crossings and contract terms. The council may provide advice and assistance to persons who request information on how to establish a private railroad crossing. The council may facilitate or mediate private railroad crossing disputes with the consent of the concerned parties. The council may take any other appropriate actions consistent with the purposes of this section.

5. Staffing and expenses. The Public Advocate within budgeted resources, shall provide reasonable staff support as requested by the council. Members of the council are not entitled to compensation as provided in Title 5, section 12004-I.

See title page for effective date.

CHAPTER 658

S.P. 857 - L.D. 2225

An Act To Provide Tax Relief to Maine's Forest Products Industry

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, Maine is dependent on its natural resources-based economy; and

Whereas, the price of diesel fuel in Maine is at an all-time high and is devastating the Maine economy, especially with regard to loggers and truckers carrying forest products; and

Whereas, Governor John E. Baldacci has already issued a Declaration of Civil Emergency regarding the high price of diesel fuel and its impact on the State's forest products industry; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 36 MRSA §1752, sub-§2-D is enacted to read:

2-D. Forest land. "Forest land" means land used primarily for the growth of trees to be harvested for commercial use.

Sec. 2. 36 MRSA §1752, sub-§2-E is enacted to read:

2-E. Forest products. "Forest products" means logs, pulpwood, bolt wood, wood chips, stud wood, poles, pilings, biomass or fuel wood or other products commonly known as forest products, but does not include Christmas trees, maple syrup, nursery products used for ornamental purposes, wreaths, bough material or cones or other seed crops.

Sec. 3. 36 MRSA §2019 is enacted to read:

§2019. Refund of sales tax on purchases of parts and supplies

1. Definition. For purposes of this section, "harvest-related transport of forest products" means the transportation of forest products from the forest land where they were harvested to their initial destination involving production or use.

2. Refund authorized. The State Tax Assessor shall refund to a person that purchases parts and supplies for use in the repair and maintenance of motor vehicles and trailers that are used directly and primarily in the harvest-related transport of forest products the amount of sales tax paid with respect to those parts and supplies upon the person's presenting evidence that the purchase is eligible for a refund under this section. The refund claim must be submitted on a

form prescribed by the assessor and must be accompanied by a copy or copies of that portion of the purchaser's most recent filing under the Code indicating that the purchaser is engaged in the harvest-related transport of forest products and such additional information as the assessor may require. The purchase must have been made on or after April 1, 2008 but before October 1, 2008. An application for a refund under this subsection must be filed with the assessor within 36 months of the date of purchase.

3. Purchases made free of tax with certificate. Sales tax need not be paid on the purchase of parts and supplies for use in the repair and maintenance of motor vehicles and trailers that are used directly and primarily in the harvest-related transport of forest products if the purchaser has obtained a certificate from the assessor stating that the purchaser is engaged in the harvest-related transport of forest products and authorizing the purchaser to purchase parts and supplies for use in the repair and maintenance of motor vehicles and trailers without paying Maine sales tax. The seller shall obtain a copy of the certificate together with an affidavit as prescribed by the assessor, to be maintained in the seller's records, attesting to the qualification of purchases for exemption pursuant to this section. In order for the purchase of parts and supplies to qualify for this exemption, the motor vehicle or trailer to be repaired or maintained must be used directly and primarily in the harvest-related transport of forest products.

4. Audit. The assessor may audit a claim for refund filed under subsection 2 or the use of a certificate issued under subsection 3. If the assessor determines that the amount of the claimed refund is incorrect or that the certificate has been used inappropriately, the assessor may issue an assessment within 3 years from the date of purchase or the date the claim was filed, whichever is later, or at any time if a fraudulent claim was filed. The claimant may seek reconsideration of the assessment pursuant to section 151.

5. Payment of claims. The assessor shall pay the approved amount to qualified applicants under this section within 30 days after receipt of a properly completed claim. Interest is not allowed on any payment made to a claimant pursuant to this section.

Sec. 4. Transfer funds. Notwithstanding any other provision of law, the Governor shall transfer by financial order \$175,000 by March 1, 2008 and \$125,000 by July 1, 2008 from the emergency portion of the State Contingent Account to the unappropriated surplus of the General Fund.

Sec. 5. Appropriations and allocations. The following appropriations and allocations are made.

ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF

Revenue Services - Bureau of 0002

Initiative: Appropriates funds for computer programming and mailing and printing costs.

GENERAL FUND	2007-08	2008-09
All Other	\$7,000	\$0
GENERAL FUND TOTAL	\$7,000	\$0

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

Effective April 18, 2008.

CHAPTER 659

H.P. 1662 - L.D. 2304

An Act To Require That a Person Be a Maine Resident in Order To Be Issued a Maine Driver's License

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the Legislature finds that it is imperative to strengthen and implement residency requirements for the issuance of a Maine driver's license or a nondriver identification card, without delay; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 29-A MRSA §1301, sub-§11 is enacted to read:

11. Residency requirement. A license may not be issued to a person unless the person presents acceptable documentary evidence of the person's residence or domicile in this State. The Secretary of State may exempt from the requirements of this subsection a person who has established to the satisfaction of the Secretary of State that the person is on active duty in the United States Armed Forces, the spouse or child of a person on active duty in the United States Armed Forces or a student enrolled in a university, college or school within the State.

A. Acceptable documentary evidence of a person's residence or domicile in this State must in-

clude the applicant's name and the address of the person's residence or domicile in this State. A post office box or other mail drop address is not sufficient. Acceptable documentary evidence includes, but is not limited to:

- (1) A tax return, W-2 form or paycheck stub;
- (2) A utility bill or a letter from a utility company showing application for service;
- (3) A contract to which the applicant is a party; or
- (4) A document issued by a governmental entity.

B. A person who is unable to provide acceptable documentary evidence pursuant to paragraph A may meet the requirements of this subsection by:

- (1) Submitting the affidavits of 2 individuals who have a personal or professional relationship with the person and knowledge of the person and the person's residence or domicile, which may include a shelter, in this State. A single affidavit signed by a parent or guardian of a minor making an application is sufficient for the purposes of this paragraph. The Secretary of State may reject any affidavit the Secretary of State determines to be insufficient to meet the requirements of this subsection. The affidavit is a sworn statement and a false statement by the affiant constitutes false swearing, which is a violation of Title 17-A, section 452. The Secretary of State shall provide forms for the completion of affidavits. These forms must state: "By signing this statement I verify that the representations herein are true. By making false statements on this document, I realize I am committing a Class D crime punishable under Maine law."; or
- (2) By taking an oath or affirmation before the Secretary of State swearing to the person's residence or domicile, which may include a shelter.

An applicant who supplies false information pursuant to this subsection makes a material misstatement of fact described in section 2103 and is subject to the penalties under that section.

Sec. 2. 29-A MRSA §1410, sub-§1, as enacted by PL 1997, c. 437, §40, is repealed and the following enacted in its place:

1. Application. A nondriver identification card may not be issued to a person unless the person presents acceptable documentary evidence of the person's residence or domicile in this State. A post office box or mail drop address alone is not sufficient to meet this requirement. A person on active duty in the United