

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)



120th MAINE LEGISLATURE

FIRST REGULAR SESSION-2001

Legislative Document

No. 1808

H.P. 1351

House of Representatives, May 15, 2001

**An Act Regarding the Laws Governing the Department of Defense,
Veterans and Emergency Management and the Commission to
Recognize Veterans of the Vietnam War in the State House Hall of Flags.**

(EMERGENCY)

Reported by Representative TUTTLE for the Joint Standing Committee on Legal and
Veterans Affairs pursuant to 2001 Joint Order, H.P. 1340.

Millicent M. MacFarland

MILLICENT M. MacFARLAND, Clerk

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

4 **Whereas,** a commission to recognize veterans of the Vietnam
6 War in the State House Hall of Flags was established by the 119th
Legislature; and

8 **Whereas,** the commission was required to file its final
10 report and to terminate on November 1, 2000; and

12 **Whereas,** the commission, which consists of 5 public,
nonlegislative members, requires additional time to complete its
14 work; and

16 **Whereas,** the plaque and flag or flags selected by the
commission will be placed in the State House Hall of Flags; and

18 **Whereas,** renovations to the State House Hall of Flags have
20 required the removal and temporary storage of most historical
items, artwork and plaques displayed in the Hall; and

22 **Whereas,** the State House Hall of Flags renovations are not
24 expected to be completed until the summer of 2002; and

26 **Whereas,** the process to solicit and select designs and to
raise the necessary funds to produce the plaque and flag or flags
28 chosen by the commission could not be completed by the original
report deadline; and

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

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

38 **Sec. 1. 37-B MRSA §155,** as enacted by PL 1997, c. 455, §15,
40 is amended to read:

42 **§155. Reimbursement fund**

44 The Maine National Guard may provide services in accordance
with section 181-A, subsections 4 and 5 and section 183 for
46 federal, state, county, regional and municipal governments and
agencies and nongovernmental entities and may charge for those
48 services. The fees collected must first be allocated for funding
the cost of providing those services, and any remaining fees may
50 be expended only within the Military Bureau.

2 **Sec. 2. 37-B MRSA §264, sub-§3, ¶¶F and G,** as enacted by PL
3 1997, c. 783, §1, are amended to read:

4 F. The Millinocket Armory; and

5
6 G. A 6 1/2-acre parcel of land located on the northeasterly
7 side of U.S. Route One across from the Belfast Armory and
8 part of the parcel of land described in the Waldo County
9 Registry of Deeds, Book 411, Page 446+; and

10
11 **Sec. 3. 37-B MRSA §264, sub-§3, ¶H** is enacted to read:

12
13 H. The Caribou Armory, located at 55 Bennett Drive,
14 Caribou, but not including the organizational maintenance
15 shop, known as OMS5, nor the metal storage building.

16
17 **Sec. 4. 37-B MRSA §742, sub-§1,** as amended by PL 1987, c. 810,
18 §6, is further amended to read:

19
20 **1. Emergency proclamation. Disaster Emergency**
21 **proclamations shall must be issued as follows.**

22
23 A. Whenever a disaster or civil emergency exists or appears
24 imminent, the Governor shall, by oral proclamation, declare
25 a state of emergency in the State or any section of the
26 State. If the Governor is temporarily absent from the State
27 or is otherwise unavailable, the next person in the State
28 who would act as Governor if the office of the Governor were
29 vacant may, by oral proclamation, declare the fact that a
30 civil emergency exists or appears sufficiently imminent to
31 activate emergency ~~preparedness~~ plans in any or all areas of
32 the State. A written copy of the proclamation shall must be
33 filed with the Secretary of State within 24 hours of the
34 oral proclamation.

35
36 B. Subject at all times to the further direction and order
37 of the Governor, an executive proclamation of emergency
38 shall ~~activate~~ activates the emergency ~~preparedness~~ plans
39 applicable to the affected areas and shall ~~be~~ is the
40 authority for the deployment and use of any forces or
41 resources to which the plan or plans apply.

42
43 C. After the filing of the emergency proclamation and in
44 addition to any other powers conferred by law, the Governor
45 may:

46
47 (1) Suspend the enforcement of any statute prescribing
48 the procedures for conduct of state business, or the
49 orders or rules of any state agency, if strict
50

- 2 compliance with the provisions of the statute, order or
rule would in any way prevent, hinder or delay
4 necessary action in coping with the emergency;
- 6 (2) Utilize all available resources of the State
Government and of each political subdivision of the
8 State as reasonably necessary to cope with the disaster
emergency;
- 10 (3) Transfer the direction, personnel or functions of
12 state departments and agencies, or units thereof, for
the purposes of performing or facilitating emergency
14 services;
- 16 (4) Authorize the obtaining and acquisition of
property, supplies and materials pursuant to section
18 821;
- 20 (5) Enlist the aid of any person to assist in the
effort to control, put out or end the emergency or aid
22 in the caring for the safety of persons;
- 24 (6) Direct and compel the evacuation of all or part of
the population from any stricken or threatened area
26 within the State, if ~~he deems~~ the Governor determines
this action necessary for the preservation of life or
28 other disaster mitigation, response or recovery;
- 30 (7) Prescribe routes, modes of transportation and
destinations in connection with evacuations;
- 32 (8) Control ingress and egress to and from a disaster
area, the movement of persons within the area and the
34 occupancy of premises therein;
- 36 (9) Suspend or limit the sale, dispensing or
transportation of alcoholic beverages, firearms,
38 explosives and combustibles;
- 40 (10) Make provision for the availability and use of
temporary emergency housing;
- 42 (11) Order the termination, temporary or permanent, of
44 any process, operation, machine or device which may be
causing or is understood to be the cause of the state
46 of emergency for which this proclamation was made; and
- 48 (12) Take whatever action is necessary to abate, clean
up or mitigate whatever danger may exist within the
50 affected area.

2 **Sec. 5. 37-B MRSA §742, sub-§2**, as enacted by PL 1983, c. 460,
3, is amended to read:

4 **2. Energy emergency proclamation.** Energy emergency
6 proclamations ~~shall~~ must be issued as follows.

8 A. When an actual or impending acute shortage in energy
resources threatens the health, safety or welfare of the
10 citizens of the State, the Governor shall, by oral
proclamation, declare that fact and that an energy emergency
12 exists in the State or in any section of the State. A
written copy of the proclamation ~~shall~~ must be filed with
14 the Secretary of State within 24 hours of the oral
proclamation.

16 B. Upon the issuance of an energy emergency proclamation
and after consulting with the ~~Director of Energy Resources~~
18 Executive Department, State Planning Office, the Governor
may exercise all the powers granted in this chapter, except
20 as specifically limited by paragraph C. The powers of the
22 Governor ~~shall~~ include, without limitation, the authority to:

24 (1) Establish and implement programs, controls,
standards, priorities and quotas for the allocation,
26 conservation and consumption of energy resources;

28 (2) Regulate the hours and days during which
nonresidential buildings may be open and the
30 temperatures at which they may be maintained;

32 (3) Regulate the use of gasoline and diesel-powered
land vehicles, watercraft and aircraft;

34 (4) After consulting, when appropriate, with the New
England governors and upon the recommendations of the
36 Maine Public Utilities Commission, regulate the
generation, distribution and consumption of electricity;

38 (5) Establish temporary state and local boards and
agencies;

42 (6) Establish and implement programs and agreements
44 for the purposes of coordinating the emergency energy
response of the State with those of the Federal
46 Government and of other states and localities;

48 (7) Temporarily suspend truck weight and size
regulations, but not in conflict with federal
50 regulations; and

2 (8) Regulate the storage, distribution and consumption
of home heating oil.

4

6 C. In dealing with a declared energy emergency, the
following powers granted by this chapter may not be invoked:

8 (1) The eminent domain powers granted in section 821;
and

10

12 (2) The enforcement powers granted in sections 786 and
14 829, unless the Governor specifically invokes these
16 powers by an order issued pursuant to an energy
18 emergency proclamation and approved by a majority of
20 the membership of the Legislative Council. That order
22 ~~shall~~ must specify those emergency orders or rules
24 ~~which shall be~~ that are enforceable pursuant to this
26 paragraph and ~~shall~~ must further specify the
enforcement activities ~~civil~~ emergency preparedness
management organizations are to pursue. No enforcement
action may be taken pursuant to this paragraph without
publication of the order authorizing the action in a
manner reasonably calculated to give affected persons
adequate notice of the order or rule to be enforced,
which may include publication on the Internet, and the
sanctions to be applied.

28 D. During a declared energy emergency, the following
provisions relating to environmental rules apply.

30

32 (1) Except as provided in subparagraph (2), ~~nothing~~
~~contained in~~ this subsection may not be construed to
34 authorize the Governor to suspend or to modify orders,
rules, standards or classifications issued or enforced
36 by the Department of Environmental Protection or the
Maine Land Use Regulation Commission.

38 (2) When an energy emergency proclamation is in
effect, the Governor may call the Board of
40 Environmental Protection into extraordinary session to
42 consider temporary waivers or suspensions of rules and
standards related to air and water quality necessary to
relieve then existing energy shortages. At an
44 extraordinary session, the board is empowered,
notwithstanding any other provision of law, to approve
46 suspensions or waivers ~~which~~ that it determines are
necessary to relieve or avoid an energy shortage and
48 will not result in environmental degradation of a
permanent or enduring nature. In no event may any
50 suspension or modification be granted ~~which~~ that will

2 result in a circumvention of Title 38, sections 481 to
4 488, 541 and 557. The waiver or suspension shall may
6 not remain in effect longer than 60 days or after the
date on which the board renders a further order issued
pursuant to the regular procedures specified in Title
38, whichever shall first ~~occur~~ occurs.

8 E. The Superior Court of the county in which a person fails
10 to obey an order or rule promulgated in accordance with this
subsection shall--~~have~~ has jurisdiction to issue a
12 restraining order or injunction to enforce the order or
rule. That proceeding shall must be held in accordance with
the Maine Rules of Civil Procedure, Rule 65.

14 F. In the event that an order or rule issued by the
16 Governor, pursuant to the powers granted in paragraph B, are
to be in effect for longer than 90 days, the Governor shall,
18 before the 80th day following the issuance of the order or
rule, convene the Legislature.

20 **Sec. 6. Resolve 1999, c. 113, §6** is amended to read:

22 **Sec. 6. Consultation; reports. Resolved:** That the commission
24 shall consult with the State House and Capitol Park Commission to
ensure the appropriateness of the design and location of the new
26 plaque and the selection and placement of the new flag or flags
within the State House Hall of Flags. When the commission has
28 agreed upon an appropriate location and design, but not later
than October 4, 2000, the commission shall submit its initial
30 report to the Executive Director of the Legislative Council. A
final report must be submitted to the Executive Director of the
32 Legislative Council by ~~November 1, 2000~~ December 1, 2001. Upon
submission of its required reports, the commission terminates;
34 and be it further

36 **Sec. 7. Retroactivity.** That section of this Act that amends
Resolve 1999, chapter 113, section 6 applies retroactively to
38 November 1, 2000.

40 **Emergency clause.** In view of the emergency cited in the
preamble, this Act takes effect when approved.
42

44 SUMMARY

46 This bill is the result of 2001 Joint Order, H.P. 1340 and
is emergency legislation that proposes to extend the final
48 reporting date for the commission to recognize veterans of the
Vietnam War in the State House Hall of Flags. The sections of

the bill regarding the commission apply retroactively to November
2 1, 2000. The bill also makes changes to the laws governing the
Department of Defense, Veterans and Emergency Management by
4 authorizing the sale of the Caribou Armory and requiring the
Governor to make an oral declaration of an emergency and
6 specifying that a written declaration must be filed with the
Secretary of State within 24 hours of the oral declaration.