

# MAINE STATE LEGISLATURE

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# 123rd MAINE LEGISLATURE

## SECOND REGULAR SESSION-2008

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Legislative Document

No. 2263

S.P. 891

March 19, 2008

### **An Act Establishing an Outdoor Wood Boiler Fund**

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Reported by Senator MARTIN of Aroostook for the Joint Standing Committee on Natural Resources pursuant to Joint Order, S.P. 886.

Reference to the Committee on Natural Resources suggested and ordered printed under Joint Rule 218.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN  
Secretary of the Senate

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

2 **Sec. 1. 38 MRSA §610-B, sub-§4** is enacted to read:

3 **4. Emergency powers.** If the commissioner finds after investigation that an outdoor  
4 wood boiler is being operated in a manner that may create a nuisance condition or a  
5 danger to public health or safety, the commissioner may order any person operating that  
6 outdoor wood boiler to immediately cease or prevent that operation, and the  
7 commissioner may take such action as may be necessary to terminate or mitigate the  
8 danger or likelihood of danger. The commissioner may also issue an order to any person  
9 contributing to the danger or likelihood of danger to cease or prevent that contribution.

10 A. An order issued under this subsection must contain findings of fact describing,  
11 insofar as possible, the site of the operation and the nuisance condition or danger to  
12 the public health or safety.

13 B. Service of a copy of the commissioner's findings and order under this subsection  
14 must be made by the sheriff or deputy sheriff or by hand delivery by an authorized  
15 representative of the department in accordance with the Maine Rules of Civil  
16 Procedure.

17 C. The person to whom the order is directed shall comply immediately. An order  
18 may not be appealed to the Superior Court, but the person to whom the order is  
19 directed may apply to the board for a hearing on the order if the application is made  
20 within 10 working days after receipt of the order by the person to whom the order  
21 was directed. Within 15 working days after receipt of the application, the board shall  
22 hold a hearing, make findings of fact and vote on a decision that continues, revokes  
23 or modifies the order. That decision must be in writing and signed by the board chair  
24 using any means for signature authorized in the department's rules and published  
25 within 2 working days after the hearing and vote.

26 The nature of the hearing before the board is an appeal. At the hearing, all witnesses  
27 must be sworn and the commissioner shall first establish the basis for the order and  
28 for naming the person to whom the order is directed. The decision of the board may  
29 be appealed to the Superior Court in accordance with Title 5, chapter 375, subchapter  
30 7.

31 **Sec. 2. 38 MRSA §610-C** is enacted to read:

32 **§610-C. Outdoor Wood Boiler Fund**

33 **1. Fund established.** The Outdoor Wood Boiler Fund, referred to in this section as  
34 "the fund," is established as a nonlapsing fund administered by the commissioner to be  
35 used by the department to purchase and replace outdoor wood boilers that create a  
36 nuisance condition as defined in the department's rules or threat to public health or safety.

37 **2. Sources of money.** The fund consists of any money received from the following  
38 sources:

39 A. Appropriations by the State;

