

MAINE STATE LEGISLATURE

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123rd MAINE LEGISLATURE

FIRST SPECIAL SESSION-2008

Legislative Document

No. 2294

S.P. 915

April 2, 2008

An Act To Modernize the Local Health Officer Statutes

Reported by Senator BRANNIGAN of Cumberland for the Joint Standing Committee on Health and Human Services pursuant to Public Law 2007, chapter 462, section 7.

A handwritten signature in cursive script, reading "Joy J. O'Brien", is positioned above the printed name and title.

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. 20-A MRSA §6301, sub-§5-A**, as enacted by PL 1983, c. 661, §6 and
3 amended by PL 2003, c. 689, Pt. B, §6, is further amended to read:

4 **5-A. Notification.** The superintendent shall cause notice of the communicable
5 disease to be given to the Department of Health and Human Services, in accordance with
6 the requirements of Title 22, ~~chapter~~ chapters 250 and 251, and rules issued under ~~that~~
7 ~~chapter~~ those chapters.

8 **Sec. 2. 20-A MRSA §6301, sub-§6**, as enacted by PL 1981, c. 693, §§5 and 8
9 and amended by PL 2003, c. 689, Pt. B, §6, is further amended to read:

10 **6. Authority and duties of the Department of Health and Human Services.** The
11 Department of Health and Human Services ~~shall have~~ has the authority and duties
12 prescribed in Title 22, ~~chapter~~ chapters 250 and 251 ~~on~~ with respect to the control of
13 notifiable diseases and conditions and communicable diseases.

14 **Sec. 3. 20-A MRSA §6356, sub-§1**, as enacted by PL 1983, c. 661, §8, is
15 amended to read:

16 **1. Public health official action.** When a public health official has reason to believe
17 that the continued presence in a school of a child who has not been immunized against
18 one or more diseases presents a clear danger to the health of others, the public health
19 official shall notify the Department of Health and Human Services, Maine Center for
20 Disease Control and Prevention and the superintendent of the school. The superintendent
21 shall cause the child to be excluded from school during the period of danger or until the
22 child receives the necessary immunizing agent.

23 Whenever, as a result of this section, a child is absent from the public school for more
24 than 10 days, the superintendent shall make arrangements to meet the educational needs
25 of the child.

26 **Sec. 4. 22 MRSA §252**, as amended by PL 1989, c. 487, §2, is further amended to
27 read:

28 **§252. Penalties**

29 ~~Whoever willfully~~ A person who intentionally or knowingly violates any provision of
30 section 451, 454, ~~456~~ 454-A, 461 or 462, or of rules adopted pursuant to those sections,
31 or neglects or refuses to obey any order or direction of any local health officer authorized
32 by those provisions, the penalty for which is not specifically provided, or ~~willfully~~
33 intentionally or knowingly interferes with any person or thing to prevent the execution of
34 those sections or of the rules, ~~is guilty of a Class E crime~~ commits a civil violation for
35 which a fine of not more than \$500 may be adjudged. The District Court ~~shall have~~ has
36 jurisdiction of all offenses under these sections.

37 **Sec. 5. 22 MRSA §451, sub-§2**, as enacted by PL 2007, c. 462, §1, is amended to
38 read:

1 **2. Qualifications.** The local health officer must be qualified by education, training
2 or experience in the field of public health or a combination as determined by standards
3 adopted by department rule no later than June 1, 2008. A person who is employed as a
4 local health officer who is not qualified by education, training or experience must meet
5 qualification standards adopted by department rule no later than June 1, 2009. ~~On or after~~
6 ~~June 1, 2009, a person may not be appointed and employed as a local health officer unless~~
7 ~~that person is first qualified pursuant to the standards set by department rule 6 months~~
8 ~~after appointment.~~ Rules adopted pursuant to this subsection are major substantive rules
9 as defined in Title 5, chapter 375, subchapter 2-A.

10 **Sec. 6. 22 MRSA §454**, as repealed and replaced by PL 1997, c. 387, §1 and
11 amended by PL 2003, c. 689, Pt. B, §7, is repealed.

12 **Sec. 7. 22 MRSA §454-A** is enacted to read:

13 **§454-A. Powers and duties**

14 **1. Supervision.** For the purposes of this section, a local health officer is subject to
15 the supervision and direction of the commissioner or the commissioner's designee.

16 **2. Duties.** Within jurisdictional limits, a local health officer shall:

17 A. Make and keep a record of all the proceedings, transactions, ordinances, orders
18 and rules acted upon by the local health officer;

19 B. Report to the commissioner or the commissioner's designee facts that relate to
20 communicable diseases and cases of communicable disease as required by
21 department rules;

22 C. During a declared health emergency, as defined in section 802, subsections 2 and
23 2-A, report to the commissioner or the commissioner's designee facts regarding
24 potential notifiable diseases and cases that directly relate to the declared health
25 emergency, as the rules of the department require;

26 D. Receive and examine the nature of complaints made by members of the public
27 concerning conditions posing a public health threat or a potential public health threat;

28 E. With the consent of the owner, agent or occupant, enter, inspect and examine any
29 place or premises where filth, whether or not the cause of sickness, or conditions
30 posing a public health threat are known or believed to exist. An agent with special
31 expertise appointed by the local health officer may inspect and examine the place or
32 premises. If entry is refused, the local health officer shall apply for an inspection
33 warrant from the District Court, pursuant to Title 4, section 179, prior to conducting
34 the inspection;

35 F. After consulting with the commissioner or the commissioner's designee, order the
36 suppression and removal of nuisances and conditions suspected of posing or found to
37 pose a public health threat;

38 G. Act as a resource for connecting residents with the public health services and
39 resources provided by the Maine Center for Disease Control and Prevention; and

1 H. Enforce public health safety laws, including:

2 (1) Laws pertaining to the exclusion of students from school under Title 20-A,
3 section 6356;

4 (2) Laws pertaining to control of browntail moths under section 1444;

5 (3) Laws pertaining to the removal of a private nuisance or nuisance of a dead
6 animal under sections 1561 and 1562;

7 (4) Laws pertaining to the establishment of temporary health care facilities under
8 section 1762; and

9 (5) Laws pertaining to prohibited dumping under Title 30-A, section 3352.

10 For purposes of this subsection, "public health threat" means any condition or behavior
11 that can reasonably be expected to place others at significant risk of exposure to infection
12 with a communicable disease.

13 **Sec. 8. 22 MRSA §459**, as amended by PL 1989, c. 487, §§6 and 7 and PL 2003,
14 c. 689, Pt. B, §6, is repealed.

15 **Sec. 9. 22 MRSA §801, sub-§6**, as enacted by PL 1989, c. 487, §11, is amended
16 to read:

17 **6. Local health officer.** "~~Municipal~~ Local health officer" means a person who is a
18 municipal official appointed pursuant to section 451 and who is authorized by the
19 department to enforce this chapter.

20 **Sec. 10. 22 MRSA §804, sub-§1**, as enacted by PL 1989, c. 487, §11, is amended
21 to read:

22 **1. Rules enforced.** All agents of the department, ~~municipal local~~ health officers,
23 sheriffs, state and local law enforcement officers and other officials designated by the
24 department ~~shall~~ are authorized to enforce the rules of the department made pursuant to
25 section 802 to the extent that enforcement is authorized in those rules.

26 **Sec. 11. 22 MRSA §1313-A, first ¶**, as amended by PL 2007, c. 133, §2, is
27 further amended to read:

28 If an undomesticated animal suspected of having rabies bites or may have otherwise
29 exposed to rabies a person or a domestic animal, an animal control officer, ~~a local health~~
30 ~~officer~~ or a game warden shall immediately either remove the undomesticated animal or
31 cause the undomesticated animal to be removed and euthanized for testing. If a wolf
32 hybrid suspected of having rabies bites or may have otherwise exposed to rabies a person
33 or a domestic animal, an animal control officer, ~~a local health officer~~ or a law
34 enforcement officer shall immediately cause the animal to be euthanized for testing.
35 When in the judgment of the animal control officer, ~~local health officer~~, game warden or
36 law enforcement officer the animal poses an immediate threat to a person or domestic
37 animal, the animal control officer, ~~local health officer~~, game warden or law enforcement
38 officer may immediately kill or order killed that animal without destroying the head. The
39 Department of Inland Fisheries and Wildlife shall arrange for the transportation of the

1 head to the State Health and Environmental Testing Laboratory, except that the animal
2 control officer shall make the arrangements if the animal is a wolf hybrid.

3 **Sec. 12. 22 MRSA §2608, sub-§3**, as enacted by PL 1983, c. 837, §2, is repealed.

4 **Sec. 13. 30-A MRSA §1560, sub-§1**, as enacted by PL 1987, c. 737, Pt. A, §2
5 and Pt. C, §106 and amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is
6 further amended to read:

7 **1. Removal.** If a prisoner in a jail is afflicted with a disease ~~which that the local~~
8 ~~health officer~~ Commissioner of Health and Human Services or the commissioner's
9 designee, by medical advice, considers dangerous to the safety and health of other
10 prisoners or of the inhabitants of the municipality, the ~~local health officer~~ commissioner
11 or designee shall, by written order, direct the person's removal to some place of safety, to
12 be securely kept and provided for until the ~~officer's~~ commissioner's or designee's further
13 order.

14 **Sec. 14. 30-A MRSA §1560, sub-§4**, as enacted by PL 1987, c. 737, Pt. A, §2
15 and Pt. C, §106 and amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is
16 further amended to read:

17 **4. Notice.** If the diseased person was committed to the place of confinement by an
18 order of court or judicial process, the ~~local health officer~~ Commissioner of Health and
19 Human Services or the commissioner's designee shall send the following to the office of
20 the clerk of court from which the order or process was issued:

21 A. The order for the diseased person's removal or a copy of the order attested by the
22 ~~local health officer~~ commissioner or designee; and

23 B. A statement describing the actions taken under the order.

24 **Sec. 15. 38 MRSA §2171, sub-§1**, as amended by PL 1993, c. 310, Pt. B, §4, is
25 further amended to read:

26 **1. Membership.** The committee must be comprised of citizens from each affected
27 municipality, appointed by the municipal officers, including, but not limited to: a
28 ~~municipal local~~ health officer; a municipal officer; and at least 3 additional residents of
29 the municipality, including abutting property owners and residents potentially affected by
30 pollution from the facility. In addition, each committee may include members
31 representing any of the following interests: environmental and community groups; labor
32 groups; professionals with expertise relating to landfills or incinerators; experts in the
33 areas of chemistry, epidemiology, hydrogeology and biology; and legal experts.

34 **Sec. 16. Qualifications standards for current local health officers.** A
35 person who is employed as a local health officer on the effective date of this Act who is
36 not qualified by education, training or experience or who has not met the qualification
37 standards adopted by rule by the Department of Health and Human Services pursuant to
38 the Maine Revised Statutes, Title 22, section 451, subsection 2 shall meet those
39 qualification standards no later than June 30, 2009.

1 **SUMMARY**

2 This bill modernizes the local health officer role by focusing the authorities and
3 duties of the local health officer on preventing and suppressing communicable diseases,
4 as well as acting as a conduit of public health-related information between residents and
5 statewide resources. Certain functions of local health officers are transferred to the
6 Commissioner of Health and Human Services.

FISCAL NOTE REQUIRED
(See attached)



Approved: 03/31/08 *mac*

123rd MAINE LEGISLATURE

LD

LR 3604(01)

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Fiscal Note for Original Bill
Committee: Health and Human Services
Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund

Fiscal Detail and Notes

The additional costs to the Department of Environmental Protection and the Department of Health and Human Services can be absorbed utilizing existing budgeted resources.