

# MAINE STATE LEGISLATURE

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**LAWS**  
OF THE  
**STATE OF MAINE**  
AS PASSED BY THE

**ONE HUNDRED AND TENTH LEGISLATURE**

**FIRST REGULAR SESSION**  
December 3, 1980 to June 19, 1981

**AND AT THE**

**FIRST SPECIAL SESSION**  
August 3, 1981

**PUBLISHED BY THE DIRECTOR OF LEGISLATIVE RESEARCH IN  
ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED, TITLE  
3, SECTION 164, SUBSECTION 6.**

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**PUBLIC LAWS**  
OF THE  
**STATE OF MAINE**

AS PASSED AT THE  
FIRST REGULAR SESSION

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ONE HUNDRED AND TENTH LEGISLATURE

1981

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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**Sec. 1.** 12 MRSA § 8406, sub-§ 1, as repealed and replaced by PL 1979, c. 737, § 5, is repealed and the following enacted in its place:

**1. Pre-project excise tax.** The pre-project excise tax for 1981 shall be computed in the following manner:

**A.** The ratio of the planned spray acres for each landowner to the total planned spray acres for all landowners controlling 1% or more of the total planned spray acres in the project;

**B.** The ratio computed in paragraph A shall be multiplied by the estimate of total project cost provided in section 8405, subsection 1; and

**C.** The pre-project excise tax shall be assessed and billed by the State Tax Assessor within 30 days following the effective date of this subsection.

**Sec. 2.** 12 MRSA § 8411, sub-§ 11 is enacted to read:

**11. Charge for spraying services.** The director shall charge the post-project spray tax for all acres sprayed on lands owned by any government or any agency, bureau or commission thereof.

**Emergency clause.** In view of the emergency cited in the preamble, this Act shall take effect when approved.

Effective May 13, 1981

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## CHAPTER 260

H. P. 232 — L. D. 269

**AN ACT to Require Interagency Licensing of Residential Facilities and Programs for Children.**

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

Sec. 1. 20 MRSA § 3125, sub-§ 7, as enacted by PL 1977, c. 564, § 87-B, is amended by inserting at the end the following new sentence:

**The commissioner shall approve all programs for exceptional children within residential child care facilities as defined in Title 22, section 8101, subsection 4, for the usual public year or for a year-round basis or for such other period as he determines appropriate. Licensure of these programs shall be done in accordance with Title 22, section 8104.**

Sec. 2. 22 MRSA § 7901, sub-§ 2, as enacted by PL 1975, c. 719, § 6, is amended to read:

2. **Resident.** The word "resident," as used in this subtitle, shall mean any aged, blind, mentally ill, mentally retarded or other person ~~16~~ 18 years of age or older who is not related by blood or marriage to the owner or person in charge of the boarding care facility in which the resident lives.

Sec. 3. 22 MRSA § 8005, first sentence, as enacted by PL 1975, c. 719, § 6, is amended to read:

No facility, **except as provided for in section 8101, subsection 4**, licensed as a drug treatment center shall be required to be licensed as a boarding care facility or a children's home.

Sec. 4. 22 MRSA §§ 8101 and 8102, as enacted by PL 1975, c. 719, § 6 and as amended, are repealed and the following enacted in their place:

#### § 8101. Definitions

As used in this subtitle, unless the context otherwise indicates, the following terms have the following meanings.

1. **Children's home.** "Children's home" means any residence maintained exclusively or in part for the board and care of one or more children under the age of 18, by anyone other than a relative by blood, marriage or adoption. "Children's home" does not include:

- A. A facility established primarily to provide medical care;
- B. A children's camp established solely for recreational and educational purposes; or
- C. A school established solely for educational purposes except as provided in subsection 4.

2. **Emergency shelter.** "Emergency shelter" means a children's home which operates to receive children 24 hours a day and which limits placement to 30 consecutive days or less. Emergency shelter shall not mean family foster home or

specialized children's home and, if a service of a residential child care facility, shall be restricted to a designated physical area of the facility.

3. **Family foster home.** "Family foster home" means a children's home that is a private dwelling where substitute parental care is provided within a family on a regular, 24-hour a day, residential basis. The total number of children in care may not exceed 6, including the family's legal children under 16 years of age, with no more than 2 of these children under the age of 2. In order to keep siblings together, this definition shall not prohibit the placement of more than the allowed number.

4. **Residential child care facility.** "Residential child care facility" means any children's home which provides board and care for one or more children on a regular, 24-hour a day, residential basis. A residential child care facility does not mean family foster home, specialized children's home or an emergency shelter facility. The term includes, but is not limited to:

- A. A residential care facility under Title 20, section 3125, subsection 5;
- B. An approved treatment facility under section 7103, subsection 4;
- C. A drug treatment center under section 8001;
- D. A community residence under Title 34, section 2105; and
- E. A residential facility under Title 34, section 2142, subsection 8.

5. **Specialized children's home.** "Specialized children's home" means a children's home where care is provided to no more than 4 moderately to severely handicapped children by a caretaker who is specifically educated and trained to provide for the particular needs of each child placed. The total number of children in a specialized children's home may not exceed 4, including the caretaker's legal children under 16 years of age, with no more than 2 children under the age of 2.

#### § 8102. Rules

1. **Rules.** The department shall adopt rules for children's homes in conformity with the Maine Administrative Procedure Act, Title 5, chapter 375. The rules shall be designed to protect the health, safety, well-being and development of children and shall include, but not be limited to:

- A. The number and qualifications of staff;
- B. Rights and responsibilities of parents, children and staff;
- C. The nature, provision, documentation and management of programs of care or treatment; and
- D. The physical environment.

Sec. 5. 22 MRSA §§ 8104 and 8105 are enacted to read:

§ 8104. Interagency licensing

1. Interagency licensing method. The Commissioners of the Departments of Educational and Cultural Services, Human Services and Mental Health and Corrections, or their designees, shall jointly establish a method for interagency licensing of residential child care facilities subject wholly or partly to licensing by at least 2 of the departments. The method shall provide for the following:

- A. Development of common licensing rules;
- B. Periodic review of licensing rules;
- C. Delegation of departmental responsibilities; and
- D. Determination of licensing fees.

2. Licensing authority. For the purposes of this section, the Department of Human Services shall have licensing authority for residential child care facilities. This authority shall not relieve any agency of responsibility for the proper and efficient management or evaluation of programs funded by that agency.

3. Common licensing rules. Common licensing rules developed under this section shall eliminate varying, duplicative and conflicting rules and procedures. Common licensing rules shall also assure, as far as practicable, that:

- A. Licensing is accomplished expeditiously;
- B. Applicants have to deal with as few agency representatives as possible;
- C. Consideration is given to special circumstances made known by an applicant which make the timing of licensing investigation unreasonable;
- D. Applicants are promptly informed of licensing decisions and of the cause for any delay or denial;
- E. Applicants do not have to obtain information from another agency if the licensing agency can obtain the information more conveniently; and
- F. Rules are applied uniformly.

§ 8105. Transitional provision

1. Rules. Any rule in effect immediately prior to the effective date of this section shall remain in effect until it is amended.

2. Licenses. Any license in effect immediately prior to the effective date of

this section shall remain in effect unless it is revoked, suspended or made conditional, or until it expires, or until a new license is issued.

Sec. 6. 22 MRSA § 8106 is enacted to read:

§ 8106. Report

The Commissioner of Human Services shall prepare a progress report on the operation of this chapter and make this report available to the Joint Standing Committee on Health and Institutional Services by March 1, 1982. The commissioner shall make a further report to the same committee by January 15, 1983. The committee may report out any necessary legislation in connection with the reports.

Sec. 7. 34 MRSA § 2052-A, as amended by PL 1973, c. 303, § 3, is further amended by inserting before the last paragraph the following new paragraph:

The commissioner shall approve all programs for the provision of mental health services as defined in Title 22, section 8101, subsection 4. Licensure of these programs shall be done in accordance with Title 22, section 8104.

Effective September 18, 1981

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## CHAPTER 261

S. P. 321 — L. D. 911

**AN ACT to Ensure Worker Access to Information Concerning Hazardous Substances in the Workplace.**

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

26 MRSA § 1707 is enacted to read:

§ 1707. Penalty

Any person, partnership, corporation or other legal entity who refuses to comply, in whole or in part, with this chapter commits a civil violation for which a forfeiture not to exceed \$500 may be adjudged.

Effective September 18, 1981