

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND NINETEENTH LEGISLATURE
SECOND REGULAR SESSION
January 5, 2000 to May 12, 2000

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
AUGUST 11, 2000

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

J.S. McCarthy Company
Augusta, Maine
2000

protection against exposure to bloodborne pathogens; and

Whereas, the Legislature intends that public-sector and private-sector employers learn and heed the requirements of the OSHA directive to use the most effective engineering controls, including needleless systems and safer needle devices and that such employers act as quickly as possible to implement such systems; and

Whereas, the Legislature understands that the requirements of the OSHA directive are relatively recent so that employers may not have fully implemented the requirement, but wishes to expedite the process; and

Whereas, a survey of practices and progress in implementing the directive will help policymakers assess the need for additional educational efforts or additional regulation; 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

Sec. 1. Rules for occupational safety and health of public employees. Resolved: That, except as provided in this section, the Board of Occupational Safety and Health, as defined in the Maine Revised Statutes, Title 26, section 564, shall adopt rules that are at least as protective of employee health and safety as Directive Number CPL 2-2.44D issued by the United States Department of Labor, Occupational Safety and Health Administration, or "OSHA," to interpret the OSHA bloodborne pathogen regulation and effective November 5, 1999. The rules must exempt any hypodermic apparatus exchange program certified by the Department of Human Services, Bureau of Health pursuant to Title 22, section 1341 from the requirements of that directive. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A; and be it further

Sec. 2. Survey of health care providers. Resolved: That the Department of Labor and the Department of Human Services shall conduct a survey of public and private health care providers and field providers, including, but not limited to, emergency medical technicians, to collect information about:

1. The use of needleless systems and other safe needle devices by employees; and
2. The process used or to be used by the providers to comply with federal regulations or state rules

regarding engineering controls to protect employees against exposure to bloodborne pathogens.

The departments shall report the results of the survey to the joint standing committee of the Legislature having jurisdiction over labor matters of the 120th Legislature by February 1, 2001. That committee may report out legislation to the 120th Legislature in response to the survey.

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

Effective April 14, 2000.

CHAPTER 116

H.P. 1868 - L.D. 2604

Resolve, to Require the Board of Environmental Protection and the Maine Land Use Regulation Commission to Adopt Consistent Rules Regarding Cutting and Removal of Vegetation

Sec. 1. Rules to regulate cutting and removal of vegetation in areas adjacent to rivers, streams, brooks, ponds, wetlands and tidal waters. Resolved: That notwithstanding the Maine Revised Statutes, Title 38, chapter 3, subchapter I, articles 2-B and 5-A and in accordance with the purposes of Title 12, chapter 206-A and Title 38, chapter 3, including the control of nonpoint source pollution, no later than January 2, 2002, the Board of Environmental Protection and the Department of Conservation, Maine Land Use Regulation Commission shall each provisionally adopt rules in accordance with Title 5, chapter 375 to regulate the cutting and removal of vegetation, other than timber harvesting activities, in areas adjacent to rivers, streams, brooks, ponds, wetlands and tidal waters.

The Board of Environmental Protection and the Maine Land Use Regulation Commission shall coordinate their rulemaking to adopt rules that resolve inconsistencies, where appropriate, among standards established pursuant to the Maine Revised Statutes, Title 12, chapter 206-A and Title 38, chapter 3, subchapter I, articles 2-B and 5-A and retain standards established pursuant to those statutes when those standards are consistent. Upon final adoption, rules adopted by the board apply in the organized areas of the State and rules adopted by the commission apply in the unorganized and deorganized areas of the State.

Rules adopted pursuant to this section do not apply to timber harvesting activities, but the Board of Environmental Protection and the Maine Land Use

Regulation Commission shall consult with the Commissioner of Conservation to coordinate the standards related to timber harvesting activities with the standards related to the cutting and removal of vegetation other than timber harvesting.

Rules adopted pursuant to this section are major substantive rules as defined in Title 5, chapter 375, subchapter II-A and must be provisionally adopted and submitted to the Legislature no later than January 2, 2002 for review; and be it further

Sec. 2. Legislation authorized. Resolved:

That the joint standing committee of the Legislature having jurisdiction over natural resources matters may report out a bill to the Second Regular Session of the 120th Legislature to amend provisions in the Maine Revised Statutes, Title 12, chapter 206-A administered by the Department of Conservation, Maine Land Use Regulation Commission and in Title 38, chapter 3, subchapter I, articles 2-B and 5-A administered by the Department of Environmental Protection to clarify the authority of these agencies to regulate the cutting or removal of vegetation and to resolve inconsistencies between the rules adopted pursuant to section 1 and those statutes; and be it further

Sec. 3. Education initiative. Resolved:

That after rules are adopted pursuant to section 1, the Department of Environmental Protection and the Department of Conservation, Maine Land Use Regulation Commission and Bureau of Forestry shall jointly develop and implement an educational initiative to inform the public in all areas of the State about the standards for the cutting and removal of vegetation.

See title page for effective date.

CHAPTER 117

H.P. 1910 - L.D. 2658

**Resolve, Regarding Legislative
Review of Chapter 1: Rights of
Recipients of Mental Health Services
Who are Children in Need of
Treatment, Section A-VII, Rights to
Due Process With Regard to
Grievances and Section A-IX,
Confidentiality of and Access to
Mental Health Records, a Major
Substantive Rule of the Department
of Mental Health, Mental
Retardation and Substance Abuse
Services**

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 Maine Revised Statutes, Title 5, chapter 375, subchapter II-A requires legislative authorization before major substantive agency rules may be finally adopted by the agency; and

Whereas, the above-named major substantive rule has been submitted to the Legislature for review; and

Whereas, immediate enactment of this resolve is necessary to record the Legislature's position on final adoption of the rule; 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

Sec. 1. Adoption. Resolved: That final adoption of Chapter 1: Rights of Recipients of Mental Health Services Who are Children in Need of Treatment, Section A-VII, Rights to Due Process With Regard to Grievances and Section A-IX, Confidentiality of and Access to Mental Health Records, a provisionally adopted major substantive rule of the Department of Mental Health, Mental Retardation and Substance Abuse Services, that has been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter II-A is authorized.

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

Effective April 14, 2000.

CHAPTER 118

H.P. 1913 - L.D. 2659

**Resolve, Regarding Legislative
Review of Portions of Sections 61, 62,
63, 68 and 73 of 10-49, Chapter 5,
Bureau of Elder and Adult Services
Policy Manual, a Major Substantive
Rule of the Department of Human
Services**

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