

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTIETH LEGISLATURE

SECOND REGULAR SESSION
January 2, 2002 to April 25, 2002

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JULY 25, 2002

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
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in those areas anticipated over the subsequent 5-year period. Those reports must be submitted jointly to the joint standing committee of the Legislature having jurisdiction over inland fisheries and wildlife matters and the joint standing committee of the Legislature having jurisdiction over public recreation matters beginning in January 2005, and every 5 years thereafter.

Sec. 10. Estimate of gasoline tax revenue for years starting on July 1, 2003 to June 30, 2005. For purposes of calculating the percentage of gasoline tax revenue attributable to motorboats, snowmobiles and all-terrain vehicles pursuant to the Maine Revised Statutes, Title 36, section 2903-D for years starting on July 1, 2003 to June 30, 2005, the total gasoline tax revenue used is \$150,400,000.

Sec. 11. Effective date. This Act takes effect July 1, 2003.

Effective July 1, 2003.

CHAPTER 694

H.P. 1656 - L.D. 2164

An Act to Provide Government with the Necessary Authority to Respond to a Public Health Emergency Caused by An Act of Bioterrorism

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

PART A

Sec. A-1. 22 MRSA c. 250, sub-c. II-A is enacted to read:

SUBCHAPTER II-A EXTREME PUBLIC HEALTH EMERGENCIES

§820. Extreme public health emergency

The provisions of this subchapter apply in the event of the declaration of an extreme public health emergency pursuant to section 802, subsection 2-A and Title 37-B, chapter 13, subchapter II.

1. Powers of the department. Upon the declaration of an extreme public health emergency, the department has the following powers.

A. Upon request of the department, a medical provider, pharmacist or veterinarian shall provide to the department health information directly related to a declared extreme public health emergency.

B. The department may take a person into custody and order prescribed care of that person as provided in this subsection.

(1) The department may act without a court order if:

(a) The department has reasonable cause to believe that the person has been exposed to or is at significant medical risk of transmitting a communicable disease that poses a serious and imminent risk to public health and safety;

(b) There are no less restrictive alternatives available to protect the public health and safety; and

(c) The delay involved in securing a court order would pose an imminent risk to the person or a significant medical risk of transmission of the disease.

(2) The department may act pursuant to a court order obtained under subsection 2.

(3) A person is exempt from examination, vaccination, medical care or treatment if alternative public health measures are available, even if those measures are more restrictive, and if:

(a) The person demonstrates a sincere religious or conscientious objection to the examination, vaccination, medical care or treatment; or

(b) The person is at known risk of serious adverse medical reaction to the vaccination or medical care or treatment.

2. Judicial review. The following provisions apply to judicial review of the authority of the department under this subchapter.

A. A hearing must be held before a judge of the District Court, a justice of the Superior Court or a justice of the Supreme Judicial Court as soon as reasonably possible but not later than 48 hours after the person is subject to prescribed care to determine whether the person must remain subject to prescribed care. A hearing under this paragraph may be waived in writing after notice of the effect of a waiver and an opportunity to consult with an attorney.

B. Notice of the hearing must be served upon the person subject to prescribed care within a rea-

sonable time before the hearing. The notice must specify: the time, date and place of the hearing; the grounds and underlying facts upon which the prescribed care is sought; the right to appear at the hearing, either in person, by electronic means or by representation, and to present and cross-examine witnesses; and the right to counsel.

C. For a court to order prescribed care, the department must prove by clear and convincing evidence that:

(1) The person has been exposed to or is at significant medical risk of transmitting a communicable disease that poses a serious imminent risk to public health or safety; and

(2) There are no less restrictive alternatives available to protect the public health and safety.

D. Within 24 hours of completion of the hearing, the court shall enter a finding approving prescribed care and shall issue an order of prescribed care for a period not to exceed 30 days or shall dismiss the petition and order the person released from prescribed care immediately.

E. If the department determines that it is necessary to continue an order obtained under this subsection, the department shall petition the court that issued the order. The court shall hold a hearing in accordance with paragraphs B, C and D and shall make such orders as the court determines necessary, except that an order may not exceed 30 days in duration without further review by the court.

F. The court may order applications under this section to be joined.

3. Appeal. A person aggrieved by a court order issued under subsection 2 may appeal from that order to the Supreme Judicial Court. The order remains in effect pending appeal. Any findings of fact may not be set aside unless clearly erroneous. Pursuant to order of court, appeals under this section may be joined. The Maine Rules of Civil Procedure apply to the conduct of the appeals, except as otherwise specified in this subsection.

4. Medical-legal advisory panel. The commissioner shall establish an ongoing medical-legal advisory panel consisting of not more than 3 members who have expertise in either medicine or public health law. Membership on the panel must be planned to ensure that at least one member has expertise in medicine and at least one member has expertise in public health law. The panel shall provide advice concerning extreme public health emergencies. Upon

the declaration of an extreme public health emergency, as soon as practicable the commissioner shall convene the panel, either in person or by electronic means, to further advise the Governor on the extreme public health emergency.

5. Interpretation. The provisions of sections 817, 818, 819 and 824 must be interpreted to apply to this subchapter to the extent not inconsistent with this subchapter.

PART B

Sec. B-1. 22 MRSA §801, sub-§4-A is enacted to read:

4-A. Extreme public health emergency. "Extreme public health emergency" means the occurrence or imminent threat of widespread exposure to a highly infectious or toxic agent that poses an imminent threat of substantial harm to the population of the State.

Sec. B-2. 22 MRSA §801, sub-§8-A is enacted to read:

8-A. Prescribed care. "Prescribed care" means isolation, quarantine, examination, vaccination, medical care or treatment ordered by the department or a court pursuant to section 820.

Sec. B-3. 22 MRSA §802, sub-§2-A is enacted to read:

2-A. Declaration of extreme public health emergency by Governor. The Governor may declare an extreme public health emergency pursuant to this chapter and Title 37-B, chapter 13, subchapter II.

Sec. B-4. 22 MRSA §802, sub-§3, as enacted by PL 1989, c. 487, §11, is repealed and the following enacted in its place:

3. Rules. The department shall adopt rules to carry out its duties as specified in this chapter. The application of rules adopted pursuant to Title 5, section 8052 to implement section 820 must be limited to periods of an extreme public health emergency. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

Sec. B-5. 37-B MRSA §703, sub-§2, as enacted by PL 1983, c. 460, §3, is amended to read:

2. Disaster. "Disaster" means the occurrence or imminent threat of widespread or severe damage, injury or loss of life or property resulting from any natural or man-made cause, including, but not limited to, fire, flood, earthquake, wind, storm, wave action, oil spill or other water contamination requiring emergency action to avert danger or damage,

epidemic, extreme public health emergency pursuant to Title 22, section 802, subsection 2-A, air contamination, blight, drought, critical material shortage, infestation, explosion, riot or hostile military or paramilitary action.

Sec. B-6. Repeal. This Act is repealed October 31, 2003.

See title page for effective date.

CHAPTER 695

H.P. 1642 - L.D. 2145

An Act to Include all State-supported Institutions of Higher Education in the Clean Government Initiative

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

Sec. 1. 38 MRSA §343-H, as enacted by PL 2001, c. 333, §5, is amended to read:

§343-H. Clean Government Initiative

1. Initiative established; directors. The Clean Government Initiative, referred to in this section as the "initiative," is established to assist state agencies and state-supported institutions of higher learning in meeting applicable environmental compliance requirements and to incorporate environmentally sustainable practices into all state government functions. The initiative is jointly directed by the commissioner ~~and~~ the Commissioner of Administrative and Financial Services, the Chancellor of the University of Maine System or the chancellor's designee and the President of the Maine Technical College System or the president's designee, referred to in this section as the "directors."

1-A. State-supported institution of higher learning. For purposes of this section, "state-supported institution of higher learning" means the University of Maine System, the Maine Maritime Academy and the Maine Technical College System.

2. Duties; responsibilities. The directors of the initiative shall:

A. Establish a coordinated state government environmental plan to ensure that:

- (1) All agencies and state-supported institutions of higher learning comply with state and federal environmental laws; and
- (2) Environmentally sustainable practices are incorporated into state government

planning, operations and regulatory functions;

B. Establish metrics to measure and assess the environmental compliance and performance of state agencies and state-supported institutions of higher learning. In developing those metrics, the directors shall seek to achieve continuous improvement in environmental compliance and performance of all state agencies through:

- (1) Pollution prevention;
- (2) Improvements in energy efficiency, including facility siting, design, construction and management; and
- (3) Procurement of environmentally friendly commodities and services, as assessed on a life cycle basis, including technically comparable, cost-effective and reasonably available alternatives to products that may release dioxin or mercury to the environment, recycling of waste products and enhanced fleet efficiency;

C. Advise and assist state agencies and state-supported institutions of higher learning in developing environmental compliance audits and plans and in implementing those plans;

D. Advise the Governor and the Legislature in the formulation of policies for the effective achievement of initiative goals; and

E. Ensure that the capital master plan established under Title 5, section 299 is implemented in a manner consistent with the initiative.

3. Responsibilities of state agencies and state-supported institutions of higher learning. State agencies and state-supported institutions of higher learning shall cooperate with the directors in implementing the initiative and shall provide staff assistance and technical support upon request. In addition, each state agency and state-supported institution of higher learning shall:

A. Complete or demonstrate completion of an audit of its facilities to determine compliance with applicable state and federal environmental laws;

B. Develop a biennial plan that outlines the actions the agency or state-supported institution of higher learning will take to incorporate compliance efforts and environmentally sustainable practices into its planning and operational functions. To facilitate incorporation into the biennial budget process, these plans for state agencies other than the state-supported institutions of