

# MAINE STATE LEGISLATURE

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

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTIETH LEGISLATURE**

**FIRST SPECIAL SESSION**  
**November 13, 2002 to November 14, 2002**

**ONE HUNDRED AND TWENTY-FIRST LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 4, 2002 to June 14, 2003**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST SPECIAL SESSION**  
**NON-EMERGENCY LAWS IS**  
**FEBRUARY 13, 2003**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 13, 2003**

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

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**Penmor Lithographers**  
**Lewiston, Maine**  
**2003**

tion utilities for constructing and maintaining additional infrastructure that the commission determines necessary to ensure the security and robustness of the grid in underserved areas of the State. In conducting its investigation, in addition to any other issues the commission determines appropriate, the commission shall consider:

1. Rate design mechanisms that encourage efficiency in electric use, provide incentives for the development of new energy-efficient business activity in the State and take into account the costs and benefits of energy efficiency and conservation to existing business activity in the State;
2. Financial and other incentives for transmission and distribution utilities or their customers that may support the goals of this section;
3. The impact of achieving the goals of this section on the revenues and rates of return of transmission and distribution utilities;
4. Methods available pursuant to the Maine Revised Statutes, Title 35-A, sections 3195 and 3211-A to accomplish the purposes of this section;
5. The impact of achieving the goals of this section on transmission and distribution utility rate levels and rate stability; and
6. The impact of electricity generation and consumption on air and water quality.

By February 1, 2004, the commission shall submit a report of the results of its investigation under this section to the Joint Standing Committee on Utilities and Energy.

See title page for effective date.

**CHAPTER 220**

**S.P. 487 - L.D. 1459**

**An Act To Bring the State into  
Conformity with the National  
Organic Program**

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

**Sec. 1. 7 MRSA c. 103, sub-c. 1-A** is amended by repealing the subchapter headnote and enacting the following in its place:

**SUBCHAPTER 1-A**

**LABELING OF WATER**

**Sec. 2. 7 MRSA §551**, as amended by PL 1985, c. 329, §1, is repealed.

**Sec. 3. 7 MRSA §552**, as amended by PL 1999, c. 547, Pt. B, §78 and affected by Pt. B, §80, is repealed.

**Sec. 4. 7 MRSA §553**, as amended by PL 1989, c. 756, §§1 and 2, is repealed.

**Sec. 5. 7 MRSA §§554 and 555**, as enacted by PL 1979, c. 240, §§1 and 2, are repealed.

**Sec. 6. 7 MRSA §556**, as amended by PL 1991, c. 57, §1, is repealed.

**Sec. 7. 7 MRSA §557**, as amended by PL 1979, c. 731, §19, is repealed.

**Sec. 8. 7 MRSA §§558, 560 and 561**, as enacted by PL 1979, c. 240, §§1 and 2, are repealed.

**Sec. 9. 7 MRSA §562-A, sub-§2**, as enacted by PL 1991, c. 57, §4, is amended to read:

**2. Violation notices.** The department shall issue notices to ~~growers, manufacturers or sellers~~ bottlers and distributors alleged to have violated any provision of this subchapter. A person who violates this subchapter commits a civil violation for which a forfeiture fine not to exceed \$1,000 may be adjudged. The department may also recover costs of investigation, with the limitation that the total forfeiture fine and costs assessed for a violation may not exceed \$1,000.

See title page for effective date.

**CHAPTER 221**

**H.P. 856 - L.D. 1159**

**An Act To Reduce Mercury Use in  
Measuring Devices and Switches**

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

**Sec. 1. 38 MRSA §1661, sub-§3-A** is enacted to read:

**3-A. Mercury relay.** "Mercury relay" means a mercury-added product or device that opens or closes electrical contacts to effect the operation of other devices in the same or another electrical circuit. "Mercury relay" includes mercury displacement

relays, mercury wetted reed relays and mercury contact relays.

**Sec. 2. 38 MRSA §1661, sub-§4**, as enacted by PL 2001, c. 656, §1, is repealed and the following enacted in its place:

**4. Mercury switch.** "Mercury switch" means a mercury-added product or device that opens or closes an electrical circuit or gas valve. "Mercury switch" includes mercury float switches actuated by rising or falling liquid levels, mercury tilt switches actuated by a change in the switch position, mercury pressure switches actuated by a change in pressure, mercury temperature switches actuated by a change in temperature and mercury flame sensors. "Mercury switch" does not include a mercury-added thermostat.

**Sec. 3. 38 MRSA §1661-C, sub-§5**, as enacted by PL 2001, c. 620, §1, is amended to read:

**5. Mercury-added thermostats.** After January 1, 2006, a person may not sell or offer to sell or distribute for promotional purposes a mercury-added thermostat ~~except for a thermostat used for manufacturing or industrial purposes and except for a thermostat used by a blind or visually impaired person.~~ A manufacturer of mercury-added thermostats may apply to the commissioner prior to January 1, 2003 for an exemption from the provisions of this subsection for one or more specific uses of a mercury-added thermostat. The Commissioner of Environmental Protection may grant an exemption with or without conditions upon finding that:

A. The manufacturer has demonstrated that a system exists for the proper collection, transportation and processing of the mercury-added thermostat at the end of its life; and

B. The specific use or uses of the mercury-added thermostat provide a net benefit to the environment, public health or public safety when compared to available nonmercury alternatives.

For the purposes of this subsection, a "mercury-added thermostat" means a product or device that uses a mercury switch to sense and control room temperature through communication with heating, ventilating or air-conditioning equipment. "Mercury-added thermostat" includes thermostats used to sense and control room temperature in residential, commercial, industrial and other buildings but does not include a thermostat used to sense and control temperature as part of a manufacturing process.

**Sec. 4. 38 MRSA §1661-C, sub-§§6 to 8** are enacted to read:

**6. Instruments and measuring devices.** Effective July 1, 2006, a person may not sell or offer to sell or distribute the following mercury-added products:

A. A barometer;

B. An esophageal dilator, bougie tube or gastrointestinal tube;

C. A flow meter;

D. A hydrometer;

E. A hygrometer or psychrometer;

F. A manometer other than a manometer prohibited from sale under subsection 2;

G. A pyrometer;

H. A sphygmomanometer; or

I. A thermometer other than a thermometer prohibited from sale under subsection 1.

This subsection does not apply to the sale of a mercury-added product listed in paragraphs A to I if use of the product is a federal requirement or if the only mercury-added component in the product is a button cell battery.

**7. Mercury switches and relays.** Effective July 1, 2006, a person may not sell or offer to sell or distribute a mercury switch or mercury relay individually or as a product component. This prohibition does not apply if the switch or relay is used to replace a switch or relay that is a component in a larger product in use prior to July 1, 2006 and one of the following applies:

A. The larger product is used in manufacturing; or

B. The switch or relay is integrated and not physically separate from other components of the larger product.

This subsection does not apply to the sale of a mercury switch or mercury relay if use of the switch or relay is a federal requirement.

**8. Exemptions.** Subsections 6 and 7 do not apply to the sale of a mercury-added product for which an exemption is obtained under this subsection. The manufacturer or user of the product may apply for an exemption by filing a written petition with the commissioner. The commissioner may grant an exemption with or without conditions upon finding that:

A. The exemption is requested because the mercury-added product is required to meet

specific advanced technology product specifications identified by the customer or end user of the product; or

B. The mercury-added product is reasonable and appropriate for a specific use. In this situation, the petitioner must demonstrate that:

(1) A system exists for the proper collection, transportation and processing of the product at the end of its life; and

(2) One of the following applies:

(a) Use of the product provides a net benefit to the environment, public health or public safety when compared to available nonmercury alternatives; or

(b) Technically feasible nonmercury alternatives are not available at comparable cost.

Prior to approving an exemption, the commissioner may consult with neighboring states, by means of the interstate clearinghouse under section 1671 or otherwise, to promote consistency in the way in which mercury-added products are regulated. The commissioner may request individuals receiving an exemption to maintain records and provide reasonable reports to the department that characterize mercury use. Exemptions may be granted for a term not to exceed 5 years and may be renewed upon written application if the commissioner finds that the mercury-added product continues to meet the criteria of this subsection and the manufacturer or other persons comply with the conditions of its original approval. The board shall adopt rules for processing exemption applications that provide for public participation, taking into account the role of the interstate clearinghouse. Rules adopted under this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

**Sec. 5. Mercury-added thermostats.** By January 15, 2004, the Department of Environmental Protection shall submit to the Joint Standing Committee on Natural Resources a plan to significantly improve the collection of mercury-added thermostats at the end of their life. The plan must include recommendations regarding responsibility for and participation in the collection, transportation and processing of mercury-added thermostats. The Joint Standing Committee on Natural Resources may report out legislation relating to the collection of mercury-added thermostats during the Second Regular Session of the 121st Legislature.

See title page for effective date.

## CHAPTER 222

H.P. 1102 - L.D. 1509

### An Act To Allow the Early Submission of an Application To Become Licensed as a Motor Vehicle Inspector

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

**Sec. 1. 29-A MRSA §1761, sub-§1-A** is enacted to read:

**1-A. Application and examination.** A person may submit an application with the required fee under subsection 3 for an inspection mechanic certificate to the Department of Public Safety, Bureau of State Police and complete the examination up to 6 months prior to the person's 18th birthday. The Bureau of State Police may process the application and test the applicant up to 6 months prior to the applicant's 18th birthday but may not issue the certificate until the applicant is 18 years of age.

See title page for effective date.

## CHAPTER 223

H.P. 362 - L.D. 470

### An Act To Ensure Fairness Regarding Use of Consumer Credit Reports in Insurance Underwriting

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

**Sec. 1. 24-A MRSA §2169-B** is enacted to read:

**§2169-B. Use of consumer reports in insurance underwriting**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

**A. "Adverse action"** means a denial or cancellation of, an increase in any charge for or a reduction or other adverse or unfavorable change in the terms of coverage or amount of any insurance, existing or applied for, in connection with the underwriting of personal insurance.

**B. "Applicant"** means an individual who has applied to be covered by a personal insurance policy with an insurer.