

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
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FIRST REGULAR SESSION
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SEPTEMBER 13, 2003

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

Penmor Lithographers
Lewiston, Maine
2003

1. Notice posted. The department shall post in or upon the dwelling, premises, residential child-occupied facility, day child care center facility, premises of the home day care provider or nursery school, in a conspicuous place or places, notice of the existence of environmental lead hazard. Notice may not be removed until the department states that the environmental lead hazard no longer exists;

Sec. 8. 22 MRSA §1321, sub-§4, as amended by PL 1999, c. 790, Pt. A, §23, is further amended to read:

4. Sale of dwelling, residential facility, child-occupied facility or nursery school. If, before the end of the 30-day period or extension, the owner sells the dwelling, premises, day child care center facility, premises of the home day care provider, residential child-occupied facility or nursery school, the owner shall notify the prospective buyer of the environmental lead hazard and the new owner must assume the responsibility of carrying out the requirements of this section within the specified time period.

Sec. 9. 22 MRSA §1322, 2nd ¶, as amended by PL 1999, c. 276, §15, is further amended to read:

~~If~~ Until the owner ~~decides to bring~~ brings any residential dwelling or premises into compliance with this Act while a tenant is occupying a dwelling unit, the owner shall move the tenant to a substitute dwelling unit upon reasonable notice. The department may, on a case-by-case basis, waive this requirement if the department determines that the implementation of interim controls sufficiently protects the residents of the unit until full abatement is achieved. The owner shall pay reasonable moving expenses and any use and occupancy charges for a substitute dwelling unit that exceed the rent for the vacated dwelling unit for which the tenant remains responsible. "Substitute dwelling unit" means a dwelling unit of like or similar accommodation and in like or similar location that is lead-safe. If the tenant fails to accept the substitute dwelling unit selected by the owner while the owner is required to bring the vacated dwelling unit into compliance with this Act or the tenant fails to remain current in rent pursuant to the lease or tenancy at will under Title 14, section 6002, including the statutory period of right to cure, the owner is not obligated beyond 10 days after completion of remediation to reimburse the tenant for any expense or inconvenience other than moving expenses and any use and occupancy charges for the substitute dwelling unit selected by the owner that exceed the rent for the vacated dwelling unit.

Sec. 10. 22 MRSA §1326, as amended by PL 1995, c. 453, §18, is further amended to read:

§1326. Injunction requiring removal

If the lead-based substance remains an environmental lead hazard at the expiration of 30 days or at the expiration of an extension given by the commissioner pursuant to section 1321, the State, in addition to any other remedies it has, may seek a mandatory injunction ordering the environmental lead hazard removed by a suitable 3rd party at the expense of the owner of the dwelling, premises, residential ~~child-care~~ child-occupied facility, child care facility, premises of the home day care provider or ~~preschool facility~~ nursery school.

Sec. 11. 22 MRSA §1402, first ¶, as amended by PL 1995, c. 292, §1, is further amended to read:

All hospitals and other health care facilities providing screening, diagnostic or therapeutic services with respect to cancer shall report to the Department of Human Services all persons diagnosed as having a malignant tumor or certain benign tumors as determined by rule no later than 30 days ~~6 months~~ from the date of diagnosis ~~or discharge from a hospital~~. The report must include information on the person's usual occupation and industry of employment and other elements determined by rule to be appropriate. The Commissioner of Human Services shall adopt rules to implement this section. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

See title page for effective date.

CHAPTER 422

H.P. 1194 - L.D. 1616

An Act To Promote Stewardship of Forest Resources

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

PART A

Sec. A-1. 12 MRSA c. 805, sub-c. 3-A, ~~§8866~~ is enacted to read:

§8866. Purpose

The Legislature finds and declares that the State's forests are resources of great significance to the people of the State. These resources have great economic value, environmental value, scenic beauty and unique characteristics and unsurpassed recreational, cultural and historical values of present and future benefit to the citizens of the State. The well-being of communities of the State depends upon sustainable forest management. Liquidation harvesting is a serious and direct threat to forest management, forest industries

and rural communities over the landscape of Maine. Liquidation harvesting produces significant adverse economic and environmental effects and threatens the health, safety and general welfare of the citizens of the State. Liquidation harvesting is incompatible with responsible forest stewardship and must be substantially eliminated.

Sec. A-2. 12 MRSA §8868, sub-§6 is enacted to read:

6. Liquidation harvesting. "Liquidation harvesting" means the purchase of timberland followed by a harvest that removes most or all commercial value in standing timber, without regard for long-term forest management principles, and the subsequent sale or attempted resale of the harvested land within 5 years.

Sec. A-3. 12 MRSA §8869, first ¶, as enacted by PL 1989, c. 555, §10, is amended to read:

To promote a healthy and sustainable forest that contains a balance of age classes necessary for a sustainable timber supply and spatial and compositional diversity, forest harvesting ~~shall be~~ and liquidation harvesting are regulated pursuant to this subchapter.

Sec. A-4. 12 MRSA §8869, sub-§14 is enacted to read:

14. Substantial elimination of liquidation harvesting. The commissioner shall adopt rules to substantially eliminate liquidation harvesting. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. A-5. Rulemaking regarding liquidation harvesting. No later than February 1, 2004, the Commissioner of Conservation shall provisionally adopt rules to substantially eliminate liquidation harvesting by requiring measures that include, without limitation, increased professional involvement in planning and implementation of timber harvesting activities on forest lands.

Rules adopted pursuant to this section must require that timber harvesting activities be conducted with attention to long-term forest management principles. The rules must include appropriate exemptions, including, but not limited to, exemptions for landowners and land managers with independent 3rd-party certification, harvests covering small acreages and permitted land conversions. The rules must apportion appropriate legal responsibilities to landowners, foresters and loggers for compliance with the rules.

The Commissioner of Conservation shall consult with the Commissioner of Environmental Protection and the Commissioner of Inland Fisheries and Wildlife to ensure that Bureau of Forestry rules regarding forestry practices are consistent with environmental and wildlife habitat protection.

Rules adopted pursuant to this section are major substantive rules as defined in the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A and must be submitted to the Legislature no later than February 1, 2004 for review.

PART B

Sec. B-1. Report to Legislature. No later than January 2, 2004, the Commissioner of Conservation shall report to the Joint Standing Committee on Agriculture, Conservation and Forestry with recommendations and an implementation plan for solutions to the issue of liquidation harvesting. The commissioner shall review, at a minimum, the following:

1. Improvements to standards and guidelines for timber harvests;
2. Increased professional involvement in timber harvests;
3. Improved professional accountability of foresters;
4. Modifications to land use laws;
5. Disincentives to liquidation harvesting;
6. Incentives for landowners who receive independent, 3rd-party certification that their forest lands are well managed;
7. Economic policies to expand markets for forest products harvested from well-managed forests and to promote Maine as a world leader in green-certified forest lands and forest products; and
8. Other relevant approaches.

In conducting the review, the commissioner shall solicit input from representatives of the forestry industry, including professional loggers, state agencies, municipalities, industrial and nonindustrial landowners, environmental groups, financial institutions, Legislators and members of the public.

The final report must include proposed changes to existing laws, rules and policies necessary to implement the recommendations.

Sec. B-2. Legislation authorized. The Joint Standing Committee on Agriculture, Conservation and Forestry may report out a bill to the Second Regular Session of the 121st Legislature to implement any or

all of the provisions of the plan recommended under section 1 of this Part or revisions to the plan approved by the committee.

See title page for effective date.

CHAPTER 423

H.P. 1198 - L.D. 1619

An Act To Provide Equitable Treatment to State Employees

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

Sec. 1. 26 MRSA §664, sub-§3, ¶D, as enacted by PL 1995, c. 305, §1, is amended to read:

D. Public employees, except those employed by the executive or judicial branch of the State;

Sec. 2. 26 MRSA §664, sub-§4 is enacted to read:

4. Compensatory time. To the extent permitted under the federal Fair Labor Standards Act of 1938, as amended, 29 United States Code, Section 207(o), the overtime pay requirement applicable to executive or judicial employees as described in subsection 3, paragraph D may be met through compensatory time agreements.

Sec. 3. 26 MRSA §670-A is enacted to read:

§670-A. Remedies for overtime wage violations involving state employees

Notwithstanding section 670, in an action brought to recover unpaid overtime wages for an employee of the executive or judicial branch of the State, the judgment or award is limited to the unpaid overtime compensation adjudged to be due, without liquidated damages or attorney's fees. An action for unpaid overtime wages for an employee of the executive or judicial branch of the State must be brought within 2 years after the cause of action accrued, except that a cause of action arising from a willful violation of the overtime wage payment law must be commenced within 3 years after the cause of action accrued. Overtime wages are recoverable by employees of the executive or judicial branch beginning with the later of the date the cause of action accrued and the date the applicable limitations period began.

Sec. 4. 39-A MRSA §102, sub-§11, ¶A, as amended by PL 2001, c. 710, §18 and affected by §19, is further amended by amending subparagraph (1) to read:

(1) Persons engaged in maritime employment or in interstate or foreign commerce who are within the exclusive jurisdiction of admiralty law or the laws of the United States, except that this section may not be construed to exempt from the definition of "employee" a person who is employed by the State and is thereby barred by the State's sovereign immunity from bringing a claim against that person's employer under admiralty law or other laws of the United States for claims that are otherwise cognizable under this Act;

Sec. 5. Application. This Act applies to overtime hours worked on or after the effective date of this Act.

See title page for effective date.

CHAPTER 424

S.P. 315 - L.D. 974

An Act To Prohibit the Use of Workers' Compensation Trust Funds for Political Contributions

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

Sec. 1. 39-A MRSA §403, sub-§6, ¶E is enacted to read:

E. Each renewal application filed by an individual or group self-insurer that has secured its obligations in whole or part by maintaining a trust fund must include a certification that no political contributions have been made from the trust fund in violation of subsection 18.

Sec. 2. 39-A MRSA §403, sub-§18 is enacted to read:

18. Prohibition against using funds for political contributions. Once deposited into a trust fund created to comply with the requirements of this section, funds and assets may not be withdrawn for the purpose of making a contribution to a political candidate or political action committee required to file a report under Title 21-A, chapter 13, subchapter 2 or 4.

See title page for effective date.