

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND TWENTY-FIRST LEGISLATURE

FIRST SPECIAL SESSION
August 21, 2003 to August 22, 2003

The General Effective Date For
First Special Session
Non-Emergency Laws Is
November 22, 2003

SECOND REGULAR SESSION
January 7, 2004 to January 30, 2004

The General Effective Date For
Second Regular Session
Non-Emergency Laws Is
April 30, 2004

SECOND SPECIAL SESSION
February 3, 2004 to April 30, 2004

The General Effective Date For
Second Special Session
Non-Emergency Laws Is
July 30, 2004

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IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Penmor Lithographers
Lewiston, Maine
2004

standards. Purchases of new personal alert safety ~~system~~ systems, PASS, by a fire department must meet or exceed the National Fire Protection Association standards.

9. Fire service life safety rope, harness and hardware. Purchases of new fire service life safety rope, harness and hardware by a fire department must meet National Fire Protection Association standards.

10. Hearing protection. Each fire department shall provide and each firefighter shall use hearing protection when the firefighter is operating or riding on fire apparatus and is subject to noise in excess of 90 decibels. Hearing protection must be provided and used when the firefighter is exposed to noise in excess of 90 decibels from power tools or equipment, except in situations when the use of the protective equipment would create an additional hazard to the user. Hearing protection must conform to Occupational Safety and Health Administration standards, 29 Code of Federal Regulations, Section 1910.95.

Sec. 4. 26 MRSA §2104, sub-§1, as enacted by PL 1987, c. 356, is amended to read:

1. Eye, face protection. Each fire department shall provide and each firefighter shall use eye ~~and~~ or face protection, or both, when the firefighter is engaged in fire suppression and other operations involving hazards to the eyes and face at all times when the face is not protected by the full facepiece of self-contained breathing apparatus.

Sec. 5. 26 MRSA §2104, sub-§2, as enacted by PL 1987, c. 356, is repealed.

Sec. 6. 26 MRSA §2105, sub-§1, as enacted by PL 1987, c. 356, is amended to read:

1. All components, air supply devices, personal alert safety system devices and warning devices. A complete inspection of all components, air supply devices, personal alert safety system devices and warning devices to be performed after each use and:

A. For volunteer associations and on-call fire departments, every month; and

B. For full-time fire departments, every week;

Sec. 7. Effective date. This Act takes effect July 1, 2005.

Effective July 1, 2005.

CHAPTER 571

S.P. 605 - L.D. 1654

An Act To Amend Transportation Laws

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

Sec. 1. 23 MRSA §704, sub-§3, as enacted by PL 1999, c. 676, §1 and affected by §2, is amended to read:

3. Arterial highways. For arterial highways that lie outside the compact area of an urban compact municipality, the Department of Transportation shall limit the number, spacing, design, location and construction of driveways, entrances or approaches to ~~maintain~~ promote the maintenance of existing posted speeds and ensure safe travel.

Sec. 2. 23 MRSA §704, sub-§6, as amended by PL 2001, c. 301, §1, is further amended to read:

6. Access denied. The Department of Transportation and the municipalities shall deny ingress to and egress from property abutting the highway when access rights have been acquired by the department, except that the Commissioner of Transportation may allow access for the development of state and state aid highways and may approve a relocation of an existing break in a control of access consistent with the rules adopted pursuant to subsection 2.

See title page for effective date.

CHAPTER 572

S.P. 608 - L.D. 1676

An Act To Allow Communications Towers on Land of the Maine Turnpike Authority

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

Sec. 1. 23 MRSA §1965, sub-§1, ¶D-1, as enacted by PL 2001, c. 41, §1, is amended to read:

D-1. Construct, acquire, install, maintain and reconstruct communications facilities and equipment within the boundaries of the turnpike for the use of the authority, the use of others or both on such terms and conditions as the authority may determine, ~~provided that any communications tower constructed, acquired, installed, maintained or reconstructed by the authority~~

~~within turnpike property will be solely for the use of the authority;~~

See title page for effective date.

CHAPTER 573

S.P. 634 - L.D. 1702

An Act To Provide for Department of Marine Resources Jurisdiction Over Certain Sections of the State's Endangered Species Program

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

Whereas, certain marine resources of the State are in need of protection; and

Whereas, the Department of Marine Resources is uniquely qualified to ensure the protection of marine species; and

Whereas, the Department of Marine Resources needs clear authority over the State's endangered and threatened marine species to obtain federal funding for the protection of those species; 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 enacted by the People of the State of Maine as follows:

Sec. 1. 12 MRSA c. 631 is enacted to read:

CHAPTER 631

ENDANGERED OR THREATENED MARINE SPECIES

§6971. Commissioner's authority over marine endangered and threatened species

In accordance with section 12801, the commissioner has authority as provided in this chapter to carry out the purpose of that section with regard to marine species.

§6972. Commissioner's programs

The commissioner may establish such programs as are necessary for the protection of marine species listed pursuant to this chapter in order to achieve

compliance with the United States Endangered Species Act of 1973, Public Law 93-205, as amended.

§6973. Designation of marine species as state endangered or state threatened

1. Commissioner's authority. The commissioner may recommend a marine species found in the State for designation as a state endangered or state threatened marine species if that species is listed as an endangered or threatened species by the United States Secretary of the Interior, pursuant to the United States Endangered Species Act of 1973, Public Law 93-205, as amended.

2. Modification to list. The commissioner may recommend that a marine species designated as a state endangered or state threatened species be removed from the list in section 6975 or recommend other changes to that list.

3. Public notice and hearings. Prior to recommending an addition, deletion or other change to the list of state endangered and state threatened marine species in section 6975, the commissioner shall provide for public notice and public hearings on that proposed recommendation in accordance with the provisions of Title 5, chapter 375, subchapter 2.

§6974. Legislative authority

The Legislature has sole authority to designate a marine species as a state endangered or state threatened species or to remove a species or change the designation of a species listed in section 6975.

§6975. List of state endangered and state threatened marine species

The list of state endangered or state threatened marine species by common name, scientific name and status is as follows:

1. Right whale. Right whale, *Eubalaena glacialis*, endangered;

2. Humpback whale. Humpback whale, *Megaptera novaeangliae*, endangered;

3. Finback whale. Finback whale, *Balaenoptera physalus*, endangered;

4. Sperm whale. Sperm whale, *Physeter catodon*, endangered;

5. Sei whale. Sei whale, *Balaenoptera borealis*, endangered;

6. Leatherback turtle. Leatherback turtle, *Dermochelys coriacea*, endangered;