

# 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**

**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**  
**2004**

transfer, warrant to the drawee that pays or accepts the draft in good faith that:

(a) The warrantor is, or was, at the time the warrantor transferred the draft, a person entitled to enforce the draft or authorized to obtain payment or acceptance of the draft on behalf of a person entitled to enforce the draft;

(b) The draft has not been altered; ~~and~~

(c) The warrantor has no knowledge that the signature of the purported drawer of the draft is unauthorized; ~~and~~

(d) If the draft is a demand draft, creation of the demand draft according to the terms on its face was authorized by the person identified as the drawer.

**Sec. 14. 11 MRSA §4-207-B, sub-§§(7) and (8)** are enacted to read:

(7) A demand draft is a check, as provided in section 3-1104, subsection (6).

(8) If the warranty in subsection (1), paragraph (d) is not given by a transferor under applicable conflict of laws rules, then the warranty is not given to the transferor when that transferor is a transferee.

See title page for effective date.

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## CHAPTER 595

### H.P. 1323 - L.D. 1801

#### An Act To Control Adult Entertainment Establishments

**Sec. 1. 30-A MRSA §4314, sub-§3, ¶E**, as amended by PL 2001, c. 406, §3, is amended to read:

E. The ordinance or portion of the ordinance conflicts with a newly adopted comprehensive plan or plan amendment adopted under this subchapter, in which case the ordinance or portion of the ordinance remains in effect for a period of up to 24 months immediately following adoption of the comprehensive plan or plan amendment; ~~or~~

**Sec. 2. 30-A MRSA §4314, sub-§3, ¶F**, as amended by PL 2001, c. 578, §10, is further amended to read:

F. The municipality or multimunicipal region applied for and was denied financial assistance for its first planning assistance or implementation assistance grant under this subchapter due to lack of state funds on or before January 1, 2003. If the office subsequently offers the municipality or

multimunicipal region its first planning assistance or implementation assistance grant, the municipality or multimunicipal region has up to one year to contract with the office to prepare a comprehensive plan or implementation program, in which case the municipality's or multimunicipal region's ordinances will be subject to paragraph D; ~~or~~

**Sec. 3. 30-A MRSA §4314, sub-§3, ¶G** is enacted to read:

G. The ordinance or portion of an ordinance is an adult entertainment establishment ordinance, as defined in section 4352, subsection 2, that has been adopted by a municipality that has not adopted a comprehensive plan.

**Sec. 4. 30-A MRSA §4352, sub-§2**, as enacted by PL 1989, c. 104, Pt. A, §45 and Pt. C, §10, is amended to read:

**2. Relation to comprehensive plan.** A zoning ordinance, other than an adult entertainment establishment ordinance, must be pursuant to and consistent with a comprehensive plan adopted by the municipal legislative body. As used in this section, "adult entertainment establishment ordinance" means an ordinance that regulates the operation of adult amusement stores, adult video stores, adult bookstores, adult novelty stores, adult motion picture theaters, on-site video screening establishments, adult arcades, adult entertainment nightclubs or bars, adult spas, establishments featuring strippers or erotic dancers, escort agencies or other sexually oriented businesses.

**Sec. 5. 30-A MRSA §4352, sub-§6**, as amended by PL 1993, c. 721, Pt. A, §11 and affected by Pt. H, §1, is further amended to read:

**6. Effect on State.** A zoning ordinance, other than an adult entertainment establishment ordinance, that is not consistent with a comprehensive plan that is consistent with the provisions of section 4326 is advisory with respect to the State. Except as provided in this section, a state agency shall comply with a zoning ordinance consistent with a comprehensive plan that is consistent with the provisions of section 4326 in seeking to develop any building, parking facility or other publicly owned structure. The Governor or the Governor's designee may, after public notice and opportunity for public comment, including written notice to the municipal officers, waive any use restrictions in those ordinances upon finding that:

A. The proposed use is not allowed anywhere in the municipality;

B. There are no reasonable alternative sites for or configurations of the project within the mu-

municipality that would achieve the necessary public purposes;

C. There are no reasonable alternatives to the project, including sites in other municipalities, that would achieve the necessary public purposes;

D. The project will result in public benefits beyond the limits of the municipality, including without limitation, access to public waters or publicly owned lands; and

E. The project is necessary to protect the public health, welfare or environment.

A decision to waive a restriction under this section may be appealed by the municipality or any aggrieved party to Superior Court.

See title page for effective date.

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**CHAPTER 596**

**S.P. 709 - L.D. 1863**

**An Act To Provide Additional Financing for Costs Associated with the Remediation of a Waste Oil Handling Facility Site in Plymouth**

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

**Whereas,** Portland-Bangor Waste Oil Services, a defunct Maine corporation, operated a waste oil handling facility in Plymouth; and

**Whereas,** this site is contaminated and must be cleaned up expeditiously to protect the public health, safety and welfare; and

**Whereas,** investigation and cleanup of the site will be expensive; and

**Whereas,** under state and federal law, any entity that sent waste oil or other contaminants to the site is a "responsible party" and, as such, is jointly and severally liable for the cost of investigation and cleanup; and

**Whereas,** this liability may pose an extraordinary financial hardship to small businesses, municipalities and others who sent waste oil to the site; and

**Whereas,** some waste oil handled at the site was collected from households as a public service and it is in the public interest to ensure the continued financial viability of the service station owners and

other small business owners who provided this service; and

**Whereas,** responsible parties at the Plymouth site have been asked to reimburse the United States Environmental Protection Agency for expenses incurred at that site; 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. 10 MRSA §1023-M, sub-§§2-B and 2-C** are enacted to read:

**2-B. Deadline for applications.** Applications submitted pursuant to subsections 2 and 2-C must be received within 90 days after the effective date of this subsection, except that the authority may extend that deadline by an additional period of time not to exceed 60 days for good cause shown.

**2-C. Remedial design; technical impracticability study.** In addition to the uses authorized in subsection 2, money in the fund may be used for direct loans or deferred loans for remedial design or a technical impracticability study. Money may be used for remedial design only if the authority determines that the applicant has signed the Administrative Order by Consent for remedial design in the matter of the West Site/Hows Corner, Maine. The provisions of subsection 2 apply to loans authorized under this subsection.

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

Effective April 6, 2004.

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**CHAPTER 597**

**S.P. 727 - L.D. 1879**

**An Act To Amend the Boiler and Pressure Vessel Law**

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

**Sec. 1. 32 MRSA §15109, sub-§2,** as amended by PL 1997, c. 691, §2 and affected by PL 1999, c. 127, Pt. D, §5, is repealed.