

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
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Non-Emergency Laws Is
April 30, 2004

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Second Special Session
Non-Emergency Laws Is
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IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Penmor Lithographers
Lewiston, Maine
2004

CHAPTER 621

H.P. 447 - L.D. 584

**An Act To Strengthen the Maine
Certificate of Need Act of 2002****Be it enacted by the People of the State of
Maine as follows:****Sec. 1. 22 MRSA §330, sub-§7**, as enacted
by PL 2001, c. 664, §2, is amended to read:

7. Critical access hospitals. Conversion by a
critical access hospital or a hospital in the process of
becoming a critical access hospital of licensed acute
care beds to hospital swing beds.

See title page for effective date.

CHAPTER 622

H.P. 1195 - L.D. 1617

**An Act To Improve Subdivision
Standards****Be it enacted by the People of the State of
Maine as follows:****Sec. 1. 12 MRSA §685-B, sub-§4-A** is en-
acted to read:

**4-A. Subdivision of land subject to liquidation
harvesting.** The commission may not approve an
application for a subdivision if the commission
determines that timber on the parcel proposed for
subdivision has been harvested in violation of rules
adopted pursuant to section 8869, subsection 14. If a
violation of rules adopted by the Maine Forest Service
to substantially eliminate liquidation harvesting has
occurred, the commission must determine prior to
granting approval for the subdivision that 5 years have
elapsed from the date the landowner under whose
ownership the harvest occurred acquired the parcel.
The commission may request technical assistance
from the Maine Forest Service to determine if a rule
violation has occurred.

For the purposes of this subsection, "liquidation
harvesting" has the same meaning as in section 8868,
subsection 6 and "parcel" means a contiguous area
within one municipality, township or plantation owned
by one person or a group of persons in common or
joint ownership. This subsection takes effect on the
effective date of rules adopted pursuant to section
8869, subsection 14.

Sec. 2. 30-A MRSA §4404, sub-§18, as
amended by PL 1997, c. 226, §3, is further amended to
read:

18. Lake phosphorus concentration. The
long-term cumulative effects of the proposed subdivi-
sion will not unreasonably increase a great pond's
phosphorus concentration during the construction
phase and life of the proposed subdivision; ~~and~~

Sec. 3. 30-A MRSA §4404, sub-§19, as en-
acted by PL 1997, c. 226, §4, is amended to read:

19. Impact on adjoining municipality. For any
proposed subdivision that crosses municipal bounda-
ries, the proposed subdivision will not cause unreas-
onable traffic congestion or unsafe conditions with
respect to the use of existing public ways in an
adjoining municipality in which part of the subdivision
is located; ~~and~~

Sec. 4. 30-A MRSA §4404, sub-§20 is
enacted to read:

20. Lands subject to liquidation harvesting.
Timber on the parcel being subdivided has not been
harvested in violation of rules adopted pursuant to
Title 12, section 8869, subsection 14. If a violation of
rules adopted by the Maine Forest Service to substan-
tially eliminate liquidation harvesting has occurred,
the municipal reviewing authority must determine
prior to granting approval for the subdivision that 5
years have elapsed from the date the landowner under
whose ownership the harvest occurred acquired the
parcel. A municipal reviewing authority may request
technical assistance from the Department of Conser-
vation, Bureau of Forestry to determine whether a rule
violation has occurred, or the municipal reviewing
authority may accept a determination certified by a
forester licensed pursuant to Title 32, chapter 76. If a
municipal reviewing authority requests technical
assistance from the bureau, the bureau shall respond
within 5 working days regarding its ability to provide
assistance. If the bureau agrees to provide assistance,
it shall make a finding and determination as to whether
a rule violation has occurred. The bureau shall
provide a written copy of its finding and determination
to the municipal reviewing authority within 30 days of
receipt of the municipal reviewing authority's request.
If the bureau notifies a municipal reviewing authority
that the bureau will not provide assistance, the
municipal reviewing authority may require a subdivi-
sion applicant to provide a determination certified by a
licensed forester.

For the purposes of this subsection, "liquidation
harvesting" has the same meaning as in Title 12,
section 8868, subsection 6 and "parcel" means a
contiguous area within one municipality, township or
plantation owned by one person or a group of persons

in common or joint ownership. This subsection takes effect on the effective date of rules adopted pursuant to Title 12, section 8869, subsection 14.

See title page for effective date.

CHAPTER 623

S.P. 587 - L.D. 1631

An Act To Prohibit the Sale of Water Containing Nicotine

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

Sec. 1. 22 MRSA c. 262-A, sub-c. 4 is enacted to read:

SUBCHAPTER 4

NICOTINE WATER

§1560. Nicotine water

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

A. "Nicotine water" means water that is sold in the State, that is intended for human consumption and that contains as an added ingredient nicotine or an alkaloid having similar physiological activity.

2. Prohibition. A person may not sell, furnish, give away or offer to sell, furnish or give away nicotine water in this State.

3. Violation. A person who violates this section commits a civil violation for which fines may be imposed under subsection 4.

4. Fines. The following fines apply to violations of this section.

A. A person who violates subsection 2 commits a civil violation for which a fine of \$500 may be adjudged.

B. A person who violates subsection 2 after having previously violated subsection 2 commits a civil violation for which a fine of \$1,000 may be adjudged.

C. A person who violates subsection 2 after having previously violated subsection 2 more than once commits a civil violation for which a fine of \$5,000 may be adjudged.

See title page for effective date.

CHAPTER 624

H.P. 1255 - L.D. 1733

An Act To Clarify the Severance Pay Law

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

Sec. 1. 26 MRSA §625-B, sub-§3, ¶B, as amended by PL 1999, c. 55, §1, is further amended to read:

B. The employee is covered by, and has been paid under the terms of, an express contract providing for severance pay that is equal to or greater than the severance pay required by this section;

Sec. 2. Application. This Act applies to all claims for severance pay that have not been paid, adjudicated or finally resolved and those pending on the date of enactment.

See title page for effective date.

CHAPTER 625

H.P. 1326 - L.D. 1804

An Act To Clarify Property Eligible for Reimbursement of Property Taxes under the Business Equipment Tax Reimbursement Program

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

Sec. 1. 36 MRSA §6652, sub-§1-B, ¶¶A and B, as enacted by PL 1997, c. 24, Pt. C, §14, are amended to read:

A. Office furniture, including, without limitation, tables, chairs, desks, bookcases, filing cabinets and modular office partitions; and

B. Lamps and lighting fixtures; and

Sec. 2. 36 MRSA §6652, sub-§1-B, ¶C is enacted to read:

C. All gambling machines or devices, including, but not limited to, electronic video machines, specifically designed or manufactured for use in the operation of any gambling or wagering activity. As used in this paragraph, "gambling machine or device" means any device, machine, paraphernalia or equipment that is used or usable in the playing phases of any gambling activity, whether that activity consists of gambling be-