

# 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**

**CHAPTER 31**

**H.P. 1012 - L.D. 1377**

**Resolve, Authorizing the Commissioner of Administrative and Financial Services To Release the State's Interests in an Easement Benefiting the Maine Criminal Justice Academy in Vassalboro**

**Sec. 1. Release of easement. Resolved:**

That the Commissioner of Administrative and Financial Services may release the State's right to utilize, install, repair and maintain the water supply to the former Oak Grove School, currently known as the Maine Criminal Justice Academy. The well and water line easement is described in a deed from Oak Grove School to the State of Maine dated May 20, 1992 and recorded in the Kennebec County Registry of Deeds, Book 4153, Page 326 at Page 330. Oak Grove School acquired its interest in the easement by deed of George Hatley dated March 11, 1981 and recorded in Book 2385, Page 123; and be it further

**Sec. 2. Appraisal. Resolved:**

That the Commissioner of Administrative and Financial Services shall have appraised at the State's expense by an independent appraiser the current market value of the proposed Realewood Estates North subdivision as described in a deed recorded at the Kennebec County Registry of Deeds in Book 6912, Page 94 with the easement described in section 1 and without the easement. Based on the value of the property without the easement, the commissioner shall determine the terms under which the State may release the easement.

See title page for effective date.

**CHAPTER 32**

**H.P. 1057 - L.D. 1445**

**Resolve, Authorizing the Commissioner of Administrative and Financial Services To Enter into a Boundary Line Agreement between the State of Maine Parking Garage at the Corner of Sewall and Capitol Streets and the Parcel East of the Garage Bounded by Chamberlain Street**

**Sec. 1. Boundary line agreement. Resolved:**

That the Commissioner of Administrative and Financial Services is authorized to negotiate, on such terms and conditions as are in the best interest of the State, a boundary line agreement and deed exchange in order to eliminate uncertainty as to the

location of the boundary line between the State's parking garage at the corner of Sewall and Capitol streets and the parcel east of the garage bounded by Chamberlain Street (formerly Grove Street), known as 77 Capitol Street, Tax Map 27, Lot 107.

The commissioner shall reserve all rights necessary to protect the State's utilities and infrastructure.

The boundary line agreement must include a provision granting the State a right of first refusal to purchase 77 Capitol Street, Tax Map 27, Lot 107.

See title page for effective date.

**CHAPTER 33**

**S.P. 243 - L.D. 705**

**Resolve, To Streamline and Encourage Use of the Suspension Process to Combat Reckless Driving**

**Sec. 1. Secretary of State to develop form for adverse report; distribution to law enforcement agencies. Resolved:**

That the Secretary of State shall develop a form for use by law enforcement officers to transmit adverse reports to the Secretary of State, which enable the Secretary of State to suspend the licenses of reckless drivers in accordance with the Maine Revised Statutes, Title 29-A, section 2458, and shall distribute the form to law enforcement agencies throughout the State; and be it further

**Sec. 2. Maine Criminal Justice Academy and law enforcement agencies to make officers aware and encourage use of adverse report form. Resolved:**

That the Maine Criminal Justice Academy and law enforcement agencies throughout the State shall make officers aware of the adverse report form and the ability of the Secretary of State to suspend the licenses of reckless drivers based upon a completed form and shall encourage use of the form by officers throughout the State to combat reckless driving.

See title page for effective date.

**CHAPTER 34**

**H.P. 762 - L.D. 1045**

**Resolve, Directing the Community Preservation Advisory Committee To Study the State Planning Office's Review of Municipal Comprehensive Plans and Growth Management Programs**

**Sec. 1. Study by Community Preservation Advisory Committee. Resolved:** That the Community Preservation Advisory Committee, as established by the Maine Revised Statutes, Title 5, section 12004-I, subsection 24-F, shall study the Executive Department, State Planning Office's review of municipal comprehensive plans, growth management programs and local ordinances for consistency with state goals. The study must include a review of the rules governing the State Planning Office's review and the time frames for the State Planning Office's review. The Community Preservation Advisory Committee shall submit a report of its findings and recommendations, including any legislation necessary to implement the recommendations, to the Joint Standing Committee on Natural Resources by December 1, 2003. The report may be included in the annual report submitted by the Community Preservation Advisory Committee pursuant to Title 30-A, section 4350, subsection 9, paragraph A. The Joint Standing Committee on Natural Resources may report out legislation relating to the study during the Second Regular Session of the 121st Legislature.

See title page for effective date.

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## CHAPTER 35

### H.P. 417 - L.D. 532

#### **Resolve, Directing the Maine Health Data Organization To Evaluate the Current System of Annual Assessments and User Fees**

**Sec. 1. Evaluation of assessments and user fees. Resolved:** That the Maine Health Data Organization shall evaluate its annual assessments and user fees, including the computation methodology for assessments and the equity of the distribution of assessments across providers and payors, with particular attention to the category of nonhospital providers. With respect to user fees, the Maine Health Data Organization shall examine current fees and develop potential strategies to reduce or eliminate user fees for providers and payors that are required to pay assessments to the organization; and be it further

**Sec. 2. Report and recommendations. Resolved:** That the Maine Health Data Organization shall report the results of its work and recommendations for improvements to the annual assessments and user fees to the Joint Standing Committee on Health and Human Services by January 30, 2004.

See title page for effective date.

## CHAPTER 36

### H.P. 408 - L.D. 523

#### **Resolve, Requiring the Maine Human Rights Commission To Report on Complaints Involving Supervisors**

**Whereas,** the Maine Supreme Court ruled, in *Gordan v. Cummings*, No. CUM-99-254, 2000 WL 419716 (Me. 4/19/00), withdrawn, 756 A.2d 942 (Me. 2000), in a decision that the court later vacated on procedural grounds, that a supervisor may be personally liable under the Maine Human Rights Act for acts of sexual harassment constituting a "hostile work environment"; and

**Whereas,** the language of the Maine Human Rights Act defining "employer" under the Maine Revised Statutes, Title 5, section 4553, subsection 4 as including "any person acting in the interest of any employer, directly or indirectly" is distinguishable from the language of the comparable federal statute, Title VII of the Civil Rights Act of 1964, 42 United States Code, Section 2000e(b); and

**Whereas,** the Maine Human Rights Commission has consistently interpreted the current language of the Maine Human Rights Act as providing for supervisory liability in some circumstances; and

**Whereas,** the Legislature is mindful of the fact that an opposite interpretation would leave victims of invidious discrimination without a remedy and might leave the victim with no option other than to file a complaint against the owner for acts of discrimination committed by someone outside the scope of agency law; and

**Whereas,** the Legislature recognizes that there are a limited number of circumstances in which a supervisory employee should be held liable for actions of intentional discrimination amounting to sexual harassment producing a hostile work environment; and

**Whereas,** the Legislature is concerned that persons violating the law should not go unpunished, that victims should not be left without a remedy and that faultless business owners should not be subjected to lawsuits because of acts committed by supervisory personnel outside the purview of agency law; and

**Whereas,** the Legislature is not confident that revision of the statute is necessary in order to protect victims of sexual harassment or to insulate innocent business owners in appropriate circumstances; now, therefore, be it:

**Sec. 1. Report. Resolved:** That the Maine Human Rights Commission shall report to the Joint