

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.

Penmor Lithographers
Lewiston, Maine
2003

Whereas, immediate enactment of this resolve is necessary to record the Legislature's position on final adoption of the rule; 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

Sec. 1. Adoption. Resolved: That final adoption of Chapter 7: Rules Advancing the Performance of Sound Student Safety Practices in Maine's Public Schools and Colleges, a provisionally adopted major substantive rule of the Department of Labor, Bureau of LaborStandards, Board of Occupational Safety and Health that has been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A, is authorized only if the rule is amended as follows.

1. The rule must be amended in the part designated "I. Summary of purpose" by deleting the 2nd sentence, which summarizes parts of the rule that are not authorized for final adoption.

2. The rule must be amended by deleting the part designated "III. Educational institution's duty to respond."

3. The rule must be amended by deleting the part designated "V. Board of Occupational Safety and Health oversight of this rule."

4. The rule must be amended by deleting the part designated "VI. Educational institutions' additional duties to advance student safety through sound student safety practices initiatives."

5. The rule must be amended by deleting the part designated "VII. Enforcement"; and be it further

Sec. 2. Finding. Resolved: That the Legislature has determined that the portions of Chapter 7: Rules Advancing the Performance of Sound Student Safety Practices in Maine's Public Schools and Colleges that are not authorized for final adoption as provided in section 1 would add new requirements to the existing health and safety requirements already mandated to school administrative units and that these new requirements could have a significant fiscal impact on school administrative units. The Legislature has also determined that the portions of the provisionally adopted major substantive rule that are authorized for final adoption as provided in section 1 are sufficient to permit the Department of Labor, Bureau of Labor Standards to communicate allegations of unsafe student conditions in educational institutions and to provide any technical assistance that

may be necessary to these educational institutions. The Board of Occupational Safety and Health is not required to hold hearings or conduct other formal proceedings prior to finally adopting this rule in accordance with this resolve.

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

Effective June 2, 2003.

CHAPTER 57

H.P. 66 - L.D. 58

Resolve, to Expand the Choices of People Seeking Mental Health Therapy Under the MaineCare Program

Sec. 1. Demonstration project. Resolved: That the Department of Human Services in cooperation with the Department of Behavioral and Developmental Services is authorized to undertake a demonstration project in one or more regions of the State to permit a limited number of licensed clinical social workers, licensed clinical professional counselors and licensed marriage and family therapists to obtain direct reimbursement from the Department of Human Services for the delivery of covered mental health services to MaineCare members. The demonstration project must be budget-neutral to the MaineCare program. Operation of the demonstration project is subject to the following conditions:

1. Therapeutic relationship. The demonstration project may not cause significant disruption of the therapeutic relationship between MaineCare members and the mental health professionals providing treatment to them; and

2. Credentials. A mental health professional permitted direct reimbursement under the demonstration project must meet the credential, professional, supervision and quality assurance requirements applicable to the profession and those requirements developed by the Department of Human Services in cooperation with the Department of Behavioral and Developmental Services; and be it further

Sec. 2. Reports. Resolved: That the Department of Behavioral and Developmental Services and the Department of Human Services shall report by January 15, 2004 and October 30, 2004 to the Joint Standing Committee on Health and Human Services regarding the following: the number of regions in which the demonstration project was established, whether the project expanded access to mental health services, whether the project was cost-

effective, whether savings were achieved and, if so, recommendations for use of those savings and the effect of the project on the mental health infrastructure in the State.

See title page for effective date.

CHAPTER 58

H.P. 1171 - L.D. 1596

Resolve, Directing the Department of Agriculture, Food and Rural Resources To Develop Guidelines for Requiring Handwashing Sinks in Certain Convenience Stores

Sec. 1. Guidelines for sinks in food establishments. Resolved: That the Department of Agriculture, Food and Rural Resources shall set forth guidelines in the State of Maine Food Code regarding handwashing sinks in certain convenience stores, upon completion of the department's database migration, but no later than April 1, 2004. These guidelines must include a procedure by which convenience stores with little food preparation will be assigned a low-risk code and will not be required to install a sink used exclusively for handwashing, as presently required in the department's food code.

See title page for effective date.

CHAPTER 59

H.P. 1130 - L.D. 1541

Resolve, Conveying The State's Interest in a Parcel of Property Located in Orrington

Preamble. The Constitution of Maine, Article IX, Section 23 requires that real estate held by the State for conservation or recreation purposes may not be reduced or its uses substantially altered except on the vote of 2/3 of all members elected to each House; and

Whereas, the real estate authorized for conveyance by this resolve is under the designations described in the Maine Revised Statutes, Title 12, section 598-A; and

Whereas, the Director of the Bureau of Parks and Lands within the Department of Conservation may sell or exchange lands with the approval of the Legislature in accordance with the Maine Revised Statutes, Title 12, sections 1837 and 1851; now, therefore, be it

Sec. 1. Director of Bureau of Parks and Lands authorized to sell or convey certain real estate. Resolved: That the Director of the Bureau of Parks and Lands within the Department of Conservation may by quitclaim deed convey the following property on such terms and conditions as the director may direct to Lillian King of Orrington, the current occupier of the property: a parcel of property in the Town of Orrington, identified on the town's current Tax Map 2 as Lot 47, said property also being described in a deed from Leland B. Blake to Harry A. Smith dated July 22, 1950 and recorded in Book 5728, Page 320, Penobscot County Registry of Deeds.

See title page for effective date.

CHAPTER 60

H.P. 1122 - L.D. 1530

Resolve, Regarding Legislative Review of Portions of Chapter 115: Certification, Authorization and Approval of Education Personnel, a Major Substantive Rule of the Department of Education

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

Whereas, the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A requires legislative authorization before major substantive agency rules may be finally adopted by the agency; and

Whereas, the above-named major substantive rule has been submitted to the Legislature for review; and

Whereas, immediate enactment of this resolve is necessary to record the Legislature's position on final adoption of the rule; 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

Sec. 1. Adoption. Resolved: That final adoption of Portions of Chapter 115: Certification, Authorization and Approval of Education Personnel, a provisionally adopted major substantive rule of the Department of Education that has been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A, is authorized only for the part of the rule specified as