

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.

Penmor Lithographers
Lewiston, Maine
2004

provisions of the federal No Child Left Behind Act of 2001 and continue to seek guidance from the United States Department of Education in order to determine changes necessary in the act and in federal regulations issued under the act; and be it further

Sec. 4. Investigation. Resolved: That the Department of Education shall conduct a thorough investigation of the costs and benefits of participating in the federal No Child Left Behind Act of 2001. The investigation must focus on the costs and benefits of aligning the federal No Child Left Behind Act of 2001 with Maine's system of learning results and must include a comprehensive analysis of the costs and benefits of participating in the federal No Child Left Behind Act of 2001; and be it further

Sec. 5. Report. Resolved: That, no later than January 15, 2005, the Department of Education shall submit its findings and recommendations to the joint standing committee of the Legislature having jurisdiction over education matters.

See title page for effective date.

CHAPTER 129

S.P. 652 - L.D. 1719

Resolve, Authorizing the Transfer of a Parcel of Land on Peaks Island to the Peaks Island Land Preserve

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

Sec. 1. Commissioner of Inland Fisheries and Wildlife authorized to negotiate and consummate sale. Resolved: That the Commissioner of Inland Fisheries and Wildlife may negotiate and consummate by quitclaim deed the transfer of fee ownership of the state-owned property on Peaks Island in Cumberland County classified as a wildlife management area pursuant to the Maine Revised Statutes, Title 12, section 12708, subsection 1, paragraph B, subparagraph (32) to the Peaks Island Land Preserve. The deed conveying the property must include restrictions determined necessary by the commissioner for appropriate conservation of the property.

See title page for effective date.

CHAPTER 130

H.P. 1375 - L.D. 1849

Resolve, Regarding Legislative Review of Chapter 355: Sand Dune Rules, a Major Substantive Rule of the Department of Environmental Protection

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 Chapter 355: Sand Dune Rules, a provisionally adopted major substantive rule of the Department of Environmental Protection 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 Chapter 355 is amended in that section relating to new construction in frontal dunes and designated as section 6, paragraph B, subparagraph (1) to provide that elevators, in addition to ramps, that are required for compliance with the requirements of the federal Americans with Disabilities Act are exempt from the requirement that a new structure or addition to an existing structure may not be constructed on or seaward of a frontal dune. The rule must also be amended to provide that elevators or ramps serving buildings required to comply with the federal Americans with Disabilities Act must be designed and constructed so as to minimize intrusion on the frontal dune, including locating the structures to the rear of buildings or within areas of a lot already developed, such as a parking area. The Department of Environmental Protection is not required to hold hearings or conduct

other formal proceedings prior to finally adopting this rule in accordance with this resolve; and be it further

Sec. 2. Sand dune stakeholder meeting. Resolved: That the Commissioner of Environmental Protection and the Commissioner of Conservation shall convene a meeting of sand dune stakeholders by May 15, 2004 to consider the following issues:

1. A comprehensive statewide beach nourishment policy that establishes priority areas and evaluates public and private funding sources, implementation time frames and public access easements;
2. Wildlife and wildlife habitat management in the sand dune system;
3. A program for voluntary acquisition of storm-damaged properties or properties for dune enhancement or public access;
4. Improved state coastal hazard mitigation plans to direct federal spending;
5. Improved and increased public and private voluntary hazard mitigation programs;
6. Reconstruction of buildings in the frontal dune and v-zone;
7. Removal of the existing prohibition of the use of outdated v-zone maps; and
8. Regulatory incentives to encourage construction or reconstruction outside of the frontal dune; and be it further

Sec. 3. Statewide beach nourishment policy. Resolved: That by January 17, 2005, the Department of Environmental Protection shall report to the joint standing committee of the Legislature having jurisdiction over natural resources matters on the progress of the sand dune stakeholder meetings and shall submit draft revised sand dune rules and a statewide beach nourishment policy; and be it further

Sec. 4. Recommendations. Resolved: That by January 16, 2006, the Department of Environmental Protection shall submit to the joint standing committee of the Legislature having jurisdiction over natural resources matters recommendations on a state acquisition program, wildlife habitat management initiatives and removal of the existing prohibition of the use of outdated v-zone maps; and be it further

Sec. 5. Revised sand dune rules. Resolved: That by January 16, 2006, the Department of Environmental Protection shall provisionally adopt and submit to the Legislature revised sand dune rules. Rules adopted pursuant to this section are major substantive rules as defined in the Maine Revised

Statutes, Title 5, chapter 375, subchapter 2-A; and be it further

Sec. 6. Repeal. Resolved: That the rules authorized pursuant to section 1 of this resolve are repealed April 1, 2006.

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

Effective April 14, 2004.

CHAPTER 131

H.P. 1388 - L.D. 1865

Resolve, Regarding Legislative Review of Chapter 755: Health Insurance Classifications, Disclosure and Minimum Standards, a Major Substantive Rule of the Department of Professional and Financial Regulation, Bureau of Insurance

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 Chapter 755: Health Insurance Classifications, Disclosure and Minimum Standards, a provisionally adopted major substantive rule of the Department of Professional and Financial Regulation, Bureau of Insurance 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 following changes are made.