

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-SECOND LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 1, 2004 to March 30, 2005**

**FIRST SPECIAL SESSION**  
**April 4, 2005 to June 18, 2005**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**JUNE 29, 2005**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST SPECIAL SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 17, 2005**

**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**  
**2005**

**Sec. 2. 35-A MRSA §116, sub-§5,** as amended by PL 1991, c. 343, §3, is further amended to read:

**5. Unexpended funds.** ~~Except as specified in this subsection, any~~ Any amount of the funds that is not expended at the end of a fiscal year does not lapse, but is carried forward to be expended for the purposes specified in this section in succeeding fiscal years; ~~but any unexpended funds in excess of 5% of the total annual assessment authorized in subsection 1 must be, at the option of the commission, either presented to the Legislature in accordance with subsection 2 for reallocation and expenditure for commission purposes, or used to reduce the utility assessment in the following fiscal year.~~

**Sec. 3. 35-A MRSA §116, sub-§8,** as amended by PL 2005, c. 3, Pt. J, §1, is further amended to read:

**8. Public Advocate assessment.** Every utility subject to assessment under this section is subject to an additional annual assessment on its intrastate gross operating revenues to produce sufficient revenue for expenditures allocated by the Legislature for operating the Office of Public Advocate, excluding amounts allocated for the full cost of the State Nuclear Safety Advisor established pursuant to Title 25, section 52. The portion of this assessment applicable to each category of public utility is based on an accounting by the Public Advocate of resources devoted to matters related to each category. The Public Advocate shall develop a reasonable and practicable method of accounting for resources devoted by the Public Advocate to matters related to each category of public utility. Assessments on each public utility within each category must be based on the utility's gross intrastate operating revenues. The revenues produced from this assessment are transferred to the Public Advocate Regulatory Fund and may only be used to fulfill the duties specified in chapter 17. The assessments charged to utilities under this subsection are considered just and reasonable operating costs for rate-making purposes. The Public Advocate shall develop a method of accounting for staff time within the Office of Public Advocate. All professional and support staff shall account for their time in such a way as to identify the percentage of time devoted to public utility regulation and the percentage of time devoted to other duties that may be required by law.

A. The Public Advocate shall submit its budget recommendations as part of the unified current services budget legislation in accordance with Title 5, sections 1663 to 1665. The assessments and expenditures provided in this section are subject to legislative approval. The Public Advocate shall make an annual report of its planned expenditures for the year and on its use of funds

in the previous year. The Public Advocate may also receive other funds as appropriated by the Legislature.

B. The Public Advocate may use the revenues provided in accordance with this section to fund the Public Advocate and 9 employees and to defray the costs incurred by the Public Advocate pursuant to this Title, including administrative expenses, general expenses, consulting fees and all other reasonable costs incurred to administer this Title.

~~C-1. Except as specified in this subsection, funds that are not expended at the end of a fiscal year do not lapse but must be carried forward to be expended for the purposes specified in this section in succeeding fiscal years; but, with the exception of funds carried forward from fiscal year 2004-05 and fiscal year 2005-06 for use in the following fiscal year, unexpended funds in excess of 10% of the total annual assessment authorized in this section must, at the option of the Public Advocate, either be presented to the Legislature in accordance with paragraph A for reallocation and expenditure or used to reduce the utility assessment in the following fiscal year. In the case of funds carried forward from fiscal year 2004-05 and fiscal year 2005-06 for use in the following fiscal year, 100% of these funds may be expended for the purposes specified in this section.~~

#### **Sec. 4. Public Utilities Commission study.**

The Public Utilities Commission shall, so far as is reasonably practicable, make an accounting of resources devoted by the commission to matters that relate to or affect entities other than public utilities. The commission shall report the accounting results to the Joint Standing Committee on Utilities and Energy no later than March 1, 2006. The committee is authorized to report out a bill to the Second Regular Session of the 122nd Legislature relating to the assessments imposed under the Maine Revised Statutes, Title 35-A, section 116.

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

Effective May 18, 2005.

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## **CHAPTER 136**

### **S.P. 27 - L.D. 85**

### **An Act To Establish Moxie as Maine's Official Soft Drink**

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

**Sec. 1. 1 MRSA §224** is enacted to read:

**§224. State soft drink**

Moxie, a registered trademarked soft drink invented by Maine-born Dr. Augustin Thompson of Union that symbolizes spirit and courage, is the official state soft drink.

See title page for effective date.

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**CHAPTER 137**

**H.P. 290 - L.D. 388**

**An Act To Ensure Continued Federal Funding of the Maine Developmental Disabilities Council**

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

**Whereas,** enactment of the designation of the Maine Developmental Disabilities Council as the designated state agency before July 1, 2005 will assist in making the transition of the newly aligned responsibilities in the new Department of Health and Human Services for the next fiscal year; 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. 34-B MRSA §17001, sub-§5,** as enacted by PL 2003, c. 417, §3 and affected by §4, is amended to read:

**5. Designated state agency.** ~~In accordance with Notwithstanding subsection 2, the council is the designated state agency for the purposes of the federal Developmental Disabilities Assistance and Bill of Rights Act of 2000, the State shall identify an agency to act as the designated state agency to provide support for the council Public Law 106-402. The As the designated state agency must, the council shall meet all requirements specified in 42 United States Code, Section 15025.~~

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

Effective May 20, 2005.

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**CHAPTER 138**

**H.P. 907 - L.D. 1309**

**An Act To Exempt Agricultural Guard Dogs and Herding Dogs from the Barking Dog Ordinances**

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

**Sec. 1. 7 MRSA §3950,** as amended by PL 1991, c. 779, §40, is further amended to read:

**§3950. Local regulations**

Each municipality is empowered to adopt or retain more stringent ordinances, laws or regulations dealing with the subject matter of this chapter, except that municipalities may not adopt breed-specific ordinances, laws or regulations. Any less restrictive municipal ordinances, laws or regulations are invalid and of no force and effect.

**1. Certain agricultural working dogs exempt from barking dog ordinances.** A municipal ordinance, law or regulation that prohibits or limits barking dogs does not apply to dogs engaged in herding livestock or to agricultural guard dogs engaged in protecting livestock or warning the owners of danger to the livestock. For the purposes of this subsection, the term "livestock" has the same meaning as in section 3907, subsection 18-A.

See title page for effective date.

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**CHAPTER 139**

**H.P. 453 - L.D. 620**

**An Act To Clarify the Liquor Enforcement Laws**

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

**Sec. 1. 25 MRSA §2801-B, sub-§1, ¶H,** as amended by PL 2003, c. 688, Pt. A, §25, is further amended to read:

H. The State Fire Marshal; ~~or~~

**Sec. 2. 25 MRSA §2801-B, sub-§1, ¶J,** as enacted by PL 2003, c. 400, §4, is amended to read: