

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-SECOND LEGISLATURE

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FIRST SPECIAL SESSION
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PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Penmor Lithographers
Lewiston, Maine
2005

§585-J. Architectural coatings**1. Manufactured on or after January 1, 2006.**

A person may not manufacture, blend or repackage for sale within the State, supply, sell or offer for sale within the State or solicit for application or apply within the State, any architectural or industrial maintenance coating manufactured on or after January 1, 2006 that contains volatile organic compounds in excess of limits specified in this subsection. Limits are expressed in grams of volatile organic compounds per liter of coating thinned to the manufacturer's maximum recommendation, excluding the volume of any water, exempt compounds or colorant added to tint bases. "Manufacturer's maximum recommendation" means the maximum recommendation for thinning that is indicated on the label or lid of the coating container.

A. Interior wood clear and semitransparent stains may not contain volatile organic compounds in excess of 550 grams per liter.

B. Varnishes may not contain volatile organic compounds in excess of 450 grams per liter. Effective January 1, 2011, varnishes may not contain volatile organic compounds in excess of 350 grams per liter.

2. Manufactured prior to January 1, 2006.

An architectural or industrial maintenance coating manufactured prior to January 1, 2006 may be sold, supplied, offered for sale or applied after January 1, 2006 as long as the architectural or industrial maintenance coating complies with the standards in effect at the time the coating was manufactured, and the coating displays the date of manufacture on the lid, label or bottom of the container.

3. Rulemaking. The department shall adopt rules to implement this section. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

See title page for effective date.

CHAPTER 182**H.P. 901 - L.D. 1304****An Act Concerning Invasive Species
and Water Quality Standards**

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

Sec. 1. **38 MRSA §464, sub-§4, ¶A,** as amended by PL 2003, c. 650, §3, is further amended to read:

A. Notwithstanding section 414-A, the department may not issue a water discharge license for any of the following discharges:

(1) Direct discharge of pollutants to waters having a drainage area of less than 10 square miles, except that:

(a) Discharges into these waters that were licensed prior to January 1, 1986 are allowed to continue only until practical alternatives exist; ~~and~~

(b) Storm water discharges in compliance with state and local requirements are exempt from this subparagraph;

(c) Aquatic pesticide or chemical discharges approved by the department and conducted by the department, the Department of Inland Fisheries and Wildlife or an agent of either agency for the purpose of restoring biological communities affected by an invasive species are exempt from this subparagraph; and

(d) Chemical discharges for the purpose of restoring water quality in GPA waters approved by the department are exempt from this subparagraph;

(2) New direct discharge of domestic pollutants to tributaries of Class-GPA waters;

(3) Any discharge into a tributary of GPA waters that by itself or in combination with other activities causes water quality degradation that would impair the characteristics and designated uses of downstream GPA waters or causes an increase in the trophic state of those GPA waters except for aquatic pesticide or chemical discharges approved by the department and conducted by the department, the Department of Inland Fisheries and Wildlife or an agent of either agency for the purpose of restoring biological communities affected by an invasive species in the GPA waters or a tributary to the GPA waters;

(4) Discharge of pollutants to waters of the State that imparts color, taste, turbidity, toxicity, radioactivity or other properties that cause those waters to be unsuitable for the designated uses and characteristics ascribed to their class;

(5) Discharge of pollutants to any water of the State that violates sections 465, 465-A

and 465-B, except as provided in section 451; causes the "pH" of fresh waters to fall outside of the 6.0 to 8.5 range; or causes the "pH" of estuarine and marine waters to fall outside of the 7.0 to 8.5 range;

(6) New discharges of domestic pollutants to the surface waters of the State that are not conveyed and treated in municipal or quasi-municipal sewage facilities. For the purposes of this subparagraph, "new discharge" means any overboard discharge that was not licensed as of June 1, 1987, except discharges from vessels and those discharges that were in continuous existence for the 12 months preceding June 1, 1987, as demonstrated by the applicant to the department with clear and convincing evidence. The volume of the discharge from an overboard discharge facility that was licensed as of June 1, 1987 is determined by the actual or estimated volume from the facilities connected to the overboard discharge facility during the 12 months preceding June 1, 1987 or the volume allowed by the previous license, whichever is less, unless it is found by the department that an error was made during prior licensing. The months during which a discharge may occur from an overboard discharge facility that was licensed as of June 1, 1987 must be determined by the actual use of the facility at the time of the most recent license application prior to June 1, 1987 or the actual use of the facility during the 12 months prior to June 1, 1987, whichever is greater. If the overboard discharge facility was the primary residence of an owner at the time of the most recent license application prior to June 1, 1987 or during the 12 months prior to June 1, 1987, then the facility is considered a year-round residence. "Year-round residence" means a facility that is continuously used for more than 8 months of the year. For purposes of licensing, the department shall treat an increase in the licensed volume or quantity of an existing discharge or an expansion in the months during which the discharge takes place as a new discharge of domestic pollutants;

(7) After the Administrator of the United States Environmental Protection Agency ceases issuing permits for discharges of pollutants to waters of this State pursuant to the administrator's authority under the Federal Water Pollution Control Act, Section 402(c)(1), any proposed license to which the administrator has formally objected un-

der 40 Code of Federal Regulations, Section 123.44, as amended, or any license that would not provide for compliance with applicable requirements of that Act or regulations adopted thereunder;

(8) Discharges for which the imposition of conditions can not ensure compliance with applicable water quality requirements of this State or another state;

(9) Discharges that would, in the judgment of the Secretary of the United States Army, substantially impair anchorage or navigation;

(10) Discharges that would be inconsistent with a plan or plan amendment approved under the Federal Water Pollution Control Act, Section 208(b); and

(11) Discharges that would cause unreasonable degradation of marine waters or when insufficient information exists to make a reasonable judgment whether the discharge would cause unreasonable degradation of marine waters.

Notwithstanding subparagraph (6), the department may issue a wastewater discharge license allowing for an increase in the volume or quantity of discharges of domestic pollutants from any university, college or school administrative unit sewage facility, as long as the university, college or school administrative unit has a wastewater discharge license valid on the effective date of this paragraph and the increase in discharges does not violate the conditions of subparagraphs (1) to (5) and (7) to (11) or other applicable laws.

Sec. 2. 38 MRSA §465, sub-§1, ¶C, as repealed and replaced by PL 2003, c. 574, §1, is amended to read:

C. Except as provided in this paragraph, there may be no direct discharge of pollutants to Class AA waters.

(1) Storm water discharges that are in compliance with state and local requirements are allowed.

(2) A discharge to Class AA waters that are or once were populated by a distinct population segment of Atlantic salmon as determined pursuant to the United States Endangered Species Act of 1973, Public Law 93-205, as amended, is allowed if, in addition to satisfying all the requirements of this article, the applicant, prior to issu-

ance of a discharge license, objectively demonstrates to the department's satisfaction that the discharge is necessary, that there are no other reasonable alternatives available and that the discharged effluent is for the purpose of and will assist in the restoration of Atlantic salmon and will return the waters to a state that is closer to historically natural chemical quality.

(a) The department may issue no more than a total of 3 discharge licenses pursuant to this subparagraph and subsection 2, paragraph C, subparagraph (2).

(b) A discharge license issued pursuant to this subparagraph may not be effective for more than 5 years from the date of issuance.

(3) Aquatic pesticide or chemical discharges approved by the department and conducted by the department, the Department of Inland Fisheries and Wildlife or an agent of either agency for the purpose of restoring biological communities affected by an invasive species are allowed.

Sec. 3. 38 MRSA §465, sub-§2, ¶C, as repealed and replaced by PL 2003, c. 574, §2, is amended to read:

C. Except as provided in this paragraph, direct discharges to these waters licensed after January 1, 1986 are permitted only if, in addition to satisfying all the requirements of this article, the discharged effluent will be equal to or better than the existing water quality of the receiving waters. Prior to issuing a discharge license, the department shall require the applicant to objectively demonstrate to the department's satisfaction that the discharge is necessary and that there are no other reasonable alternatives available. Discharges into waters of this classification licensed prior to January 1, 1986 are allowed to continue only until practical alternatives exist.

(1) This paragraph does not apply to a discharge of storm water that is in compliance with state and local requirements.

(2) This paragraph does not apply to a discharge to Class A waters that are or once were populated by a distinct population segment of Atlantic salmon as determined pursuant to the United States Endangered Species Act of 1973, Public Law 93-205, as amended, if, in addition to satisfying all the requirements of this article, the applicant, prior to issuance of a discharge license,

objectively demonstrates to the department's satisfaction that the discharge is necessary, that there are no other reasonable alternatives available and that the discharged effluent is for the purpose of and will assist in the restoration of Atlantic salmon and will return the waters to a state that is closer to historically natural chemical quality.

(a) The department may issue no more than a total of 3 discharge licenses pursuant to this subparagraph and subsection 1, paragraph C, subparagraph (2).

(b) A discharge license issued pursuant to this subparagraph may not be effective for more than 5 years from the date of issuance.

(3) This paragraph does not apply to aquatic pesticide or chemical discharges approved by the department and conducted by the department, the Department of Inland Fisheries and Wildlife or an agent of either agency for the purpose of restoring biological communities affected by an invasive species.

Sec. 4. 38 MRSA §465, sub-§3, ¶C, as enacted by PL 1985, c. 698, §15, is amended to read:

C. Discharges to Class B waters ~~shall~~ may not cause adverse impact to aquatic life in that the receiving waters ~~shall~~ must be of sufficient quality to support all aquatic species indigenous to the receiving water without detrimental changes in the resident biological community. This paragraph does not apply to aquatic pesticide or chemical discharges approved by the department and conducted by the department, the Department of Inland Fisheries and Wildlife or an agent of either agency for the purpose of restoring biological communities affected by an invasive species.

Sec. 5. 38 MRSA §465, sub-§4, ¶C, as enacted by PL 1985, c. 698, §15, is amended to read:

C. Discharges to Class C waters may cause some changes to aquatic life, ~~provided that except that~~ the receiving waters ~~shall~~ must be of sufficient quality to support all species of fish indigenous to the receiving waters and maintain the structure and function of the resident biological community. This paragraph does not apply to aquatic pesticide or chemical discharges approved by the department and conducted by the department, the Department of Inland Fisheries and Wildlife or an agent of either agency for the

purpose of restoring biological communities affected by an invasive species.

Sec. 6. 38 MRSA §465-A, sub-§1, ¶C, as amended by PL 1999, c. 243, §9, is repealed and the following enacted in its place:

C. There may be no new direct discharge of pollutants into Class GPA waters. The following are exempt from this provision:

(1) Chemical discharges for the purpose of restoring water quality approved by the department;

(2) Aquatic pesticide or chemical discharges approved by the department and conducted by the department, the Department of Inland Fisheries and Wildlife or an agent of either agency for the purpose of restoring biological communities affected by an invasive species; and

(3) Storm water discharges that are in compliance with state and local requirements.

Discharges into these waters licensed prior to January 1, 1986 are allowed to continue only until practical alternatives exist. Materials may not be placed on or removed from the shores or banks of a Class GPA water body in such a manner that materials may fall or be washed into the water or that contaminated drainage may flow or leach into those waters, except as permitted pursuant to section 480-C. A change of land use in the watershed of a Class GPA water body may not, by itself or in combination with other activities, cause water quality degradation that impairs the characteristics and designated uses of downstream GPA waters or causes an increase in the trophic state of those GPA waters.

Sec. 7. 38 MRSA §466, sub-§8-A is enacted to read:

8-A. Invasive species. "Invasive species" means an invasive animal as determined by the Department of Inland Fisheries and Wildlife or an invasive aquatic plant as listed under section 410-N or as determined by the department. A species may be determined to be invasive for all waters or for specific waters.

See title page for effective date.

CHAPTER 183

H.P. 730 - L.D. 1077

An Act To Allow Optional Auxiliary Lighting on Motor Vehicles

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

Sec. 1. 29-A MRSA §1909-B is enacted to read:

§1909-B. Optional auxiliary lighting

1. General restrictions. Except as otherwise provided by section 2054 and any other law or rule, a vehicle may be equipped with or display an auxiliary light, as defined by section 2054, subsection 1, paragraph C, only if it conforms to the requirements of this section.

2. Color. The color of an auxiliary light must be as follows:

A. White or amber if the light is on the front of the vehicle;

B. Amber if the light is on the side of the vehicle; or

C. Amber or red if the light is on the rear of the vehicle.

3. Beam. An auxiliary light must emit a steady beam of light and may not blink, oscillate, rotate or flash.

4. Brightness. An auxiliary light may not emit a beam that is brighter than, has a greater candlepower than or distracts from the visibility of standard lighting equipment required by this Title or by the inspection rules adopted by the Chief of the State Police pursuant to section 1769.

5. Operator visibility. An auxiliary light may not be installed in a manner or on the vehicle so that it distracts or impairs the vision of the operator.

6. Under-vehicle lighting. An auxiliary light is under-vehicle lighting if it is a lighting device or lamp, including, but not limited to, a neon or fluorescent tube, installed under the chassis and it is designed to illuminate and reflect from the surface beneath the vehicle. A vehicle may be equipped with under-vehicle lighting for the purpose of participating in shows, events or other exhibitions, but the lighting may not be used or the vehicle illuminated with under-vehicle lighting on a public way.

7. Violation. A person who operates a motor vehicle equipped with, illuminated by, displaying or