

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.

Penmor Lithographers
Lewiston, Maine
2005

secretary of the effective date for the statewide standards.

Sec. 6. PL 2003, c. 335, §§7 and 8 are amended to read:

Sec. 7. Review of rules pertaining to timber harvesting in shoreland areas within unorganized and deorganized areas. ~~No later than October 1, 2005, the~~ The Maine Land Use Regulation Commission, in consultation with the Director of the Bureau of Forestry within the Department of Conservation, shall review the commission's rules pertaining to timber harvesting and timber harvesting activities in shoreland areas and provide for the repeal or amendment of rules that duplicate or conflict with the rules adopted by the Commissioner of Conservation pursuant to the Maine Revised Statutes, Title 12, section 8867-B. The commission shall ensure that any necessary changes in rule become effective ~~January 1, 2006~~ on the date established pursuant to Title 38, section 438-B, subsection 5.

Sec. 8. Review of rules pertaining to timber harvesting in shoreland areas. ~~No later than October 1, 2005, the~~ The Commissioner of Environmental Protection, in consultation with the Director of the Bureau of Forestry within the Department of Conservation, shall review rules adopted by the commissioner or the Board of Environmental Protection pertaining to timber harvesting and timber harvesting activities in shoreland areas and provide for the repeal or amendment of rules that duplicate or conflict with the rules adopted by the Commissioner of Conservation pursuant to ~~the~~ the Maine Revised Statutes, Title 12, section 8867-B. The Commissioner of Environmental Protection and the board shall ensure that any necessary changes become effective ~~January 1, 2006~~ on the date established pursuant to Title 38, section 438-B, subsection 5.

Sec. 7. Commissioner of Conservation directed to submit legislation. The Commissioner of Conservation, in consultation with the Commissioner of Environmental Protection, shall prepare legislation to make statutory revisions necessary to implement a statewide standard for timber harvesting and timber harvesting activities in shoreland areas and to further clarify as necessary the responsibilities of the Department of Conservation, Bureau of Forestry in administering and enforcing the standard. The Commissioner of Conservation shall submit the legislation for introduction in the legislative session prior to the effective date for rules adopted pursuant to the Maine Revised Statutes, Title 12, section 8867-B as determined by Title 38, section 438-B, subsection 5.

See title page for effective date.

CHAPTER 227

S.P. 240 - L.D. 742

An Act To Postpone the Repeal Date on Nonhospital Expenditures in the Capital Investment Fund

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

Sec. 1. 2 MRSA §102, sub-§3, as enacted by PL 2003, c. 469, Pt. B, §1, is amended to read:

3. Nonhospital capital expenditures. For the first ~~3~~ 6 years of the plan, the nonhospital component of the capital investment fund must be at least 12.5% of the total.

This subsection is repealed July 1, ~~2007~~ 2008.

See title page for effective date.

CHAPTER 228

H.P. 977 - L.D. 1413

An Act To Conform the Remedies under the Maine Family Medical Leave Requirements with Those Available under Federal Law

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

Sec. 1. 26 MRSA §848, as enacted by PL 1987, c. 661, is repealed and the following enacted in its place:

§848. Judicial enforcement

1. Injunction and damages. A civil action may be brought in the appropriate court by an employee against any employer to enforce this subchapter. The court may enjoin any act or practice that violates or may violate this subchapter and may order any other equitable relief that is necessary and appropriate to redress the violation or to enforce this subchapter. The court also may:

A. Award damages equal to the wages, salary, employment benefits or other compensation denied or lost to the employee by reason of the violation; or

B. Order the employer to pay liquidated damages of \$100 to the employee for each day that the violation continued.

2. Additional damages. The court also may order the employer to pay an additional amount as

liquidated damages equal to the amount awarded under subsection 1 if the employee proves to the satisfaction of the court that the employer's violation was willful.

3. Attorney's fees. In any action brought pursuant to this section, in addition to any judgment awarded to the employee, the court shall award reasonable attorney's fees and other costs of the action to be paid by the employer.

See title page for effective date.

CHAPTER 229

S.P. 239 - L.D. 741

An Act To Designate the Department of Health and Human Services as the Official State Agency Responsible for Programs for Persons Affected by Brain Injury

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

Sec. 1. 22 MRSA §3089 is enacted to read:

§3089. Acquired brain injury services

The department is designated as the official state agency responsible for acquired brain injury services and programs.

Sec. 2. Permanent and coordinated advisory capacity on matters pertaining to acquired brain injury. No later than January 16, 2006, the Commissioner of Health and Human Services shall make recommendations to the Joint Standing Committee on Health and Human Services on any changes necessary to ensure that a permanent, effective and coordinated advisory capacity exists within the Department of Health and Human Services to advise the commissioner and the department on all matters pertaining to the administration and provision of programs and services for persons with acquired brain injury and their families. In making these recommendations, the commissioner shall ensure that the advisory process is broadly inclusive and representative of persons with acquired brain injury and their families and providers of services to persons with acquired brain injury.

See title page for effective date.

CHAPTER 230

H.P. 723 - L.D. 1070

An Act To Amend the Law Regarding State Milk Payments

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

Sec. 1. 7 MRSA §3153-C, sub-§2 is enacted to read:

2. Optional delay of payments. A milk producer eligible for payments under this section may choose to delay the month of the initial payment by notifying the administrator of the Maine Milk Pool on or before the 15th day of the month following the month in which production exceeded the annual production cap under the federal Milk Income Loss Contract. The producer must state the month requested for the initial payment. A producer may change the month selected for the initial payment by notifying the administrator on or before the 15th day of the month preceding the selected month. After an initial payment under this section, the administrator of the Maine Milk Pool shall make subsequent payments each month in which payments are made under the federal Milk Income Loss Contract until that producer's annual production reaches 5,000,000 pounds. When a producer chooses to delay payments under this section, production for each month that payments are delayed is not counted towards the annual production cap of 5,000,000 pounds.

See title page for effective date.

CHAPTER 231

S.P. 114 - L.D. 367

An Act To Monitor and Maintain Maximum Levels of Assistance in the General Assistance Program

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

Sec. 1. 22 MRSA §4305, sub-§3-B, as amended by PL 1993, c. 410, Pt. AAA, §3, is further amended to read:

3-B. Temporary maximum levels. Notwithstanding subsection 3-A, municipalities shall establish an aggregate maximum level of assistance that is 110% of the applicable existing housing fair market rents as established by the United States Department of Housing and Urban Development pursuant to 24 Code of Federal Regulations, Section 888.115, applying the zero-bedroom level for one person, the