

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

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

Sec. 1. 34-B MRSA §1409, sub-§1, ¶B-1 is enacted to read:

B-1. "Resident," for purposes of this section and this section only, means any of the following:

- (1) A person who is an inpatient;
- (2) A person who is an outpatient receiving services from any state institution, including outpatient clinic services; or
- (3) A resident of the Homestead facility.

Sec. 2. 34-B MRSA §1409, sub-§1, ¶C, as enacted by PL 1983, c. 580, §5, is amended to read:

C. "State institution," for purposes of this section and this section only, includes the Freeport Towne Square and the Homestead facility.

Sec. 3. 34-B MRSA §1409, sub-§2, ¶A, as enacted by PL 1983, c. 459, §7, is amended to read:

A. The commissioner shall establish by rule charges for the care and treatment of residents at any state institution. Rules adopted pursuant to this paragraph are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

Sec. 4. 34-B MRSA §1409, sub-§13, as enacted by PL 1991, c. 528, Pt. Q, §6 and affected by Pt. RRR and enacted by c. 591, Pt. Q, §6, is amended to read:

13. Special revenue account; Riverview Psychiatric Center and Homestead facility. The commissioner shall establish a special revenue account for the ~~Augusta Mental Health Institute Riverview Psychiatric Center and the Homestead facility~~ and shall deposit into it payments or income received from residents of the ~~Augusta Mental Health Institute Riverview Psychiatric Center and the Homestead facility~~, the Medicaid program or other 3rd-party payors. The commissioner shall use the funds on deposit for expenses of the ~~Augusta Mental Health Institute Riverview Psychiatric Center and the Homestead facility~~.

Sec. 5. 34-B MRSA §1409, sub-§15, as amended by PL 1993, c. 508, Pt. J, §1, is further amended to read:

15. General Fund accounts; disproportionate share hospital match. The commissioner shall establish General Fund accounts to provide the General Fund match for eligible disproportionate share hospital components in the ~~Augusta Mental Health Institute Riverview Psychiatric Center~~ and the Bangor

Mental Health Institute. Any unencumbered balances of General Fund appropriations remaining at the end of each fiscal year must be carried forward to be used for the same purposes.

Sec. 6. Appropriations and allocations.

The following appropriations and allocations are made.

**HEALTH AND HUMAN SERVICES, DEPARTMENT OF
Homestead Facility**

Initiative: Provides an initial allocation for the Homestead Facility, Other Special Revenue Funds account for payments or income received from residents of the facility, the Medicaid program or other 3rd-party payments.

OTHER SPECIAL REVENUE FUNDS	2005-06	2006-07
Unallocated	\$500	\$500
OTHER SPECIAL REVENUE FUNDS TOTAL		
	\$500	\$500

See title page for effective date.

CHAPTER 257

H.P. 799 - L.D. 1156

An Act To Protect Public Health by Clarifying the Laws Regarding Smoking in Public Places

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

Sec. 1. 22 MRSA §1541, sub-§§1 and 2, as enacted by PL 1993, c. 342, §1 and affected by §9, are amended to read:

1. Designated smoking area. "Designated smoking area" means an enclosed area designated as a place for smoking. A designated area must be designed to ~~minimize~~ prevent smoke escaping from the designated area into a public place.

2. Enclosed area. "Enclosed area" means a space between a floor and a ceiling that is demarcated on all sides by ~~floor-to-ceiling~~ walls, windows, shutters, doors or passageways. ~~Partitions, partial walls or office dividers that do not extend from the floor to the ceiling are not demarcations of enclosed areas.~~ A partition, partial wall or office divider is a demarcation of an enclosed area if it extends from the floor to within 4 feet of the ceiling or from the ceiling to within 4 feet of the floor.

Sec. 2. 22 MRSA §1542, sub-§1, as enacted by PL 1993, c. 342, §1 and affected by §9, is amended to read:

1. Prohibition. Smoking is prohibited in all enclosed areas of public places and all rest rooms made available to the public. In the case of a child care facility that is not home-based, smoking is also prohibited in a facility-designated motor vehicle within 12 hours before transporting a child who is in the care of the child care facility, and whenever such a child is present in the vehicle. Smoking is also prohibited in outdoor areas of the facility where children may be present.

Sec. 3. 22 MRSA §1542, sub-§2, ¶A, as enacted by PL 1993, c. 342, §1 and affected by §9, is amended to read:

A. Smoking is not prohibited in an enclosed area of a public place during a period of time that the facility containing the enclosed area of the public place is not open to the public. During its normal business hours, a public place must be closed for at least one hour to be considered "not open to the public."

Sec. 4. 22 MRSA §1542, sub-§2, ¶J, as amended by PL 1997, c. 150, §1, is further amended to read:

J. Smoking is not prohibited in a private residence unless the private residence is used as a day care or baby-sitting service, ~~in which case those portions of the private residence used to care for children and adjacent areas from which smoke could enter the areas used to care for children are public places for the period of time that children who are being cared for are present in that portion of the residence. If a private residence is used as a day care or baby-sitting service, smoking is prohibited:~~

(1) In the residence, during the hours of operation as a day care or baby-sitting service;

(2) In outdoor areas on the property of that private residence, wherever a child under care may be present; and

(3) During the facility's hours of operation, in a motor vehicle owned or operated by the facility whenever a child under care is in the vehicle.

Sec. 5. 22 MRSA §1542, sub-§2, ¶M, as enacted by PL 1993, c. 342, §1 and affected by §9, is repealed.

Sec. 6. 22 MRSA §1544, as enacted by PL 1993, c. 342, §1 and affected by §9, is amended to read:

§1544. Retaliation prohibited

A person may not discharge, refuse to hire, discipline or otherwise retaliate against ~~an employee or applicant~~ any person who pursues any remedy available to enforce the requirements of this chapter.

Sec. 7. 22 MRSA §1545, as enacted by PL 1993, c. 342, §1 and affected by §9, is amended to read:

§1545. Penalty

A person who violates any provision of this chapter commits a civil violation for which a ~~forfeiture not to exceed~~ fine of \$100 may be adjudged, except that a fine of up to \$1,500 may be adjudged for each violation of this chapter in cases when a person engages in a pattern of conduct that demonstrates a lack of good faith in complying with this chapter.

Sec. 8. 22 MRSA §1547 is enacted to read:

§1547. Enforcement

The Attorney General may bring an action to enforce this chapter in District Court or Superior Court and may seek injunctive relief, including a preliminary or final injunction, and fines, penalties and equitable relief and may seek to prevent or restrain actions in violation of this chapter by a person or any person controlling such person.

See title page for effective date.

CHAPTER 258

S.P. 484 - L.D. 1395

An Act Regarding National Forests

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

Sec. 1. 12 MRSA §751 is amended to read:

§751. Concurrent jurisdiction

~~The consent of the State of Maine is given to the acquisition by the United States of America by purchase or gift, but not by condemnation, of such lands in the State as in the opinion of the Federal Government may be needed for the establishment, consolidation and extension of national forests in the State. The State shall retain a concurrent jurisdiction with the United States in and over lands so acquired as national forests in the State so far that civil process in all cases, and such criminal process as may issue under the authority of the State against any person charged with the commission of crime without or within said jurisdiction, may be executed thereon in like manner as if this section and sections 752 and 754 had not passed. The State of Maine shall retain~~