

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

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~~

exclusive jurisdiction over all matters referred to in the proviso contained in section 752.

Sec. 2. 12 MRSA §752 is amended to read:

§752. Federal rules and regulations

Power is conferred upon the Congress of the United States to pass such laws and to make or provide for the making of such rules and regulations, of both a civil and criminal nature, not inconsistent with any of the provisions of this section and sections 751 and 754, and provide punishment therefor, as in its judgment may be necessary for the administration, control and protection of such lands as are acquired by the United States under said sections. Such laws, rules and regulations shall may not in any way supersede, invalidate or modify any of the laws of the State of Maine respecting the storage, control, use or development of water resources in the State, or the Mill Act, so called. Said laws of the State of Maine as existing on March 20, 1934, or thereafter enacted, are made applicable to all lands acquired under this section and ~~sections 751 and section~~ section 754, notwithstanding the title thereto shall must be in the United States of America, nor shall may such laws, rules and regulations, nor shall may anything in said sections in any way limit the power of the State through its Legislature to pass any legislation, either general or specific, respecting the storage, control, use or development of the water resources thereon, or respecting the laws of the State pertaining to fishing and hunting, nor shall may it prevent the flowage of lands acquired under this section and ~~sections 751 and section~~ section 754 in accordance with the Mill Act, or special charter, or other general laws of the State, upon payment of compensation therefor, nor shall may any consent of the United States of America be required to enable action to be taken under or in accordance with said laws. The State expressly reserves the jurisdiction of the courts of the State with respect to the determination of questions arising under said laws respecting lands so acquired by the United States of America.

Sec. 3. 12 MRSA §753, as amended by PL 1975, c. 531, §1, is further amended to read:

§753. State consent to acquisition of national forests

Subject to the Act of Congress of March 1, 1911, 36 Statutes 961, known as the Weeks Act, and Acts amendatory thereof and supplemental thereto, the consent of the State of Maine is given for the United States to acquire by purchase, gift or exchange upon the payment of adequate compensation ~~not exceeding 300,000 acres of land within the Counties of Hancock and Washington and that part of Penobscot County easterly of the Penobscot and Mattawamkeag Rivers, and not exceeding 300,000 acres of land in that part of~~

~~Aroostook County which lies south of the following line, to wit: Commencing at the northwest corner of Township 7, Range 5 in Aroostook County, and running thence easterly along the north line of said township and the continuation thereof easterly to the east line of Aroostook County or international boundary line, and such lands within that portion of Oxford County included within purchase unit boundaries of the White Mountain National Forest on July 5, 1935, all in this State as are suitable for national forest purposes, and not over 2,000 acres in Cumberland County for preserves for the protection and conservation of migratory birds; but no such acquisition shall may be made against the protest of any owner. Sections ~~751, 752 and 754~~ shall do not apply to any lands acquired under this section and section 755. This section as it relates to Oxford County shall ~~be~~ is limited to such acquisition as shall ~~have~~ has been actually acquired prior to the effective date of this Act and no further land in Oxford County shall may be acquired after such date, unless such acquisition is approved by the voters of the municipality in which such land, in whole or in part, is located.~~

Sec. 4. 12 MRSA §754 is amended to read:

§754. Limitations on state consent

The consent of the State of Maine to the United States of America to the acquisition of lands within the State by the United States of America for the establishment, consolidation and extension of national forests or any lands of a riparian nature or any lands with riparian rights appurtenant thereto or ~~which that~~ are necessary for any hydraulic development within this State is limited to the consent granted by this section and ~~sections 751 and section~~ section 752, and when such lands are acquired by the United States of America they shall must be held subject to all of the provisions of said sections so long as the ownership thereof is retained by the United States of America.

See title page for effective date.

CHAPTER 259

H.P. 798 - L.D. 1155

An Act To Prohibit the Sale and Use of Vaporized Alcohol and Alcohol Vaporizing Devices

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

Sec. 1. 28-A MRSA §2088 is enacted to read:

§2088. Vaporized alcohol