

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals  
(may include minor formatting differences from printed original)

**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**

OTHER SPECIAL REVENUE  
FUNDS TOTAL \$60,000 \$90,000

See title page for effective date.

**CHAPTER 337**

**S.P. 270 - L.D. 815**

**An Act To Require That Directors  
within the Department of  
Agriculture, Food and Rural  
Resources Be Unclassified**

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

**Sec. 1. 5 MRSA §933, sub-§1, ¶A,** as amended by PL 1997, c. 643, Pt. NN, §1, is further amended to read:

A. Deputy Commissioner;

**Sec. 2. 5 MRSA §933, sub-§1, ¶¶J to N** are enacted to read:

J. Director, Office of Agricultural, Natural and Rural Resources;

K. Director, Division of Plant Industry;

L. Director, Division of Animal Health and Industry;

M. Director, Division of Market and Production Development; and

N. Director, Division of Quality Assurance and Regulation.

**Sec. 3. 7 MRSA §3,** as repealed and replaced by PL 1979, c. 731, §8, is amended by adding after the first paragraph a new paragraph to read:

Directors are unclassified employees and are appointed by the commissioner.

**Sec. 4. Transition.** Persons serving as division directors within the Department of Agriculture, Food and Rural Resources on the effective date of this Act continue to serve as classified employees until January 2, 2007.

See title page for effective date.

**CHAPTER 338**

**S.P. 294 - L.D. 886**

**An Act To Promote Parity in the  
Laws Governing Smoking in the  
Workplace**

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

**Sec. 1. 22 MRSA §1541, sub-§3,** as enacted by PL 1993, c. 342, §1 and affected by §9, is repealed.

**Sec. 2. 22 MRSA §1542, sub-§2, ¶I,** as enacted by PL 1993, c. 342, §1 and affected by §9, is repealed.

**Sec. 3. 22 MRSA §1580-A, sub-§2, ¶¶A-1 and C-1** are enacted to read:

A-1. "Club" means a reputable group of individuals, including a veterans' service organization chartered under 36 United States Code, Subtitle II, Part B (2004), incorporated and operating in a bona fide manner solely for purposes of a recreational, social, patriotic or fraternal nature and not for pecuniary gain.

C-1. "Member" means a person who, whether as a charter member or admitted in accordance with applicable bylaws, is a bona fide member of a club and who maintains membership in good standing by payment of dues in a bona fide manner in accordance with bylaws and whose name and address are entered on the list of members. A person who does not have full membership privileges may not be considered a bona fide member.

**Sec. 4. 22 MRSA §1580-A, sub-§§3 and 4,** as enacted by PL 1985, c. 126, are amended to read:

**3. Policy; notice.** Each employer shall establish, or may negotiate through the collective bargaining process, a written policy concerning smoking and nonsmoking by employees in that portion of any business facility for which ~~he~~ the employer is responsible. In order to protect the employer and employees from the detrimental effects of smoking by others, the policy ~~shall~~ must prohibit smoking except in designated smoking areas. The policy may prohibit smoking throughout the business facility. The employer shall post and supervise the implementation of the policy. The employer shall provide a copy of this policy to any employee upon request. ~~Nothing in this section may affect the right of any employer to establish policies concerning smoking and nonsmoking by members of the public who have access to the business facility.~~ Nothing in this section may be construed to subject an employer to any additional

liability, other than liability ~~which~~ that may exist by law, for harm to an employee from smoking by others in any business facility covered by this section.

All enclosed areas of a business facility into which members of the public are invited or allowed are governed by the provisions of chapter 262.

The Bureau of Health shall accept inquiries from employers and employees and shall, when requested, assist employers in developing a policy.

~~4. Violations. Failure to establish, post or supervise the implementation of a policy. Any violation of this section is a civil violation for which a fine of not more than \$100 may be adjudged, except that a fine of not more than \$1,500 may be adjudged for each violation of this section in cases in which the employer has engaged in a pattern of conduct that demonstrates a lack of good faith in complying with the requirements of this section. The Bureau of Health shall have authority to enforce provisions of this section.~~

**Sec. 5. 22 MRSA §1580-A, sub-§4-A** is enacted to read:

**4-A. Injunctive relief.** The Attorney General may bring an action to enforce this section 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 violations of this section by any person.

**Sec. 6. 22 MRSA §1580-A, sub-§7,** as enacted by PL 1985, c. 126, is amended to read:

**7. Application.** This section does not apply to any a business facility ~~where~~ that is a veterans' service organization chartered under 36 United States Code, Subtitle II, Part B (2004) that is not open to the public or to any other club that was not open to the public and that was in operation prior to January 1, 2004, if policies concerning smoking have been mutually agreed upon by the employer and all the employees and the veterans' service organization or the club:

A. Has written procedures ensuring that only the employer and employees, members and invited guests accompanied by a member are allowed entry to the premises; and

B. Demonstrates by a written secret ballot vote taken at least once every 3 years that a majority of the members have voted to allow smoking. The date of the vote must be announced to all members at least 14 days prior to the vote. All ballots cast in the vote must be kept on file for at

least 3 years and made available to the Bureau of Health upon request.

See title page for effective date.

---



---

## CHAPTER 339

H.P. 1077 - L.D. 1532

### An Act To Protect Maine Citizens from Lead Hazards that Harm Maine Children and Families

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

**Sec. 1. 14 MRSA §6030-B** is enacted to read:

#### **§6030-B. Environmental lead hazards**

**1. Environmental lead hazard disclosure.** A landlord or other lessor of residential property shall provide to potential tenants and lessees a residential real property disclosure statement that includes, but is not limited to, information about the presence or prior removal of lead-based paint in accordance with Title 22, section 1328.

**2. Application.** The landlord or lessor shall provide the residential real property disclosure statement under subsection 1 when a structure that is part of the real property was built prior to 1978.

**Sec. 2. 22 MRSA §1328** is enacted to read:

#### **§1328. Residential real property disclosure statement forms**

**1. Sellers of real property.** The department shall prepare a standard residential real property disclosure statement form for potential sellers of real property to use to disclose to potential purchasers information concerning environmental lead hazards, in or about the real property, to comply with Title 33, section 173, subsection 4, paragraph B. The statement is in addition to that required under 42 United States Code, Section 4852d and implementing regulations.

A. The following warning must be included at the top of the form. The heading and the first and last paragraphs must be printed in a font that is at least as large as 16-point type in Times Roman font.

#### MAINE WARNING: LEAD-BASED PAINT HAZARDS

Any residence built before 1978 may contain lead sufficient to poison children and sometimes adults. LEAD poisoning poses a particular risk if