

# 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.**

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**Penmor Lithographers**  
**Lewiston, Maine**  
**2005**

B. The chain or tether must be attached to both the dog and the anchor using swivels or similar devices that prevent the chain or tether from becoming entangled or twisted. The chain or tether must be attached to a well-fitted collar or harness on the dog. For dogs other than arctic breeds, the chain or tether must be at least 5 times the length of the dog measured from the tip of its nose to the base of its tail. For arctic breeds, the chain or tether must be:

(1) At least 2.5 times the length of the dog measured from the tip of its nose to the base of its tail if the anchor is stationary; or

(2) At least 1.5 times the length of the dog measured from the tip of its nose to the base of its tail if the anchor is a pivot point allowing a 360° area of movement.

For the purposes of this subsection, "primary means of confinement" means the method used to confine a dog for periods of time that exceed 12 hours in a 24-hour period. For the purposes of this subsection, "arctic breeds" means Siberian Huskies, Alaskan Huskies, Alaskan Malamutes and other dogs with a double-layered coat and bred to live in an arctic climate.

See title page for effective date.

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## CHAPTER 341

### H.P. 430 - L.D. 597

#### An Act To Amend the Solid Waste Landfill Laws

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

**Sec. 1. 38 MRSA §1310-S, sub-§2,** as amended by PL 1997, c. 624, §15, is further amended to read:

**2. Public hearing.** The department may hold an adjudicatory public hearing within the municipality in which the facility may be located or in a convenient location in the vicinity of the proposed facility. The department shall hold an adjudicatory public hearing on an application for a new or expanded commercial or state-owned solid waste disposal facility that accepts special waste upon request from a resident or a property owner in the municipality in which the proposed facility is located. Upon a timely request for an adjudicatory hearing from 5 or more residents in the municipality in which the facility is located or abutting property owners of the facility, the commissioner shall hold an adjudicatory public hearing on an application for a vertical increase in the approved final elevation that would increase the waste disposal

capacity of a commercial or state-owned solid waste disposal facility that accepts special waste or the commissioner shall request that the board assume jurisdiction in accordance with section 344, subsection 2-A. At a hearing on an application for a vertical increase in the approved final elevation that would increase the waste disposal capacity, the testimony is limited to issues related to relevant standards of review under chapter 13, subchapter 1-A. The hearing must be conducted in accordance with Title 5, chapter 375, subchapter 4. Administrative expenses of a hearing held pursuant to this subsection and all costs incurred by the department in processing an application must be paid for by the applicant person applying for the license as provided in department rules.

**Sec. 2. Resolve 2003, c. 93, §1, sub-§5** is amended to read:

5. Notwithstanding the Maine Revised Statutes, Title 38, section 1310-U, the municipality in which the disposal facility is located may not regulate the operation or any other aspect of the disposal facility as provided in Title 38, section 2173 or by means of any municipal ordinances, regulations, licenses or permits, except that the municipality may enact ordinances with respect to the operation of any expansion of the disposal facility, including any expansion of the type of waste the facility is licensed to accept, that contain standards the municipality finds reasonable, including, without limitation, standards concerning conformance with federal and state solid waste rules; fire safety; traffic safety; levels of noise heard outside the facility; the distance from existing residential, commercial or institutional uses; groundwater protection; surface water protection; erosion and sedimentation control; and compatibility of the disposal facility with local zoning and land use controls, as long as the standards are not more strict than those contained in Title 38, chapter 3, subchapter 1, articles 5-A and 6 and Title 38, chapter 13 and the rules adopted under those chapters. The municipality is prohibited from enacting stricter standards than those contained in Title 38, chapter 13 governing the hydrogeological criteria for siting or designing the expansion of or the governing of the engineering criteria related to waste handling and disposal areas of the expanded disposal facility. Such municipal ordinances must use definitions consistent with those adopted by the Department of Environmental Protection, Board of Environmental Protection. The municipal officers of the City of Old Town and the Town of Alton shall establish a joint citizen advisory committee consisting of 7 8 members, of which 5 must be from the City of Old Town and 2 from the Town of Alton and one from the Penobscot Nation. In appointing members to the committee, the municipal officers shall use Title 38, section 2171, subsection 1 as guidance. The Penobscot Nation shall appoint one member of the committee. The committee shall meet as soon as

practical following appointment of its members and shall select a chair from among its members. The committee shall establish procedures for the conduct of meetings. The committee may:

- A. Review proposed contracts, site analyses, applications and other documents relating to the construction, permitting and operation of the disposal facility;
- B. Hold periodic public meetings to solicit the opinions of residents concerning the disposal facility and any permit applications, contracts or other provisions relating to the disposal facility;
- C. Provide the disposal facility operator and office with any alternative contract provisions, permit conditions, plans or procedures the committee considers appropriate; ~~and~~
- D. Serve as a liaison between the communities and the disposal facility operator or the office to facilitate communications during the development and operation of the disposal facility and provide residents with updated information about the project, including providing explanations of any technical terms; and ~~be it further~~
- E. Serve as a liaison between the Penobscot Nation and the disposal facility operator or the office to facilitate communications during the development and operation of the disposal facility and provide members of the Penobscot Nation with updated information about the project, including providing explanations of any technical terms; and be it further

See title page for effective date.

**CHAPTER 342**

**S.P. 231 - L.D. 694**

**An Act To Restore Fair MaineCare Payments to Critical Access Hospitals**

**Emergency preamble.** Whereas, acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

**Whereas,** it is imperative to improve the Medicare payments to critical access hospitals; and

**Whereas,** in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

**Sec. 1. 22 MRSA §1714-B,** as enacted by PL 2005, c. 12, Pt. ZZZ, §1, is amended to read:

**§1714-B. Critical access hospital reimbursement**

For state fiscal years beginning on or after July 1, 2005, the department shall reimburse critical access hospitals that are unconditionally licensed at ~~75% of charges or~~ 117% of MaineCare allowable costs, ~~whichever is less,~~ for both inpatient and outpatient services provided to patients covered by the MaineCare program. Of the total allocated from hospital tax revenues under Title 36, chapter 375, \$1,000,000 in state and federal funds must be distributed annually among critical access hospitals for staff enhancement payments.

**Sec. 2. Federal approval.** The provisions of the Maine Revised Statutes, Title 22, section 1714-B are subject to approval from the federal Centers for Medicare and Medicaid Services.

**Emergency clause.** In view of the emergency cited in the preamble, this Act takes effect when approved.

Effective June 8, 2005.

**CHAPTER 343**

**H.P. 923 - L.D. 1324**

**An Act To Improve Access to Affordable Prescription Drugs**

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

**Sec. 1. 5 MRSA §2031, sub-§§1 and 4,** as enacted by PL 2005, c. 12, Pt. PP, §1, are amended to read:

**1. Council established.** The Pharmaceutical Cost Management Council, referred to in this chapter as "the council," is established and consists of ~~no more than~~ 15 voting members appointed by the Governor as follows:

- A. The Commissioner of Administrative and Financial Services or the commissioner's designee;
- B. The Commissioner of Health and Human Services or the commissioner's designee;
- C. The Executive Director of the Workers' Compensation Board or the executive director's designee;