

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

C. Explosive materials such as dynamite or fireworks.

§1316-P. Prohibition; penalties

A person commits a civil violation for which a fine of not more than \$500 may be assessed if, with respect to any dangerous or unsafe material that the person knows is dangerous or unsafe, that person knowingly:

1. Conceals. Conceals that material by placing it inside other waste material or covering it with other waste material; and

2. Disposes at solid waste facility. Disposes or causes another to dispose of such material in a solid waste facility.

Sec. 2. Rulemaking. The Department of Environmental Protection shall adopt rules to define "dangerous or unsafe material" under the Maine Revised Statutes, Title 38, section 1316-O, subsection 1. In developing proposed rules under this section, the department shall consider for inclusion as dangerous or unsafe materials those materials and items that the United States Department of Homeland Security, Transportation Security Administration has prohibited on passenger airplanes in a passenger's carry-on baggage. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

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

Effective June 17, 2005.

CHAPTER 407

S.P. 628 - L.D. 1683

An Act To Clarify Entities Eligible for Funding by the Maine Health and Higher Educational Facilities Authority

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

Whereas, questions have arisen as to the ability of the Maine Health and Higher Educational Facilities Authority to finance the acquisition of air ambulances as an eligible entity or facility; and

Whereas, it is vitally necessary to the health, safety and welfare of the citizens of Maine that the State enjoy a coordinated air ambulance system; 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 §2053, sub-§3-A, as amended by PL 2001, c. 596, Pt. B, §7 and affected by §25, is further amended to read:

3-A. Health care facility. "Health care facility" means a nursing home that is, or will be upon completion, licensed under chapter 405; a residential care facility that is, or will be upon completion, licensed under chapter 1663; a continuing care retirement community that is, or will be upon completion, licensed under Title 24-A, chapter 73; an assisted living facility that is, or will be upon completion, licensed under chapter 1664; a hospital; a community mental health facility; a scene response air ambulance licensed under Title 32, chapter 2-B and the rules adopted thereunder; or a community health center.

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

Effective June 17, 2005.

CHAPTER 408

H.P. 201 - L.D. 262

An Act To Protect Pregnant Women from Acts of Violence

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

Sec. 1. 17-A MRSA §208-C is enacted to read:

§208-C. Elevated aggravated assault on pregnant person

1. A person is guilty of elevated aggravated assault on a pregnant person if that person intentionally or knowingly causes serious bodily injury to a person the person knows or has reason to know is pregnant. For the purposes of this subsection, "serious bodily injury" includes bodily injury that results in the termination of a pregnancy. This subsection does not apply to acts committed by:

A. Any person relating to an abortion for which the consent of the pregnant person, or a person

authorized by law to act on her behalf, has been obtained or for which such consent is implied by law; or

B. Any person for any medical treatment of the pregnant person or the fetus.

2. Elevated aggravated assault on a pregnant person is a Class A crime.

See title page for effective date.

CHAPTER 409

S.P. 496 - L.D. 1450

An Act To Amend Water Quality Standards

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

Whereas, there are significant and long-standing water quality issues, including recurring algae blooms, associated with certain Class C waters; and

Whereas, the mitigation of water quality impairments on certain Class C waters requires extraordinary limitations on the discharge of certain pollutants, including phosphorus, that will reasonably necessitate longer than usual time frames for implementation; and

Whereas, there are presently expired wastewater discharge licenses for discharges to these waters that permit excessive pollutant discharges to certain Class C waters; and

Whereas, it is necessary promptly to address such expired wastewater discharge licenses in order to begin mitigation and provide for improvement in water quality; 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. 38 MRSA §465, sub-§3, ¶B, as enacted by PL 1985, c. 698, §15, is amended to read:

B. The dissolved oxygen content of Class B waters ~~shall~~ may not be not less than 7 parts per million or 75% of saturation, whichever is

higher, except that for the period from October 1st to May 14th, in order to ensure spawning and egg incubation of indigenous fish species, the 7-day mean dissolved oxygen concentration ~~shall~~ may not be less than 9.5 parts per million and the 1-day minimum dissolved oxygen concentration ~~shall~~ may not be less than 8.0 parts per million in identified fish spawning areas. Between May 15th and September 30th, the number of Escherichia coli bacteria of human and domestic animal origin in these waters may not exceed a geometric mean of 64 per 100 milliliters or an instantaneous level of 427 ~~236~~ per 100 milliliters. In determining human and domestic animal origin, the department shall assess licensed and unlicensed sources using available diagnostic procedures.

Sec. 2. 38 MRSA §465, sub-§4, ¶B, as amended by PL 2003, c. 664, §1, is repealed and the following enacted in its place:

B. The dissolved oxygen content of Class C water may be not less than 5 parts per million or 60% of saturation, whichever is higher, except that in identified salmonid spawning areas where water quality is sufficient to ensure spawning, egg incubation and survival of early life stages, that water quality sufficient for these purposes must be maintained. In order to provide additional protection for the growth of indigenous fish, the following standards apply.

(1) The 30-day average dissolved oxygen criterion of a Class C water is 6.5 parts per million using a temperature of 22 degrees centigrade or the ambient temperature of the water body, whichever is less, if:

(a) A license or water quality certificate other than a general permit was issued prior to March 16, 2004 for the Class C water and was not based on a 6.5 parts per million 30-day average dissolved oxygen criterion; or

(b) A discharge or a hydropower project was in existence on March 16, 2005 and required but did not have a license or water quality certificate other than a general permit for the Class C water.

This criterion for the water body applies to licenses and water quality certificates issued on or after March 16, 2004.

(2) In Class C waters not governed by subparagraph (1), dissolved oxygen may not be less than 6.5 parts per million as a 30-day average based upon a temperature of 24 de-