

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

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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
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under this chapter or a rule adopted pursuant to this chapter resulted from just cause, except that a person to whom section 11222, subsection 2-A, 2-B or 2-C applies may not raise a defense under just cause that the person was not aware of the registration requirement.

Sec. 24. Interim meetings authorized. The Joint Standing Committee on Criminal Justice and Public Safety is authorized to meet once, in addition to any other authorized meetings, during the 2005 legislative interim to review the criminal sentencing laws for sex offenses and the public safety issues related to the Sex Offender Registration and Notification Act of 1999. At this meeting the committee shall seek information and data from public and private entities as necessary to examine and recommend changes to the current laws governing the sentencing, registration, release and supervision of sex offenders. The committee may submit legislation to the Second Regular Session of the 122nd Legislature regarding the criminal sentencing laws for sex offenses and the public safety issues related to the Sex Offender Registration and Notification Act of 1999.

See title page for effective date.

CHAPTER 424

S.P. 448 - L.D. 1268

An Act To Amend the Law on Junkyards, Automobile Graveyards and Automobile Recycling Businesses

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

Sec. 1. 30-A MRSA §3752, sub-§1, ¶A, as repealed and replaced by PL 2003, c. 312, §3, is amended to read:

A. "Automobile graveyard" does not include:

(1) An area used for temporary storage of vehicles or vehicle parts by an establishment or place of business that is primarily engaged in doing vehicle repair work to make repairs to render a motor vehicle serviceable. In order for a vehicle's storage to be considered temporary, it must be removed from the site within 180 calendar days of its receipt;

(2) An area used by an automobile hobbyist to store, organize, restore or display antique autos, antique motorcycles, classic vehicles, horseless carriages, reconstructed vehicles, street rods or parts of these vehicles as these vehicles are defined in Title

29-A, section 101 as long as the hobbyist's activities comply with all applicable federal and state statutes and rules and municipal ordinances, other than ordinances that are more restrictive than this subsection regarding the storage of vehicles or vehicle parts that are collected by a hobbyist, except that a municipal ordinance may require areas used by an automobile hobbyist to comply with the screening requirements in section 3754-A, subsection 1, paragraph A and the standards in section 3754-A, subsection 5, paragraph A, paragraph B, subparagraph (1) and paragraph C. For the purposes of this subparagraph, an automobile hobbyist is a person who is not primarily engaged in the business of selling any of those vehicles or parts from those vehicles;

(3) An area used for the parking or storage of vehicles, vehicle parts or equipment intended for use by a municipality, quasi-municipal entity or state or federal agency;

(4) An area used for the storage of operational farm tractors and related farm equipment, log skidders, logging tractors or other vehicles exempted from registration under Title 29-A, chapter 5;

(5) An area used for the parking or storage of vehicles or equipment being offered for sale by a dealer, equipment dealer, trailer dealer or vehicle auction business as defined in Title 29-A, section 851;

(6) An area used for the storage of vehicles by an establishment or place of business that is primarily engaged in business as a new vehicle dealer as defined in Title 29-A, section 851;

(7) An area used for temporary storage of vehicles by an establishment or place of business that is primarily engaged in business as an insurance salvage pool. In order for a vehicle's storage to be considered temporary under this subparagraph, the vehicle must be removed from the site within 180 days of receipt of title by the business; or

(8) An area used for the parking or storage of operational commercial motor vehicles, special equipment or special mobile equipment as defined in Title 29-A, section 101 that is temporarily out of service but is expected to be used by the vehicle or equipment owner or by an operator designated by the owner. This subsection does not ex-

empt an area used for the parking or storage of equipment or vehicles that are not operational while stored or parked in the area.

Sec. 2. 30-A MRSA §3754, as amended by PL 2003, c. 312, §8, is further amended to read:

§3754. Hearings

Municipal officers or county commissioners, as provided for in section 3753, shall hold a public hearing before granting a permit to establish a new automobile graveyard, automobile recycling business or junkyard and may hold public hearings annually regarding the relicensing of these facilities. Municipal officers or county commissioners shall require an applicant to provide proof of mailing the notice of the application to all abutting property owners of an application. Municipal officers or county commissioners shall also post a notice of the hearing at least 7 and not more than 14 days before the hearing in at least 2 public places in the municipality or unorganized territory and publish a notice in one newspaper having general circulation in the municipality or unorganized territory in which the automobile graveyard, automobile recycling business or junkyard is to be located. The municipal officers or county commissioners shall give written or electronic notice of the application to establish a new automobile graveyard or automobile recycling business to the automobile dealer licensing section of the Department of the Secretary of State, Bureau of Motor Vehicles by mailing a copy of the application at least 7 and not more than 44- 30 days before the hearing. The municipal officers or county commissioners shall give written notice of the application to a the public water supplier if the application is for any an automobile graveyard, automobile recycling business or junkyard located within its the supplier's source water supply area. The notice may be given by mailing a copy of the application at least 7 and not more than 14 days before the hearing.

Sec. 3. 30-A MRSA §3754-A, sub-§4, as enacted by PL 2003, c. 312, §9, is amended to read:

4. Public and private water supplies. A permit may not be granted for an automobile graveyard, junkyard or automobile recycling business that handles junk, scrap metal, vehicles or other solid waste within 300 feet of a well that serves as a public or private water supply. This prohibition does not include a private well that serves only the automobile graveyard, junkyard, automobile recycling business or the owner's or operator's abutting residence. This prohibition does not apply to wells installed after an automobile graveyard, junkyard or automobile recycling business has already received a permit under section 3753.

Automobile graveyards, junkyards and automobile recycling businesses operating under the terms of permits issued prior to the effective date of this subsection and handling junk, scrap metal, vehicles or other solid waste within 300 feet of wells that serve as public or private water supplies may continue to operate in those locations under the terms of those permits. Municipal officers or county commissioners may renew a permit allowing the continued handling of junk, scrap metal, vehicles or other solid waste within 300 feet of a well serving as a public or private water supply as long as no further encroachment toward the well occurs ~~and there is no evidence of contamination of the well.~~ The municipal officers or county commissioners may not renew a permit if there is substantial, credible evidence that the permitted activities have caused contamination of the well.

Sec. 4. 30-A MRSA §3754-A, sub-§5, ¶D, as enacted by PL 2003, c. 312, §9, is amended to read:

D. Junkyard and automobile graveyard owners must demonstrate at the time of licensing that the facility or facilities for which they seek permits are, or are part of, a viable business entity and the facility or facilities are actively engaged in the business of salvaging, recycling, dismantling, processing, repairing or rebuilding junk or vehicles for the purpose of sale, or trade or personal use.

Sec. 5. 30-A MRSA §3754-A, sub-§10 is enacted to read:

10. Standard for permit. The municipal officers or county commissioners may issue a permit to an automobile graveyard or junkyard if that automobile graveyard or junkyard meets the operating standards set forth in subsection 5.

Sec. 6. 30-A MRSA §3754-A, as enacted by PL 2003, c. 312, §9, is amended by adding a new last paragraph to read:

For purposes of revocation or suspension of a permit pursuant to section 3758-A, subsection 5, each of the standards set forth in this section is a condition of a permit.

Sec. 7. 30-A MRSA §3756, sub-§1, as amended by PL 2003, c. 312, §12, is further amended to read:

1. Graveyard or junkyard. Fifty dollars for each application for an automobile graveyard or junkyard plus the cost of posting and publishing the notice under section 3754;

Sec. 8. 30-A MRSA §3758-A, sub-§5, as enacted by PL 2003, c. 312, §14, is amended to read:

5. Revocation or suspension of permit. Violation of any condition, restriction or limitation inserted in a permit by the municipal officers or county commissioners is cause for revocation or suspension of the permit by the same authority that issued the permit. A permit may not be revoked or suspended without a hearing and notice to the owner or the operator of the automobile graveyard, automobile recycling business or junkyard. Notice of hearing must be sent to the owner or operator by registered mail at least 7 but not more than 14 days before the hearing. The notice must state the time and the place of hearing and contain a statement describing the alleged violation of any conditions, restrictions or limitations inserted in the permit.

The municipal officers or county commissioners shall provide written or electronic notice of the hearing to the automobile dealer licensing section of the Department of the Secretary of State, Bureau of Motor Vehicles at least 7 days before the hearing.

See title page for effective date.

CHAPTER 425

H.P. 1055 - L.D. 1503

An Act To Amend the Economic Development Statutes

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

Sec. 1. 5 MRSA §934-A, sub-§1, as amended by PL 2003, c. 673, Pt. M, §1, is repealed and the following enacted in its place:

1. Major policy-influencing position. The Deputy Commissioner is a major policy-influencing position within the Department of Economic and Community Development. The Deputy Commissioner is appointed by the Commissioner of Economic and Community Development and serves at the commissioner's pleasure. Notwithstanding any other provision of law, this position and its successor position is subject to this chapter.

Sec. 2. 5 MRSA §3327, sub-§1, ¶G, as amended by PL 2003, c. 9, §1, is further amended to read:

G. The Commissioner of Economic and Community Development or the commissioner's designee;

Sec. 3. 5 MRSA §13033, as amended by PL 2003, c. 681, §5, is further amended to read:

§13033. Membership

The commission consists of 10 members: the Chief Executive Officer of the Finance Authority of Maine or the chief executive officer's designee; the Commissioner of Economic and Community Development or the commissioner's designee; the House and Senate chairs of the joint standing committee of the Legislature having jurisdiction over business, research and economic development matters, who are ex officio, nonvoting members; the chair of the Small Business Development Centers Advisory Council; the District Director of the United States Small Business Administration's Maine District Office; and a designee from the administrative unit and 3 public members with expertise and knowledge in small business and entrepreneurship, appointed by the commissioner.

Sec. 4. 5 MRSA §13058, sub-§1, as enacted by PL 1987, c. 534, Pt. A, §§17 and 19, is amended to read:

1. Employ and remove staff. The commissioner shall employ and remove staff of the department. Persons employed in major policy-influencing positions, as defined in section 934-A, and professional staff whose positions were formerly located in the State Development Office shall serve at the pleasure of the commissioner. The office directors serve at the pleasure of the commissioner.

A. All professional positions ~~which~~ that are unclassified positions and members of bargaining units and are transferred to the department from units of State Government other than the State Development Office ~~shall~~ retain their current status, including their rights as members of bargaining units. ~~Classified~~ The position responsible for the administration of the tax incentive programs and classified, clerical and other non-professional staff shall must be hired pursuant to the Civil Service Law for classified state employees.

B. The commissioner may employ or engage such outside technical or professional consultants as may be necessary or appropriate to assist the office in carrying out its functions and may enter into contracts with other boards, commissions, departments and divisions of the State, with the University of Maine System or with private entities to assist ~~him~~ the commissioner in carrying out ~~his~~ the commissioner's duties under this chapter.

Sec. 5. 5 MRSA c. 383, sub-c. 1-B, as amended, is repealed.

Sec. 6. 5 MRSA §13105, sub-§1, as enacted by PL 2003, c. 673, Pt. M, §8, is amended to read:

1. Office established. The commissioner shall establish the Office of Innovation, referred to in this