

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-SECOND LEGISLATURE

SECOND SPECIAL SESSION
July 29, 2005

SECOND REGULAR SESSION
January 4, 2006 to May 24, 2006

THE GENERAL EFFECTIVE DATE FOR
SECOND SPECIAL SESSION
NON-EMERGENCY LAWS IS
OCTOBER 28, 2005

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
AUGUST 23, 2006

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Penmor Lithographers
Lewiston, Maine
2006

examination of fair market rental values, maximum rents established in statute and the potential to generate more revenue from submerged land leases. The director shall submit a report with findings and recommendations to the joint standing committee of the Legislature having jurisdiction over public lands by January 2, 2007. The report must include options for increasing lease revenue significantly and a description of potential risks or problems associated with each option. The department shall submit legislation necessary to implement the bureau's recommendations to the First Regular Session of the 123rd Legislature.

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

Effective April 6, 2006.

CHAPTER 551

H.P. 1442 - L.D. 2046

An Act To Implement the Recommendations of the Attorney General's Working Group Regarding Sentencing Factors for Crimes against Persons Who Are Homeless

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

Sec. 1. 17-A MRSA §1151, sub-§8, ¶B, as enacted by PL 1995, c. 149, §1, is amended to read:

B. The selection by the defendant of the person against whom the crime was committed or of the property that was damaged or otherwise affected by the crime because of the race, color, religion, sex, ancestry, national origin, physical or mental disability ~~or~~ sexual orientation or homelessness of that person or of the owner or occupant of that property.

See title page for effective date.

CHAPTER 552

H.P. 1466 - L.D. 2072

An Act To Amend the Definition of "Municipality" as It Relates to the Maine Municipal Bond Bank Act

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

Whereas, this legislation needs to take effect before the expiration of the 90-day period in order to enable the Maine Municipal Bond Bank to make loans in a timely fashion; 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. 30-A MRSA §5903, sub-§7-A, ¶A, as amended by PL 1997, c. 555, §1, is further amended to read:

A. Any city, town, special district, county, plantation or municipal village corporation within the State, including any corporation owned entirely by any entity specified in this paragraph and providing water, sewer or electric service or performing other essential governmental functions;

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

Effective April 6, 2006.

CHAPTER 553

H.P. 1168 - L.D. 1657

An Act To Minimize the Risk to Maine's Marine Waters and Organisms Posed by the Application of Pesticides

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

Whereas, the spraying of pesticides to curtail browntail moth populations begins in the spring; and

Whereas, action is needed to reduce the risk to marine organisms from pesticides used to curtail browntail moths; 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 §1444, sub-§4 is enacted to read:

4. Limits on pesticide applications. Pesticide applications near coastal waters in Cumberland, Sagadahoc and York counties to control browntail moths must be in compliance with section 1445.

This subsection is repealed March 31, 2007.

Sec. 2. 22 MRSA §1445 is enacted to read:

§1445. Restrictions on application of pesticides to control browntail moths in coastal areas

This section applies to the application of pesticides to control browntail moths in coastal areas. For the purposes of this section, "coastal areas" means land in Cumberland, Sagadahoc and York counties abutting coastal waters as defined in Title 12, section 6001, subsection 6, except that coastal areas extend inland up rivers and streams only as far as the first bridge.

1. Prohibition on application of pesticides. A person may not apply a pesticide to control browntail moths on shade or ornamental trees within 50 feet of the mean high water mark in coastal areas.

2. Restrictions on applications between 50 and 250 feet of mean high water mark. A person may not apply a pesticide to control browntail moths on shade or ornamental trees in coastal areas located between 50 and 250 feet from the mean high water mark except in accordance with this subsection.

A. Only products with the active ingredients diflubenzuron, permethrin, tau-fluvalinate or cyfluthrin may be applied.

B. Applications may be performed only with a hydraulic hand-held spray gun.

C. Applications may be performed only in a manner in which the applicator directs the spray away from marine waters.

D. Applications may not be made when the wind is blowing toward marine waters.

3. Notification and submission of records. A commercial applicator, as defined in section 1471-C, subsection 5, shall notify the Board of Pesticides Control within the Department of Agriculture, Food and Rural Resources in advance of dates planned for spraying pesticides to control browntail moths in coastal areas. Upon request of the board, a commercial applicator shall submit spray records for such applications.

4. Exemption. The prohibitions and restrictions in this section do not apply to biological pesticides or to the injection of pesticides directly into the soil or into shade and ornamental trees.

5. Repeal. This section is repealed March 31, 2007.

Sec. 3. Board of Pesticides Control; monitoring project; report. The Department of Agriculture, Food and Rural Resources, Board of Pesticides Control shall develop a plan for monitoring hydraulic spray applications of pesticides allowed under the Maine Revised Statutes, Title 22, section 1445, subsection 2 to control browntail moths in coastal areas. Monitoring must occur on selected sites where applications are allowed under that subsection.

The Department of Agriculture, Food and Rural Resources, Board of Pesticides Control, in consultation with an environmental risk advisory committee and the Lobster Conservancy, shall complete an assessment of risks and benefits relating to pesticide applications near marine waters. The board shall report its findings and recommendations to the joint standing committee of the Legislature having jurisdiction over agriculture, conservation and forestry matters by January 2, 2007.

Sec. 4. Legislation authorized. The joint standing committee of the Legislature having jurisdiction over agriculture, conservation and forestry matters may report out legislation to the First Regular Session of the 123rd Legislature relating to the application of pesticides near marine waters to control browntail moths.

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

Effective April 7, 2006.

CHAPTER 554

S.P. 686 - L.D. 1769

An Act To Strengthen the State Purchasing Code of Conduct Laws

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

PART A

Sec. A-1. 5 MRSA §1825-K, as enacted by PL 2001, c. 439, Pt. NNNN, §1, is repealed and the following enacted in its place: