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OF THE

STATE OF MAINE

AS PASSED BY THE

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Penmor Lithographers
Lewiston, Maine
2006

CHAPTER 560

H.P. 1290 - L.D. 1850

An Act To Clarify the Change of Beneficiary Provision in the Maine State Retirement System Laws

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

Sec. 1. 5 MRSA §17054, sub-§4, as enacted by PL 1991, c. 746, §8 and affected by §10, is amended to read:

4. Qualified domestic relations order. The rights of a member ~~or,~~ retiree, beneficiary or other payee under this Part are subject to the rights of or assignment to an alternate payee under a qualified domestic relations order in accordance with section 17059.

Sec. 2. 5 MRSA §17059, sub-§6, ¶A, as enacted by PL 1991, c. 746, §9 and affected by §10, is amended to read:

A. If the order is determined to be a qualified domestic relations order, ~~the~~ it is presumed to be in compliance with all requirements of this Part. The retirement system shall pay benefits in accordance with the order and shall give effect to the plain meaning of its terms notwithstanding any failure of the order to cite or reference statutory or rule provisions. A beneficiary or recipient of a right or benefit provided for or awarded in a qualified domestic relations order may not be deprived of that right or benefit, or any part of that right or benefit, by a subsequent act or omission of the member, another claimant or beneficiary or the retirement system, notwithstanding any provision of law to the contrary or any policy or procedure the retirement system employs in the implementation of this Part.

Sec. 3. 5 MRSA §17805-A, sub-§1, as amended by PL 2001, c. 118, §7, is further amended to read:

1. Election of benefit for different beneficiary. The recipient may elect to have the reduced retirement benefit paid under the same option to a different beneficiary except when the former spouse is named as retirement beneficiary at the time the divorce is granted, in which case the election may be made only under the following conditions:

A. The spouse or former spouse who was originally named as retirement beneficiary must have been the sole beneficiary of the reduced retirement benefit under section 17804, subsection 3, 4, 5-A, 5-B, 5-C, 5-D or 5-E; and

B. The recipient and the spouse or former spouse who was originally named retirement beneficiary must agree to the change of beneficiary. Prior to this agreement, the executive director shall ensure that the spouse or former spouse who was originally named as retirement beneficiary has been counseled by an employee of the retirement system regarding the financial effect of giving up rights as a beneficiary and has signed a statement that the information has been received and understood.

Sec. 4. 5 MRSA §18405-A, sub-§1, as amended by PL 2001, c. 118, §11, is further amended to read:

1. Election of benefit for different beneficiary. The recipient may elect to have the reduced retirement benefit paid under the same option to a different beneficiary except when the former spouse is named as retirement beneficiary at the time the divorce is granted, in which case the election may be made only under the following conditions:

A. The spouse or former spouse who was originally named as retirement beneficiary must have been the sole beneficiary of the reduced retirement benefit under section 18404, subsection 3, 4, 5-A, 5-B, 5-C, 5-D or 5-E; and

B. The recipient and the spouse or former spouse who was originally named retirement beneficiary must agree to the change of beneficiary. Prior to this agreement, the executive director shall ensure that the spouse or former spouse who was originally named as retirement beneficiary has been counseled by an employee of the retirement system regarding the financial effect of giving up rights as a beneficiary and has signed a statement that the information has been received and understood.

Sec. 5. Retroactivity. Those sections of this Act that amend the Maine Revised Statutes, Title 5, section 17054, subsection 4 and Title 5, section 17059, subsection 6, paragraph A apply retroactively to January 1, 1985.

See title page for effective date.

CHAPTER 561

H.P. 1328 - L.D. 1888

An Act To Amend Certain Laws Administered by the Department of Environmental Protection

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

Sec. 1. 38 MRSA §410-N, sub-§1, ¶B, as enacted by PL 1999, c. 722, §1, is amended to read:

B. "Invasive aquatic plant" means a species identified by the department ~~through rulemaking~~ as an invasive aquatic plant or one of the following species:

(1) Eurasian water milfoil, Myriophyllum spicatum;

(2) Variable-leaf water milfoil, Myriophyllum heterophyllum;

(3) Parrot feather, Myriophyllum aquaticum;

(4) Water chestnut, Trapa natans;

(5) Hydrilla, Hydrilla verticillata;

(6) Fanwort, Cabomba caroliniana;

(7) Curly pondweed, Potamogeton crispus;

(8) European naiad, Najas minor;

(9) Brazilian elodea, Egeria densa;

(10) Frogbit, Hydrocharis morsus-ranae; and

(11) Yellow floating heart, Nymphoides peltata.

~~Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.~~

Sec. 2. 38 MRSA §490-D, sub-§8, as amended by PL 2005, c. 158, §4, is further amended to read:

8. Erosion and sedimentation control. ~~All reclaimed and unreclaimed areas, except for access roads,~~ A working pit must be naturally internally drained at all times unless a variance is obtained from the department.

A. The area of a working pit may not exceed 10 acres.

B. Stockpiles consisting of topsoil to be used for reclamation must be seeded, mulched or otherwise temporarily stabilized.

C. Sediment may not leave the parcel or enter a protected natural resource.

D. Grubbed areas not internally drained must be stabilized.

E. Erosion and sedimentation control for access roads must be conducted in accordance with the department's best management practices for erosion and sedimentation control. ~~Areas for access roads that are not naturally internally drained must meet the erosion and sedimentation control standards of section 420-C.~~

F. All areas other than a working pit area that are not naturally internally drained must meet the erosion and sedimentation control standards of section 420-C.

The department may grant a variance from this subsection, except for paragraphs C, D ~~and,~~ E and F. Areas are not considered "naturally internally drained" if surface discharge is impeded through the use of structures such as detention ponds, retention ponds and undersized culverts.

Sec. 3. 38 MRSA §490-W, sub-§24 is enacted to read:

24. Working pit. "Working pit" means the extraction area, including overburden, of an excavation for rock. "Working pit" does not include a stockpile area or an area that has a permanent fixed structure such as an office building, permanent processing facility or fixed fuel storage structure.

Sec. 4. 38 MRSA §490-Z, sub-§8, as amended by PL 2005, c. 158, §12, is further amended to read:

8. Erosion and sedimentation control. ~~All reclaimed and unreclaimed areas, except for access roads,~~ A working pit must be naturally internally drained at all times unless a variance is obtained from the department. Stockpiles consisting of topsoil to be used for reclamation must be seeded, mulched or otherwise temporarily stabilized.

A. Sediment may not leave the parcel or enter a protected natural resource.

B. Grubbed areas not internally drained must be stabilized.

C. Erosion and sedimentation control for access roads must be conducted in accordance with the department's best management practices for erosion and sedimentation control. ~~Areas for access roads that are not naturally internally drained must meet the standards of section 420-C.~~

D. All areas other than a working pit area that are not naturally internally drained must meet the erosion and sedimentation control standards of section 420-C.

The department may not grant a variance from the provisions of paragraph A, B ~~or,~~ C or D. Areas are not considered "naturally internally drained" if surface discharge is impeded through the use of structures such as detention ponds, retention ponds and undersized culverts.

Sec. 5. 38 MRSA §551, sub-§1-B, as amended by PL 2003, c. 137, §1, is further amended to read:

1-B. Research and development. The Legislature may allocate not more than $250,000 per annum of the amount currently in the fund to be devoted to research and development in the causes, effects and removal of pollution caused by oil, petroleum products and their by-products ~~on the marine environment~~. Researchers receiving funds under this subsection shall use vessels based in this State as platforms when practicable. Such allocations must be made in accordance with section 555. ~~This subsection takes effect July 1, 1996.~~

Sec. 6. 38 MRSA §563-C, sub-§2, as enacted by PL 2001, c. 302, §1, is amended to read:

2. Exemptions. The prohibitions in subsection 1 do not apply to:

A. Replacement or expansion of a facility registered and installed on or before September 30, 2001, provided the replacement or expansion occurs on the same property and the owner or operator continues to pay the annual registration fee as required under section 563. Failure to pay the annual fee disqualifies a facility from being considered exempt under this section;

B. Conversion of an aboveground oil storage facility ~~registered~~ permitted by the Department of Public Safety, Office of the State Fire Marshal and installed on or before September 30, 2001 to an underground oil storage facility, provided the conversion occurs on the same property;

C. A facility used solely for the storage of heating oil that is consumed on site;

D. Underground piping associated with an aboveground oil storage facility; or

E. A well located on the same property as a facility and serving only users on that property.

Notwithstanding paragraphs A and B, the prohibitions in subsection 1 apply if a facility has been out of service for more than 12 consecutive months unless, as provided in rules adopted under section 566-A, the commissioner has approved an application allowing the facility to remain temporarily out of service for a longer period.

Sec. 7. 38 MRSA §1310-B, sub-§2, as amended by PL 2003, c. 661, §1 and c. 689, Pt. B, §6, is further amended to read:

2. Hazardous waste information and information on mercury-added products and electronic devices. Information relating to hazardous waste submitted to the department under this subchapter, information relating to mercury-added products submitted to the department under chapter 16-B or information relating to electronic devices submitted to the department under section ~~1609~~ 1610, subsection 6, paragraph A, subparagraph (4), division (i) and paragraph B may be designated by the person submitting it as being only for the confidential use of the department, its agents and employees, the Department of Agriculture, Food and Rural Resources and the Department of Health and Human Services and their agents and employees, other agencies of State Government, as authorized by the Governor, employees of the United States Environmental Protection Agency and the Attorney General and employees of the municipality in which the waste is located. The designation must be clearly indicated on each page or other portion of information. The commissioner shall establish procedures to ~~insure~~ ensure that information so designated is segregated from public records of the department. The department's public records must include the indication that information so designated has been submitted to the department, giving the name of the person submitting the information and the general nature of the information. Upon a request for information, the scope of which includes information so designated, the commissioner shall notify the submittor. Within 15 days after receipt of the notice, the submittor shall demonstrate to the satisfaction of the department that the designated information should not be disclosed because the information is a trade secret, production, commercial or financial information, the disclosure of which would impair the competitive position of the submittor and would make available information not otherwise publicly available. Unless such a demonstration is made, the information must be disclosed and becomes a public record. The department may grant or deny disclosure for the whole or any part of the designated information requested and within 15 days shall give written notice of the decision to the submittor and the person requesting the designated information. A person aggrieved by a decision of the department may appeal only to the Superior Court in accordance with the provisions of section 346. All information provided by the department to the municipality under this subsection ~~must be~~ is confidential and not a public record under Title 1, chapter 13. In the event a request for such information is submitted to the municipality, the municipality shall submit that request to the commissioner to be processed by the department as provided in this subsection.

Sec. 8. 38 MRSA §1610, sub-§6, as amended by PL 2005, c. 330, §39, is further amended to read:

6. Manufacturer plan and reporting requirements. A manufacturer shall develop a plan and submit a report as required in this subsection.

A. A manufacturer shall develop a plan for the collection and recycling or reuse of computer monitors and televisions as follows.

(1) By March 1, 2005, a manufacturer of computer monitors and a manufacturer of televisions shall develop and submit to the department a plan for the collection and recycling or reuse of computer monitors and televisions produced by the manufacturer and generated as waste by households in this State. This plan must be based on the manufacturer's taking responsibility for its products upon receipt at consolidation facilities in the State. Following submission of the original plan, manufacturers may revise their plans at any time as they may consider appropriate in response to changing circumstances or needs ~~provided that~~ only if these revisions conform to the provisions of this section and rules adopted pursuant to this section~~,~~ and are submitted to the department in a timely fashion.

(2) ~~By January 1, 2006~~ Ninety days after the department adopts rules under subsection 5, paragraph D, subparagraph (1), a manufacturer of computer monitors and a manufacturer of televisions shall implement and finance the implementation of this plan for the collection and recycling or reuse of computer monitors and televisions produced by the manufacturer and generated as waste by households in this State.

(3) Notwithstanding subparagraphs (1) and (2), a manufacturer may satisfy the plan requirements of this paragraph by agreeing to participate in a collective recovery plan with other manufacturers. The collective recovery plan must meet the same standards and requirements of the plans submitted by individual manufacturers.

(4) The plan developed by the manufacturer must include, at a minimum:

(a) A description of the collection system, including the methods of convenient collection;

(b) A public education element to inform the public about the collection system, including details about meeting all consumer notification and labeling requirements;

(c) Details for implementing and financing the handling of computer monitors and televisions produced by the manufacturer and orphan waste computer monitors and televisions that are generated as waste by households in this State and received by consolidation facilities in this State;

(d) Details for the method of reimbursing consolidation facilities for the costs of handling and recycling the household computer monitors and televisions;

~~(e) Documentation of the willingness of all necessary parties to implement the plan, including the parties that will participate in the consolidation, treatment, recovery, reuse and recycling of the computer monitors and televisions;~~

~~(f) Assurances that the plan and all necessary parties will operate in compliance with local, state and federal waste management laws, rules and regulations;~~

(g) Descriptions of the performance measures that will be used and reported by the manufacturer to report recovery and recycling rates for computer monitors and televisions at the end of life of those computer monitors and televisions; and

~~(h) Descriptions of additional or alternative actions that will be taken to improve recovery and recycling rates, if needed; and~~

(i) Annual sales data on the number and type of computer monitors and televisions sold by the manufacturer in this State over the 5 years preceding the filing of the plan. The department may keep information submitted pursuant to this division confidential as provided under section 1310-B.

(5) A manufacturer is responsible for all costs associated with the development and implementation of the plan. If the costs are passed on to consumers, the costs must be imposed at the time of purchase and not

with a fee imposed at the end of life of the computer monitor or television.

B. Beginning July 1, 2007, and annually thereafter, a manufacturer that offers a computer monitor or television for sale in this State shall submit a report to the department that includes the following: a description of the collection, consolidation and recycling services utilized to recover the manufacturer's products; substantiated estimates, on an annual basis for the preceding calendar year, of the quantities of covered electronic devices marketed to retail consumers in this State and collected for recovery in this State; the capture rate for electronics based on sales in this State; ~~substantiated estimates of the percentage of collected materials that are reused and recycled from its products; the identification of end markets for the collected waste;~~ and any systems implemented by the manufacturer to ensure environmentally sound management of its products. The department may keep information submitted pursuant to this paragraph confidential as provided under section 1310-B.

Sec. 9. 38 MRSA §1665-A, sub-§5, ¶B, as amended by PL 2005, c. 148, §5, is repealed and the following enacted in its place:

B. Pay for each mercury switch brought to the consolidation facilities as partial compensation for the removal, storage and transport of the switches a minimum of $4 if the vehicle identification number of the source vehicle is provided. If the vehicle identification number of the source vehicle is not provided, no payment is required;

Sec. 10. PL 2003, c. 227, §9 is amended to read:

Sec. 9. Effective date. Those sections of this Act that amend the Maine Revised Statutes, Title 38, section 465, subsection 1, paragraph A; subsection 2, paragraph A; subsection 3, paragraph A; and subsection 4, paragraph A and section 465-A, subsection 1, paragraph A take effect when the water use standards for maintaining in-stream flows are finally adopted as provided in Title 38, section ~~470-E~~ 470-H.

Sec. 11. PL 2005, c. 452, Pt. C, §5 is amended to read:

Sec. C-5. Report. The work group established under section 2 of this Part shall provide updates or reports to the council as determined by the council. The council shall submit its final report and recommendations to the joint standing committee of the Legislature having jurisdiction over natural resources matters no later than November 1, ~~2007~~ 2006.

Sec. 12. Payment required; no vehicle identification number. Notwithstanding the Maine Revised Statutes, Title 38, section 1665-A, subsection 5, paragraph B, until 45 days after the effective date of this Act, an automobile manufacturer shall pay for each mercury switch brought to a consolidation facility as partial compensation for the removal, storage and transport of the switch a minimum of $3 if the vehicle identification number of the source vehicle is not provided as long as the switch is accompanied by signed certification that the switch was removed from a vehicle dismantled in Maine.

See title page for effective date.

CHAPTER 562

H.P. 1395 - L.D. 1993

An Act Regarding Testimony Presented to Joint Select and Joint Standing Committees of the Legislature by Persons Paid To Testify

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

Sec. 1. 3 MRSA §319-A is enacted to read:

§319-A. Testimony before Legislature; lobbyist

1. Disclosure of compensation. A lobbyist or lobbyist associate who testifies before a joint select or joint standing committee of the Legislature shall disclose to the committee as part of the testimony the name of the person or organization that the lobbyist or lobbyist associate is representing. A lobbyist or lobbyist associate shall disclose to the committee orally or in written form the name of any person who is being compensated by the lobbyist or lobbyist associate or by the person or organization that the lobbyist or lobbyist associate is representing to testify before that committee.

2. Report of violation. A member of the Legislature may file a complaint with the commission alleging a violation of this section in accordance with the Joint Rules of the Legislature. The commission shall notify all interested parties and shall investigate any apparent violations of this section.

3. Penalty. If a lobbyist or lobbyist associate fails to disclose information required in subsection 1, the commission may:

A. Suspend the lobbyist or lobbyist associate from further lobbying by written notice of the commission; and