

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

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IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.**

Penmor Lithographers

Lewiston, Maine

2006

ers in recruiting, training and retaining individuals with disabilities in employment;

2. Information sessions and training workshops presented at conferences and other meetings where employers are in attendance and employment issues are addressed;

3. The planning and convening of other business-oriented events that focus on the needs, benefits, supports and opportunities related to the employment of individuals with disabilities; and

4. The development of a library of business-oriented promotional materials to be used in public information and awareness sessions and available to employers by request at any time.

The report shall include recommendations for funding and implementing the 2 campaigns.

See title page for effective date.

CHAPTER 571

H.P. 1265 - L.D. 1825

An Act To Amend the Rule-making Authority of the Commissioner of Public Safety Regarding the Construction, Installation, Maintenance and Inspection of Chimneys, Fireplaces, Vents and Solid Fuel Burning Appliances

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

Whereas, the Legislature seeks to amend the rule-making authority of the Department of Public Safety with respect to the construction, installation, maintenance and inspection of chimneys, fireplaces, vents and solid fuel burning appliances and to authorize the Department of Public Safety to adopt new rules as quickly as the process will allow; and

Whereas, the Legislature seeks to immediately repeal current rule-making authority pertaining to inspection of chimneys, fireplaces, vents and solid fuel burning appliances upon the sale or transfer of real estate and to authorize the Department of Public Safety to adopt new rules as quickly as the process will allow; and

Whereas, the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A requires legislative authorization before major substantive agency rules may be finally adopted by the agency, so rules pertaining to inspection and maintenance of chimneys,

fireplaces, vents and solid fuel burning appliances upon the sale or transfer of real estate must come back to the Legislature for that review; 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. 25 MRSA §2465, as corrected by RR 2003, c. 1, §25, is amended to read:

§2465. Adoption of rules

1. Adoption of rules. ~~The Commissioner of Public Safety shall, in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, adopt by reference the Rules and Regulations as found in the then current edition of the National Fire Protection Association Code #211, "The Standards for Chimneys, Fireplaces, Vents and Solid Fuel Burning Appliances".~~

1-A. Routine technical rules. The Commissioner of Public Safety shall adopt rules pertaining to the construction, installation, maintenance and inspection of chimneys, fireplaces, vents and solid fuel burning appliances. Rules adopted pursuant to this subsection may include rules pertaining to maintenance and inspections, except as provided in subsection 1-B. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

1-B. Major substantive rules. The Commissioner of Public Safety may adopt rules requiring maintenance and inspection of chimneys, fireplaces, vents and solid fuel burning appliances upon the sale or transfer of property. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

2. Prohibitions. A person may not for compensation construct ~~or~~, install or maintain any vent or solid fuel burning appliance unless that vent or appliance is constructed or installed or maintained in accordance with ~~the provisions of the National Fire Protection Association Code #211, "The Standards for Chimneys, Fireplaces, Vents and Solid Fuel Burning Appliances."~~ this section or the rules adopted pursuant to this section. Construction and installation of chimneys and fireplaces are also governed by Title 32, chapter 33.

3. Enforcement. Subject to Title 32, chapter 33, the Commissioner of Public Safety or the commis-

tioner's designees, state oil and solid fuel compliance officers, duly appointed fire chiefs or their designees, and municipal building inspectors and code enforcement officers may enforce the requirements of "~~The Standards for Chimneys, Fireplaces, Vents and Solid Fuel Burning Appliances~~" this section, the rules adopted pursuant to this section and Title 32, section 2313-A.

4. Prior installation. Any chimney, fireplace, vent or solid fuel burning appliance constructed or installed prior to ~~the effective date of this section July 13, 1982~~ may be continued in use subject to the provisions of section 2432.

5. Home rule. Subject to Title 32, chapter 33, any municipality may adopt as ordinance requirements for the materials, installation ~~or~~, construction, maintenance or inspection of chimneys, fireplaces, vents or solid fuel burning appliances that exceed the requirements of "~~The Standards for Chimneys, Fireplaces, Vents and Solid Fuel Burning Appliances~~." this section and the rules adopted pursuant to this section.

5-A. Safety information. A new factory-built fireplace, fireplace stove or solid fuel burning room heater may not be sold in retail trade, unless the seller provides the buyer, on or before the sale, with an installation instruction manual or, in the case where such a manual is not available, with a publication of the Department of Economic and Community Development containing recommended clearances ~~the same as those prescribed in the National Fire Protection Association Code #211, The Standards for Chimneys, Fireplaces, Vents and Solid Fuel Burning Appliances, as approved by the Commissioner of Public Safety~~ in accordance with the rules adopted pursuant to this section.

6. Penalty. The following penalties apply.

A. A person who, for compensation, constructs or installs vents or solid fuel burning appliances in violation of the standards and then permits such violation to remain uncorrected after 30 days' notice from an official empowered to enforce this section commits a civil violation for which a fine of not more than \$500 for each violation may be adjudged. The court may waive any penalty or cost against a violator upon satisfactory proof that the violation was corrected within 30 days of the issuance of a complaint. Construction and installation of chimneys and fireplaces are governed by Title 32, chapter 33.

B. A person who fails to provide a purchaser with an instruction manual or the authorized publication of the Department of Economic and Community Development, as described in sub-

section 5-A, commits a civil violation for which a fine of not less than \$200 and not more than \$500 may be adjudged.

C. A person who violates paragraph B after having previously violated paragraph B commits a civil violation for which a fine of not less than \$500 and not more than \$800 for each offense may be adjudged.

D. A person who violates a rule adopted pursuant to this section commits a civil violation for which a fine of not less than \$200 and not more than \$500 may be adjudged, except that this paragraph does not apply to a rule requiring an annual chimney inspection for a single-family home.

In addition to the penalties provided in this subsection, a violation of this chapter constitutes a violation of Title 5, chapter 10.

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

Effective April 12, 2006.

CHAPTER 572

S.P. 732 - L.D. 1932

An Act To Implement Model Time-share Foreclosure Procedures

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

Sec. 1. 33 MRSA §594, sub-§1, as enacted by PL 1983, c. 407, §1, is repealed and the following enacted in its place:

1. Lien created. A managing entity has a lien on a time share for any assessment for expenses of the time share or taxes or fines levied against that time share in accordance with the project instrument or municipal or state law from the time the assessment, tax or fine becomes due. A lien against a time-share estate may be foreclosed as provided in section 595, subsection 1, and a lien against a time-share license may be foreclosed as provided in section 595, subsection 2. Unless the project instrument otherwise provides, fees, charges, late charges, fines and interest charged in accordance with the project instrument are enforceable as assessments under this section. If an assessment is payable in installments, the full amount of the assessment is a lien from the time the first installment thereof becomes due. The managing entity shall record notice of a lien on a time-share estate in the registry of deeds in the county in which the time-