

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

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

minimum hourly wage is \$7.00 per hour. If the highest federal minimum wage is increased in excess of the minimum wage in effect under this section, the minimum wage under this section is increased to the same amount, effective on the same date as the increase in the federal minimum wage, but in no case may the minimum wage exceed the minimum wage otherwise in effect under this section by more than \$1 per hour.

Sec. 2. Reprinting of notice. Notwithstanding the Maine Revised Statutes, Title 26, section 42-B, the Department of Labor, Bureau of Labor Standards is not required to modify and redistribute the printed notice required by that section to reflect the changes in the law resulting from this Act. The Bureau of Labor Standards shall modify the printed notice to reflect the changes contained in this Act when it becomes necessary to print additional notices due to an insufficient supply of such notices or due to future changes in law.

See title page for effective date.

CHAPTER 579

H.P. 1310 - L.D. 1870

An Act To Clarify Laws Governing Eminent Domain

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

Sec. 1. 1 MRSA §816 is enacted to read:

§816. Limitations on eminent domain authority

1. Purposes. Except as provided in subsections 2 and 3 and notwithstanding any other provision of law, the State, a political subdivision of the State and any other entity with eminent domain authority may not condemn land used for agriculture, fishing or forestry or land improved with residential homes, commercial or industrial buildings or other structures:

A. For the purposes of private retail, office, commercial, industrial or residential development;

B. Primarily for the enhancement of tax revenue; or

C. For transfer to an individual or a for-profit business entity.

2. Blight exception. Subsection 1 does not apply to the use of eminent domain by any municipality, housing authority or other public entity based upon a finding of blight in an area covered by any redevelop-

ment plan or urban renewal plan pursuant to Title 30-A, chapter 201, 203 or 205, but just compensation, in all cases, must continue to be made to the owner.

3. Utilities exception. Subsection 1 does not limit the exercise of eminent domain by or for the benefit of public utilities or other entities engaged in the generation, transmission or distribution of telephone, gas, electric, water, sewer or other utility products or services.

4. Governmental purposes not affected. Nothing in this section may be interpreted to prohibit a municipal or county governing body from exercising the power of eminent domain for purposes not otherwise prohibited by subsection 1.

Sec. 2. Retroactivity. This Act applies retroactively to June 23, 2005.

See title page for effective date.

CHAPTER 580

H.P. 1333 - L.D. 1892

An Act To Prevent Price Gouging

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

Sec. 1. 10 MRSA §1105, as amended by PL 1979, c. 541, Pt. A, §91, is repealed and the following enacted in its place:

§1105. Profiteering in necessities

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Abnormal market disruption" means a significant disruption to the production, distribution, supply, sale or availability of a commodity or commodities that:

(1) Is caused by an event such as a natural or man-made emergency or disaster, whether local or remote; and

(2) Causes ordinary competitive market forces to cease to function normally.

B. "Cost" means the expense associated with the acquisition, production, distribution or sale of necessities and may include, among other things, replacement costs, taxes and transportation costs.

C. "Necessities" includes food for human or animal consumption; pharmaceutical products, including prescription medications; wearing ap-

parel; shoes; building materials; gas and electricity for light, heat and power; ice; fuel of all kinds; and fertilizer and fertilizer ingredients; together with tools, utensils, implements, machinery and equipment required for the actual production or manufacture of the same. "Necessities" includes any other vital or necessary good or service except those:

(1) Subject to continuous maximum price regulation under the provisions of any state or federal law;

(2) As to which the State's authority is preempted; or

(3) Furnished or provided by:

(a) Insurers; or

(b) Nonprofit hospitals, medical service organizations or health maintenance organizations authorized to transact business within the State pursuant to Title 24 and Title 24-A.

D. "Unconscionable price" means a price that is actionable under this section. There is a rebuttable presumption that a price is unconscionable when it exceeds by more than 15% the sum of:

(1) The price at which similar goods or services were offered for sale or sold by that person immediately prior to the beginning date of the abnormal market disruption. If that person did not offer such goods or services immediately prior to the abnormal market disruption, then the price is the price at which similar goods or services were offered for sale or sold by another person similarly situated prior to the abnormal market disruption; and

(2) The increased cost calculated according to the method used by that person prior to the abnormal market disruption.

2. Declaration. Whenever it appears upon due inquiry and consultation with the Attorney General that an abnormal market disruption exists or that there is a substantial likelihood that an abnormal market disruption is imminent, the Governor may, in the Governor's sole discretion and after considering whether the declaration of an abnormal market disruption itself will disrupt supplies for affected necessities, declare an abnormal market disruption.

A. A declaration made under this subsection must specify:

(1) The beginning date of the abnormal market disruption;

(2) The particular necessity, necessities or categories of necessities that are affected by the abnormal market disruption and made subject to the provisions of subsections 3 and 4; and

(3) The levels of trade or commerce that are affected by the abnormal market disruption and made subject to the provisions of subsections 3 and 4.

B. A declaration of abnormal market disruption under this subsection expires when the Governor declares it expired or 60 days from the date of its issuance, whichever is sooner. The declaration of abnormal market disruption may be modified by the Governor at any time.

C. The Governor shall publish decisions under this subsection in a manner reasonably calculated to give affected persons adequate notice.

D. Any person may petition the Governor regarding the Governor's decisions under this subsection.

3. Profiteering prohibited. After the Governor has declared an abnormal market disruption and before the declaration of the abnormal market disruption expires, a person may not sell or offer for sale necessities at an unconscionable price.

4. Civil violation. A violation of subsection 3 is a civil violation that constitutes and may be prosecuted as an unfair act or practice in the conduct of trade or commerce pursuant to Title 5, section 207, except that the provisions of Title 5, section 213 do not apply. The declaration of an abnormal market disruption creates a rebuttable presumption that the disruption occurred and existed from the beginning date in the declaration to the date of its expiration.

See title page for effective date.

CHAPTER 581

H.P. 1342 - L.D. 1901

An Act To Amend the Law Regarding Smoking in Private Clubs

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

Sec. 1. 22 MRSA §1580-A, sub-§2, ¶C-2 is enacted to read: