

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

The Department of Education may collaborate with other organizations in defining and providing targeted professional development or technical assistance to school administrative units in promoting the efficient and effective implementation of the system of learning results.

See title page for effective date.

CHAPTER 594

H.P. 1252 - L.D. 1812

An Act To Correct Deficiencies in the Divorce Laws

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

Sec. 1. 19-A MRSA §901, sub-§2, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

2. Guardian ad litem. If the alleged cause is ~~mental illness~~ that one of the parties is an incapacitated person, as provided in section 902, subsection 1, paragraph F J, the court shall appoint a guardian ad litem to represent the interests of the ~~defendant~~ incapacitated person.

Sec. 2. 19-A MRSA §902, sub-§1, ¶I, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is repealed.

Sec. 3. 19-A MRSA §902, sub-§1, ¶J is enacted to read:

J. A judicial determination has been made that one of the parties is an incapacitated person, as defined in Title 18-A, section 5-101, for whom a guardian with full powers has been appointed, other than a temporary guardian appointed pursuant to Title 18-A, section 5-310-A.

Sec. 4. 19-A MRSA §951-A, sub-§11 is enacted to read:

11. Support while pending. The trial court may make, modify or enforce an award of spousal support under this section while an action is pending, including while on appeal.

See title page for effective date.

CHAPTER 595

S.P. 844 - L.D. 2104

An Act Relating to Secondary School Construction Projects

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

Sec. 1. 20-A MRSA §15905, sub-§4, as amended by PL 1993, c. 324, §3, is further amended to read:

4. Rules. The state board may adopt or amend rules relating to the approval of school construction projects. Rules adopted pursuant to this subsection relating to the approval of major capital secondary school construction projects under this chapter are major substantive rules pursuant to Title 5, chapter 375, subchapter 2-A.

The state board is encouraged to review school construction rules regarding costs per square foot, consider other measures for containing building costs and report on these efforts to the joint standing committee of the Legislature having jurisdiction over education matters during the First Regular Session of the 115th Legislature. On or before February 1, 1994 the state board shall adopt rules for approving movable equipment costs for school construction.

Sec. 2. Effective date. This Act takes effect January 1, 2007.

Effective January 1, 2007.

CHAPTER 596

H.P. 1260 - L.D. 1820

An Act To Allow Small Businesses To Participate in Liquor Sales

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

Sec. 1. 28-A MRSA §453-A, sub-§5, as amended by PL 2001, c. 711, §5, is further amended to read:

5. Licensing decisions. The bureau shall conduct an investigation to determine the feasibility of the location and type of facility for the agency liquor store and shall issue the license to one or more of the applicants, taking into consideration the absence of an existing agency liquor store with less than 3,000 square feet of retail space in a downtown location and any other factors the bureau considers appropriate. The bureau is not required to consider the availability

of parking spaces for motor vehicles for the issuance of an agency liquor store license to a store with less than 3,000 square feet of retail space in a downtown location. When considering the issuance of a license, the bureau shall consider the proximity of the proposed agency store to existing agency stores and the potential impact the location of the proposed agency store may have on an existing agency store. The bureau may deny a license if the bureau determines the proposed agency store location is in too close proximity to an existing agency store. For purposes of this subsection, "downtown" has the same meaning as in Title 30-A, section 4301, subsection 5-A.

See title page for effective date.

CHAPTER 597

H.P. 1080 - L.D. 1535

An Act Making Improvements to the Laws Regarding Local Land Use Ordinances

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

Sec. 1. 30-A MRSA §4301, sub-§6-A, as enacted by PL 1991, c. 18, §1, is amended to read:

6-A. Impact fee. "Impact fee" means a charge or assessment imposed by a municipality against a new development to fund or recoup a portion of the cost of new, expanded or replacement infrastructure facilities necessitated by and attributable at least in part to the new development.

Sec. 2. 30-A MRSA §4301, sub-§§7 and 11, as enacted by PL 1989, c. 104, Pt. A, §45 and Pt. C, §10, are amended to read:

7. Implementation program. "Implementation program" means that component of a local growth management program ~~which~~ that begins after the adoption of a comprehensive plan and that includes the ~~policies and~~ full range of municipal policy-making powers, including spending and borrowing powers, as well as the powers to adopt or implement ordinances, codes, rules or other land use regulations which, tools or mechanisms that carry out the purposes and general policy statements and strategies of the comprehensive plan in a manner consistent with the goals and guidelines of subchapter ~~H~~ 2.

11. Moratorium. "Moratorium" means a land use ordinance or other regulation approved by a municipal legislative body ~~which~~ that, if necessary, may be adopted on an emergency basis and given immediate effect and that temporarily defers all

development, or a type of development, by withholding any permit, authorization or approval necessary for the specified type or types of development.

Sec. 3. 30-A MRSA §4360, sub-§3 is enacted to read:

3. Ordinance requirements. A municipality may adopt a rate of growth ordinance only if:

A. The ordinance is consistent with section 4314, subsection 3;

B. The ordinance sets the number of building or development permits, not including permits for affordable housing, at 105% or more of the mean number of permits issued within the municipality during the 10 years immediately prior to the year in which the number is calculated. The mean is determined by adding together the total number of permits issued for each year in the prior 10 years and then dividing by 10;

C. In addition to the permits established pursuant to paragraph B, the ordinance sets the number of building or development permits for affordable housing at no less than 10% of the number of permits set in the ordinance pursuant to paragraph B; and

D. The number of building or development permits allowed under the ordinance is recalculated every 3 years.

Sec. 4. Effective date. This Act takes effect July 1, 2007.

Effective July 1, 2007.

CHAPTER 598

S.P. 811 - L.D. 2077

An Act To Make Adjustments to the Allagash Wilderness Waterway

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

Sec. 1. 12 MRSA §1882, as enacted by PL 1997, c. 678, §13, is repealed and the following enacted in its place:

§1882. Access points and control stations

Except as provided in this section, the bureau may determine the location of access points, control stations and watercourse crossings within the waterway.