

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

tion over business, research and economic development matters on the progress of the 2 pilot Pine Tree Development Zone projects in Washington County, established pursuant to the Maine Revised Statutes, Title 30-A, section 5250-J, subsection 1, paragraph D, including any proposed changes to the pilot projects. The joint standing committee of the Legislature having jurisdiction over business, research and economic development matters may report out legislation on the Washington County pilot projects to the Second Regular Session of the 123rd Legislature.

Sec. 4. Appropriations and allocations.

The following appropriations and allocations are made.

ECONOMIC AND COMMUNITY DEVELOPMENT, DEPARTMENT OF

Regional Development 0792

Initiative: Provides one-time funds for the Washington County Development Authority to be distributed through a request for proposal process.

GENERAL FUND	2005-06	2006-07
All Other	\$0	\$75,000
GENERAL FUND TOTAL	\$0	\$75,000

See title page for effective date.

CHAPTER 638

S.P. 381 - L.D. 1064

An Act To Clarify the Laws Governing Agricultural Composting Operations

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

Sec. 1. 17 MRSA §2805, as amended by PL 2003, c. 283, §6, is further amended to read:

§2805. Farm, farm operation or agricultural composting operation not nuisance; use of best management practices

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

A. "Farm" means the land, buildings and machinery used in the commercial production of farm products.

B. "Farm operation" means a condition or activity that occurs on a farm in connection with the commercial production of farm products and includes, but is not limited to, operations giving

rise to noise, odors, dust, insects, and fumes; operation of machinery and irrigation pumps; ground and aerial seeding; ground spraying; ~~composting of material produced by the farm or to be used at least in part on the farm, and~~ disposal of manure; the application of chemical fertilizers, soil amendments, conditioners and pesticides; and the employment and use of labor.

C. "Farm product" means those plants and animals useful to humans and includes, but is not limited to forages and sod crops, grains and food crops, dairy products, poultry and poultry products, bees, livestock and livestock products and fruits, berries, vegetables, flowers, seeds, grasses and other similar products.

D. "Agricultural composting operation" means composting that takes place on a farm. "Agricultural composting operation" does not include an operation that involves nonorganic municipal solid waste or that composts municipal sludge, septage, industrial solid waste or industrial sludge. "Agricultural composting operation" does not include an operation that composts materials with a moderate or high risk of contamination from heavy metals, volatile and semivolatile organic compounds, polychlorinated biphenyls or dioxin.

E. "Composting" means the controlled aerobic decomposition of organic materials to produce a soil-like product beneficial to plant growth and suitable for agronomic use.

2-A. Farm, farm operation or agricultural composting operation not nuisance. A farm or farm operation or agricultural composting operation may not be considered a public or private nuisance if the farm or farm operation or agricultural composting operation alleged to be a nuisance is in compliance with applicable state and federal laws, rules and regulations and meets one of the following conditions:

A. The farm or farm operation or agricultural composting operation conforms to best management practices, as determined by the Commissioner of Agriculture, Food and Rural Resources in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375;

B. For complaints regarding the storage or use of farm nutrients as defined in Title 7, section 4201, subsection 4, the farm or farm operation has implemented a nutrient management plan developed in accordance with Title 7, section 4204 and operation of the farm is consistent with the nutrient management plan; or

C. The farm or farm operation existed before a change in the land use or occupancy of land

within one mile of the boundaries of the farm as long as, before the change in land use or occupancy, the farm or farm operation would not have been considered a nuisance. This paragraph does not apply to a farm or farm operation that materially changes the conditions or nature of the farm operation after a change in the land use or occupancy of land within one mile of the boundaries of the farm. Nothing in this paragraph affects the applicability of any of the other provisions of this section.

3-A. Violation of municipal ordinances. A method of operation used by a farm or farm operation located in an area where agricultural activities are permitted may not be considered a violation of a municipal ordinance if the method of operation constitutes a best management practice as determined by the Department of Agriculture, Food and Rural Resources.

4. Application; municipal ordinances. This section does not affect the application of state and federal laws. After the effective date of this subsection, a municipality must provide the Commissioner of Agriculture, Food and Rural Resources with a copy of any proposed ordinance that impacts farm operations. The clerk of the municipality or a municipal official designated by the clerk shall submit a copy of the proposed ordinance to the commissioner at least 90 days prior to the meeting of the legislative body or public hearing at which adoption of the ordinance will be considered. The commissioner shall review the proposed ordinance and advise the municipality if the proposed ordinance would restrict or prohibit the use of best management practices. This subsection does not affect municipal authority to enact ordinances.

5. Complaint resolution. The commissioner shall investigate all complaints involving a farm ~~or~~ farm operation or agricultural composting operation, including, but not limited to, complaints involving the use of waste products, ~~ground~~ groundwater and surface water pollution and insect infestations. In cases of insect infestations not arising from agricultural activities, when the State Entomologist believes that the infestation is a public nuisance and is able to identify the source or sources of the infestation, the commissioner shall refer the matter to the Department of the Attorney General. If the commissioner finds upon investigation that the person responsible for the farm ~~or~~ farm operation or agricultural composting operation is using best management practices, the commissioner shall notify that person and the complainant of this finding in writing. Notwithstanding subsection 2-A, paragraph C, if the commissioner identifies the source or sources of the problem and finds that the problem is caused by the use of other than best management practices, the commissioner shall:

A. Determine the changes needed in the farm ~~or~~ farm operation or agricultural composting operation to comply with best management practices and prescribe ~~site-specific~~ site-specific best management practices for that farm operation or agricultural composting operation;

B. Advise the person responsible for the farm ~~or~~ farm operation or agricultural composting operation of the changes, as determined in paragraph A, that are necessary to conform with best management practices and determine subsequently if those changes are implemented; and

C. Give the findings of the initial investigation and subsequent investigations and any determination of compliance to the complainant and person responsible.

5-A. Good faith. The Maine Rules of Civil Procedure, Rule 11 applies in any private action filed against the owner or operator of a farm ~~or~~ farm operation or agricultural composting operation in which it is alleged that the farm ~~or~~ farm operation or agricultural composting operation constitutes a nuisance if it is determined that the action was not brought in good faith and was frivolous or intended for harassment only.

6. Failure to adopt best management practices. If the person responsible for the farm ~~or~~ farm operation or agricultural composting operation does not apply best management practices as required by the Commissioner of Agriculture, Food and Rural Resources, the commissioner shall send a written report to an appropriate agency if a federal or state law has been violated and to the Attorney General. The Attorney General may institute an action to abate a nuisance or to enforce the provisions of this section or any other applicable state law, and the court may order the abatement with costs as provided under section 2702, such injunctive relief as provided in this section or by other applicable law, or that a civil violation has been committed. Failure to apply best management practices in accordance with this section constitutes a separate civil violation for which a fine of up to \$1,000, together with an additional fine of up to \$250 per day for every day that the violation continues, may be adjudged.

7. Agricultural Complaint Response Fund. There is established the nonlapsing Agricultural Complaint Response Fund. The commissioner may accept funds from any source designated to be placed in the fund. The commissioner may authorize expenses from the fund as necessary to investigate complaints involving a farm ~~or~~ farm operation or agricultural composting operation and to abate conditions potentially resulting from farms ~~or~~ farm operations or agricultural composting operations.

8. Rules. The commissioner shall adopt rules in accordance with the Maine Administrative Procedure Act to interpret and implement this section.

9. Educational outreach. The Commissioner of Agriculture, Food and Rural Resources shall conduct an educational outreach program for the agricultural community to increase awareness of the provisions of this section and the currently adopted best management practices of the Department of Agriculture, Food and Rural Resources. The commissioner shall inform the public about the provisions of this section, the complaint resolution process adopted by the department and state policy with respect to preservation and protection of agricultural and natural resources.

Sec. 2. 36 MRSA §2013, sub-§1, ¶A, as amended by PL 1993, c. 151, §1, is further amended to read:

A. "Commercial agricultural production" means commercial production of crops for human and animal consumption, including the commercial production of sod, agricultural composting operation as defined in Title 17, section 2805, the commercial production of seed to be used primarily to raise crops for nourishment of humans or animals and production of livestock.

See title page for effective date.

CHAPTER 639

H.P. 689 - L.D. 979

An Act To Fund Youth Mentoring Programs

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

Sec. 1. 20-A MRSA c. 331 is enacted to read:

CHAPTER 331

MAINE MENTORING PARTNERSHIP GRANT PROGRAM

§9901. Maine Mentoring Partnership Grant Program

1. Establishment of program grants. The department, through the Maine Mentoring Partnership or its successor organization, shall establish and administer the Maine Mentoring Partnership Grant Program, referred to in this chapter as "the program," to provide funding for grants to eligible mentoring programs.

2. Eligible mentoring programs. The department shall develop eligibility criteria for mentoring programs seeking grants under this chapter. At a minimum, the mentoring program must provide guidance, support and encouragement to young persons through the establishment of structured mentoring relationships to help the young persons develop into confident, competent and contributing members of society. The relationships may be through one-on-one, group, team or peer mentoring. Eligible entities include school-based or independent programs, including a regional collaborative program created to provide mentoring services.

3. Grant size and distribution. Grants must be based on financial need and may range from a minimum of \$1,000 to a maximum of \$75,000. Of the funds appropriated to the program annually, at least 75% must be used for direct grants, up to 20% may be used for technical assistance provided by the Maine Mentoring Partnership or its successor organization and no more than 5% may be used for administrative costs of operating the program.

4. Rules. The department shall develop rules to implement this chapter. Rules adopted pursuant to this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

Sec. 2. Appropriations and allocations. The following appropriations and allocations are made.

EDUCATION, DEPARTMENT OF

Jobs for Maine's Graduates 0704

Initiative: Provides one-time funds to provide grants to eligible mentoring programs pursuant to the requirements of the Maine Revised Statutes, Title 20-A, chapter 331.

GENERAL FUND	2005-06	2006-07
All Other	\$0	\$25,000
GENERAL FUND TOTAL	\$0	\$25,000

See title page for effective date.

CHAPTER 640

H.P. 272 - L.D. 359

An Act To Change the Child Care Facility Licensing Laws

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

Sec. 1. 22 MRSA §7802, sub-§2, ¶B, as amended by PL 1999, c. 599, §1, is further amended to read: