

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

CHAPTER 172

H.P. 1461 - L.D. 2066

Resolve, Regarding Legislative Review of Portions of Chapter 1.03: Waters of Special Significance, a Major Substantive Rule of the Department of Inland Fisheries and Wildlife

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

Whereas, the above-named major substantive rule has been submitted to the Legislature for review; and

Whereas, immediate enactment of this resolve is necessary to record the Legislature's position on final adoption of the rule; 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

Sec. 1. Adoption. Resolved: That final adoption of portions of Chapter 1.03: Waters of Special Significance, a provisionally adopted major substantive rule of the Department of Inland Fisheries and Wildlife that has been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A, is authorized.

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

Effective April 7, 2006.

CHAPTER 173

H.P. 653 - L.D. 934

Resolve, To Direct the Department of Conservation, Bureau of Parks and Lands To Lease Certain Public Reserved Lands to the Town of Allagash

Sec. 1. Director of Bureau of Parks and Lands to enter into lease agreement with Town of Allagash. Resolved: That, with the approval of the Town of Allagash, the Director of the Bureau of Parks and Lands within the Department of Conservation shall lease to the Town of Allagash the right to manage timber on 4 parcels of land located in the Town of Allagash. The parcels of land to be leased are those lots that were designated as ministerial and school lots for Allagash Plantation and transferred to the State for management as public reserved lands in accordance with Public Law 1973, chapter 628 prior to the incorporation of Allagash Plantation as the Town of Allagash in accordance with Private and Special Law 1975, chapter 62.

The director and the Town of Allagash shall enter into a lease agreement in accordance with the Maine Revised Statutes, Title 12, section 1852, subsection 8 and upon terms negotiated between the bureau and the town.

See title page for effective date.

CHAPTER 174

H.P. 1381 - L.D. 1971

Resolve, Directing a Review of Clean-up and Minimization Standards for Mold

Sec. 1. Review by Department of Environmental Protection and Department of Health and Human Services, Maine Center for Disease Control and Prevention. Resolved: That the Department of Environmental Protection and the Department of Health and Human Services, Maine Center for Disease Control and Prevention, jointly referred to in this resolve as "the departments," shall convene a working group to review issues regarding mold in buildings in the State. Membership in the working group must include representatives of the Department of Administrative and Financial Services, Bureau of General Services, the Department of Education and the Department of Labor as well as the departments. The departments shall invite representatives of the following interested parties to participate as members of the working group: the Maine Indoor Air Quality Council, an environmental laboratory, the building and construction industry and other interested parties as determined by the departments; and be it further

Sec. 2. Issues to be reviewed. Resolved: That the departments shall include in the review under section 1 the following:

1. A review of the current science of mold testing and removal;
2. Consideration of developing clean-up standards for mold; and
3. Consideration of developing building standards to minimize the risk of moisture problems in newly constructed buildings; and be it further

Sec. 3. Report. Resolved: That, no later than January 1, 2007, the departments shall report to the joint standing committees of the Legislature having jurisdiction over natural resources matters and health matters on the review under section 1. In the report, the departments shall summarize the discussions of the working group and present any recommendations, including any proposed legislation, to address the issue of mold; and be it further

Sec. 4. Authority to report out legislation. Resolved: That the joint standing committee of the Legislature having jurisdiction over natural resources matters may report out legislation to the First Regular Session of the 123rd Legislature pertaining to the cleanup and minimization of mold.

See title page for effective date.

CHAPTER 175

H.P. 1385 - L.D. 1977

**Resolve, Regarding Legislative
Review of Portions of Chapter 355:
Coastal Sand Dune Rules, a Major
Substantive Rule of the Department
of Environmental Protection,
Extending the Deadline for the
Repeal of the Current Coastal Sand
Dune Rules and Convening the
Beaches Advisory Group**

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

Whereas, the above-named major substantive rule has been submitted to the Legislature for review; and

Whereas, immediate enactment of this resolve is necessary to record the Legislature's position on final adoption of the rule; and

Whereas, in the judgement 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

Sec. 1. Adoption. Resolved: That final adoption of portions of Chapter 355: Coastal Sand Dune Rules, a provisionally adopted major substantive rule of the Department of Environmental Protection that has been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A, is authorized only if the rule is amended as follows:

1. Section 5, subsection E is amended by striking subsection E and replacing it with:

A. A provision that no new seawall or similar structure may be constructed and that no existing seawall or similar structure may be altered or replaced except as provided in subsection E and as allowed under Chapter 305, Permit By Rule and the Maine Revised Statutes, Title 38, section 480-W;

B. A provision that, with a permit from the department, a seawall or similar structure may be replaced with a structure of different dimensions or in a different location that is farther landward if the department determines that the replacement structure would be less damaging to the coastal sand dune system, existing wildlife habitat and adjacent properties than replacing the existing structure with a structure of the same dimensions and in the same location; and

C. A notation that the department encourages landowners to consider removing a seawall or similar structure and covering the area with sand and dune vegetation, or replacing the structure in a more landward position to reduce its influence on the beach and sand dune system;

2. Section 8, subsection E is amended to:

A. Clarify that, if beach nourishment is funded in whole or in part with state funds, the portions of the beach nourished with state funds must be placed either into permanent public ownership or under legally binding agreements, such as but not limited to easements that preclude any development and that allow public access for recreational activities; and

B. Clarify that the subsection does not apply to use of dredged material from projects conducted by the Army Corps of Engineers; and