

MAINE STATE LEGISLATURE

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2005

CHAPTER 2

Sec. 1. 1 MRSA §411, sub-§6, ¶¶B and C, as enacted by PL 2005, c. 631, §1, are corrected to read:

B. Shall serve as the central source and coordinator of information about the freedom of access laws and the people's right to know. The advisory committee shall provide the basic information about the requirements of the law and the best practices for agencies and public officials. The advisory committee shall also provide general information about the freedom of access laws for a wider and deeper understanding of citizens' rights and their role in open government. The advisory committee shall coordinate the education efforts by providing information about the freedom of access laws and ~~who~~ whom to contact for specific inquiries;

C. Shall serve as a resource to support the establishment and maintenance of a central publicly accessible website that provides the text of the freedom of access laws and provides specific guidance on how a member of the public can use the law to be a better informed and active participant in open government. The website must include the contact information for agencies, as well as ~~who~~ whom to contact with complaints and concerns. The website must also include, or contain a link to, a list of statutory exceptions to the public records laws;

EXPLANATION

This section corrects a grammatical error.

Sec. 2. 4 MRSA §807-B, sub-§2, ¶B, as enacted by PL 2005, c. 629, §1, is corrected to read:

B. "Federally authorized immigration representative" means an attorney who is admitted to and in good standing before the bar of a state of the United States other than Maine, or other person who is authorized to represent another in immigration and nationality law matters to the extent allowed under federal law or regulations, including 8 Code of Federal Regulations, ~~Section~~ Sections 292.1 and 1292.1 (1996), with such representation specifically limited to federal immigration and nationality law matters.

EXPLANATION

This section corrects a clerical error.

Sec. 3. 4 MRSA §1619, first ¶, as amended by PL 1997, c. 523, §20, is corrected to read:

The authority may accept gifts and contributions as provided in section 1604, subsection 25, for the purpose of designing, constructing, reconstructing, renovating or acquiring a project, projects or part ~~of~~ of any project, including facilities for the Supreme Judicial Court, in accordance with section 1606, subsection 2. The authority may accept gifts for the purpose of furnishing a project, projects or part of any project, including the facilities of the Supreme Judicial Court. Furnishings include, but are not limited to, paintings, artifacts, furniture and similar articles.

EXPLANATION

This section corrects a clerical error.

Sec. 4. 5 MRSA §1825-Q, sub-§1, ¶D, as enacted by PL 2005, c. 554, Pt. A, §4, is corrected to read:

D. A 3rd party established and based outside the United States, on behalf of or on the basis of information from a worker or workers, files directly with the State Purchasing Agent a signed and dated written complaint stating that, to the best of the 3rd party's knowledge, a contractor or a supplier at the point of assembly of goods subject to a contract is not in compliance with the code of conduct. If possible, the 3rd party's written complaint must be signed and dated under oath before an official authorized to administer oaths; or

EXPLANATION

This section inserts an inadvertently omitted word.

Sec. 5. 7 MRSA §86, sub-§6, ¶B, as enacted by PL 2005, c. 563, §3, is corrected to read:

B. Exhibits of vegetables, fruits, grains or dairy products, are regularly displayed in an attractive manner upon the fairgrounds during the fair, the products exhibited are representative of those produced in the county in which the fair is held and the quality of the products is acceptable to the commissioner;

EXPLANATION

This section corrects a punctuation error.

Sec. 6. 7 MRSA §216, sub-§§7, 10 and 11, as enacted by PL 2005, c. 614, §4, are corrected to read:

7. Formation of subcommittees. The council shall invite a broad base of individuals and representatives of advocacy and stakeholder groups to participate in the strategic planning process under subsection 7 ~~6~~, paragraph B through the formation of subcommittees and working groups to address issues identified by the council as needing further study or particular expertise.

10. Reimbursement for travel expenses. A member of the council not compensated by that member's employer or the entity that the member represents may request reimbursement from the department for necessary travel expenses incurred for attendance at authorized meetings of the council. The department shall reimburse travel expenses from the fund established under subsection ~~40~~ 9 or from existing departmental resources upon determining that travel expenditures are a financial hardship for the requesting member. The commissioner shall develop a standard for determining what is a financial hardship for the purposes of this subsection and Title 5, section 12004-I, subsection 1-B.

11. Report. The council shall submit a biennial report on the activities of the council to the joint standing committee of the Legislature having jurisdiction over agricultural matters by December 15th of odd-numbered years. The report must include an update on the strategic plan developed under subsection 7 ~~6~~, paragraph B, an account of progress made in achieving the goals of the council and a description of actions necessary to implement the recommendations of the council.

EXPLANATION

This section corrects cross-references.

Sec. 7. 7 MRSA §609, sub-§1, ¶A, as amended by PL 2005, c. 620, §9, is corrected to read:

A. If it does not appear to the board that a pesticide warrants the proposed claims for it or if the pesticide and its labeling and other material required to be submitted do not comply with the provisions of this subchapter or rules adopted under this subchapter, the board shall notify the applicant of the manner in which the pesticide, labeling or other material required to be submitted fails to comply with the provisions of this subchapter so as to afford the applicant an opportunity to make the necessary corrections.

EXPLANATION

This section corrects a punctuation error.

Sec. 8. 7 MRSA §610, sub-§1, ¶A, as amended by PL 2005, c. 620, §10, is corrected to read:

A. Declare as a pest any form of plant or animal life, except viruses, bacteria or other microorganisms on or in living human beings or other living animals, that ~~are~~ is injurious to health or the environment;

EXPLANATION

This section corrects a grammatical error.

Sec. 9. 7 MRSA §611, sub-§1, as amended by PL 2005, c. 620, §11, is corrected to read:

1. Board powers. Notwithstanding any other provision of law, the sampling and examination of pesticides or devices for the purpose of determining whether they comply with the requirements of this subchapter must be done under the direction of the board. The board may, upon presentation of proper identification, enter any distributor's premises, including any vehicle of transport, at all reasonable times in order to have access to labeled pesticides or devices packaged for distribution, may open any case, package or other container and may, upon tendering the market price, take samples for analysis. If it appears from such an examination that a pesticide or device fails to comply with the provisions of this subchapter or rules adopted under this subchapter, and the board contemplates instituting criminal proceedings against any person, the board shall cause appropriate notice to be given to that person in a manner consistent with the Maine Administrative Procedure Act. The board shall provide any person so notified an opportunity for a hearing in a manner consistent with the Maine Administrative Procedure Act's provisions governing adjudicatory proceedings. If in the opinion of the board it appears that the provisions of this subchapter or rules adopted under this subchapter have been violated by that person, the board shall refer a copy of the results of the analysis or the examination of such pesticide or device to the attorney for the district in which the violation occurred.

EXPLANATION

This section corrects a punctuation error.

Sec. 10. 7 MRSA §3907, sub-§1, as enacted by PL 1987, c. 383, §3, is corrected to read:

1. Act. "Act" means the Animal Welfare ~~Board~~ Act.

EXPLANATION

This section corrects a reference to the Animal Welfare Act to reflect a change made by Public Law 1995, chapter 502, Part C, section 5.

Sec. 11. 12 MRSA §8870, sub-§5, as enacted by PL 2005, c. 514, §2, is corrected to read:

5. Supplemental environmental projects. In settling a civil enforcement action for any violation of this subchapter or any rule adopted under this subchapter, the parties may agree to a supplemental environmental project that mitigates not more than 80% of the assessed penalty. "Supplemental environmental project" means an environmentally beneficial project primarily benefiting the public health or the environment that a violator is not otherwise required or likely to perform.

A. An eligible supplemental environmental project is limited to the following categories:

- (1) Environmental enhancement projects in the same ecosystem or geographic area of the violation that significantly improve an area beyond what is required to remediate any damage caused by the violation that is the subject of the enforcement action;
- (2) Community forestry projects in the same ecosystem or geographic area of the violation that are conducted in accordance with the purposes of section 8705;
- (3) Environmental awareness projects substantially related to the violation that provide training, publications or technical support to members of the public and that are regulated by the Department of Conservation; or
- (4) Scientific research and data collection projects that advance the scientific basis on which regulatory decisions are made.

B. A supplemental environmental project may not be used in the following situations:

- (1) Repeat violations of the same or a substantially similar law administered by the Department of Conservation by the same person;
- (2) When a project is required by law;
- (3) If the violator had previously planned and budgeted for the project;
- (4) To offset any calculable economic benefit of noncompliance;
- (5) If the violation is the result of reckless or intentional conduct; or

(6) If the project primarily benefits the violator.

~~Any settlement that includes a supplemental environmental project must provide that expenditures are not tax deductible.~~

Any settlement that includes a supplemental environmental project must provide that expenditures are not tax deductible.

EXPLANATION

This section corrects a formatting error.

Sec. 12. 20-A MRSA §2901, first ¶, as amended by PL 1981, c. 693, §§5 and 8, is corrected to read:

A private school may operate as an approved private school for meeting the requirement of compulsory school attendance under section ~~5004~~ 5001-A if it:

EXPLANATION

This section corrects a cross-reference.

Sec. 13. 20-A MRSA §7201, sub-§5, as amended by PL 2005, c. 662, Pt. A, §22, is corrected to read:

5. Blind students; Braille instruction. All students may receive instruction in Braille reading and writing as part of their individualized family service plans or individualized education programs. A student may not be denied the opportunity of instruction in Braille reading and writing solely because the student has some remaining vision. If Braille is not provided to a child who is blind, the reason for not incorporating Braille in the individualized family service plan or individualized education ~~programs~~ program must be documented in the individualized family service plan or individualized education program.

EXPLANATION

This section corrects a clerical error.

Sec. 14. 21-A MRSA §1052, sub-§5, ¶B, as amended by PL 1989, c. 833, §13 and affected by §21, is corrected to read:

B. Does not include:

- (1) A candidate or a candidate's treasurer under section 1013-A, subsection 1;
- (2) A candidate's authorized political committee under section 1013-A, subsection ~~2~~ 1, paragraph B; or

(3) A party committee under section 1013-A, subsection 3.

EXPLANATION

This section corrects a cross-reference.

Sec. 15. 22 MRSA §1444, sub-§4, as enacted by PL 2005, c. 553, §1, is corrected to read:

4. Limits on pesticide applications. Pesticide applications near coastal waters in Cumberland, Sagadahoc and York counties to control browntail moths must be in compliance with section 1445.

~~This subsection is repealed March 31, 2007.~~

This subsection is repealed March 31, 2007.

EXPLANATION

This section corrects a formatting error.

Sec. 16. 22 MRSA §1848, sub-§6, as enacted by PL 2005, c. 670, §1 and affected by §4, is corrected to read:

6. Enforcement of conditions. Conditions and measures included in a certificate of public ~~advantage~~ advantage may be enforced according to this subsection.

A. If the certificate holders in a cooperative agreement not involving a merger are not in substantial compliance with the conditions included in the certificate of public advantage under section 1844, subsection 5 or a consent decree entered under subsection 9 or with the conditions or measures added pursuant to additional supervisory activities under section 1845, subsection 3, the Attorney General may seek an order from the Superior Court compelling compliance with such conditions or measures or other appropriate equitable remedies. If the Superior Court grants such relief and that relief is not effective in securing compliance with the conditions or measures, the Superior Court may impose additional equitable remedies, including the exercise of civil contempt powers, or may revoke the certificate upon a determination that advantages to be gained by revoking the certificate outweigh the unavoidable costs resulting from a revocation of the certificate.

B. If the certificate holders in a cooperative agreement involving a merger are not in substantial compliance with the conditions included in the certificate of public advantage under section 1844, subsection 5 or a consent decree entered under subsection 9 or with the conditions or measures added pursuant to additional supervisory activities under section 1845, subsection 3, the Attorney

General may seek an order from the Superior Court compelling compliance with such conditions or measures. If the certificate holders to the merger fail to comply with any court order compelling compliance with such conditions or measures, the Superior Court may impose additional equitable remedies to secure compliance with its orders, including the exercise of civil contempt powers or appointment of a receiver. If these additional measures are not effective in securing compliance with the conditions or measures and the Superior Court determines that the advantages to be gained by divestiture outweigh the unavoidable costs of requiring divestiture, the Superior Court may revoke the certificate and order divestiture of assets.

C. In an action brought under this subsection, the Attorney General has the burden of proving by a preponderance of the evidence the basis for any equitable remedies requested by the Attorney General and adopted by the Superior Court.

EXPLANATION

This section corrects a spelling error.

Sec. 17. 22 MRSA §2498, sub-§1, ¶C, as amended by PL 2005, c. 481, §1, is corrected to read:

C. Any person, corporation, firm or copartnership that operates any eating establishment, eating and lodging place, lodging place, recreational camp or camping area without first obtaining a license as required by this chapter must be punished, upon adjudication of unlicensed operation, by a fine of not less than \$25 nor more than \$200, and upon a 2nd or subsequent; adjudication of unlicensed operation must be punished by a fine of not less than \$200 nor more than \$500. Each day any such person, corporation, firm or copartnership operates without obtaining a license constitutes a separate offense.

EXPLANATION

This section corrects a punctuation error.

Sec. 18. 22 MRSA §8702, sub-§4, as amended by PL 2005, c. 253, §2, is corrected to read:

4. Health care facility. "Health care facility" means a public or private, proprietary or not-for-profit entity or institution providing health services, including, but not limited to, a radiological facility licensed under chapter 160, a health care facility licensed under chapter 405 or certified under chapter ~~405-D~~ 405-A, an independent radiological service center, a federally

qualified health center, rural health clinic or rehabilitation agency certified or otherwise approved by the Division of Licensing and Certification within the Department of Health and Human Services, a home health care provider licensed under chapter 419, an assisted living program or a residential care facility licensed under chapter 1663, a hospice provider licensed under chapter 1681, a retail store drug outlet licensed under Title 32, chapter 117, a state institution as defined under Title 34-B, chapter 1 and a mental health facility licensed under Title 34-B, chapter 1.

EXPLANATION

This section corrects a cross-reference.

Sec. 19. 24 MRSA §2904, sub-§1, ¶B, as enacted by PL 2003, c. 438, §2, is corrected to read:

B. An emergency medical ~~services'~~ services person who voluntarily, without the expectation or receipt of monetary or other compensation either directly or indirectly, provides emergency medical services within the scope of that person's licensure:

- (1) To support the State's response to a public health threat as defined in Title 22, section 801, subsection 10;
- (2) To support the State's response to an extreme public health emergency as defined in Title 22, section 801, subsection 4-A; or
- (3) To support the State's response to a disaster as defined in Title 37-B, section 703, subsection 2.

EXPLANATION

This section corrects a punctuation error.

Sec. 20. 24 MRSA §2904, sub-§3, ¶E, as enacted by PL 2003, c. 438, §2, is corrected to read:

E. "Emergency medical ~~services'~~ services person" includes a first responder, as defined in Title 32, section 83, subsection 13-A; a basic emergency medical technician, as defined in Title 32, section 83, subsection 7; and an advanced emergency medical technician, as defined in Title 32, section 83, subsection 1.

EXPLANATION

This section corrects a punctuation error.

Sec. 21. 25 MRSA §2002, sub-§1-B, as enacted by PL 2005, c. 488, §8, is corrected to read:

1-B. Corrections supervisor. "~~Correction~~ Corrections supervisor" has the same meaning as set forth in Title 17-A, section 2, subsection 5-B.

EXPLANATION

This section corrects a clerical error.

Sec. 22. 34-B MRSA §1207, sub-§1, ¶B, as amended by PL 2005, c. 397, Pt. A, §47, is corrected to read:

B. Information may be disclosed if necessary to carry out any of the statutory functions of the department, the hospitalization provisions of chapter 3, subchapter 4, the purposes of sections 3607 and 3608, the purposes of Title ~~22~~ 5, section ~~3554~~ 19506 or the purposes of United States Public Law 99-319, dealing with the investigatory function of the independent agency designated with advocacy and investigatory functions under United States Public Law 88-164, Title I, Part C or United States Public Law 99-319;

EXPLANATION

This section corrects a cross-reference.

Sec. 23. 38 MRSA §420-D, sub-§7, ¶C, as amended by PL 2005, c. 602, §3, is corrected to read:

C. If the commissioner determines that a municipality's ordinance meets or exceeds the provisions of this section and that the municipality has the resources to enforce that ordinance, the commissioner shall exempt any project within that municipality. The department shall maintain a list of municipalities meeting these criteria and update this list at least every 2 years. The commissioner shall immediately notify municipalities on the list of municipalities meeting these criteria of new or amended rules adopted by the department pursuant to this article. If a municipality on the list no longer meets these criteria, it must be removed from the list, except that if the municipality no longer meets these criteria due to new or amended department rules, then the municipality remains on the list if:

- (1) The municipality adopts amendments to its ordinances within one calendar year of the effective date of the new or amended department rules;
- (2) The municipality submits the amended ordinances to the commissioner within 45 calendar days of adoption for review; and

(3) The commissioner determines that the amended ordinances meet or exceed the provisions of this section.

~~A project constructed after a municipality is removed from the list must obtain approval pursuant to this section.~~

A project constructed after a municipality is removed from the list must obtain approval pursuant to this section.

EXPLANATION

This section corrects a formatting error.

Sec. 24. 38 MRSA §585-B, sub-§6, as enacted by PL 2005, c. 590, §2, is corrected to read:

6. Mercury reduction plans. Any air emission source emitting mercury in excess of 10 pounds per year after January 1, 2007 must develop a mercury reduction plan. The mercury reduction plan must be submitted to the department no later than September 1, 2008. The mercury reduction plan must contain:

A. Identification, characterization and accounting of the mercury used or released at the emission source; and

B. Identification, analysis and evaluation of any appropriate technologies, procedures, processes, equipment or production changes that may be utilized by the emission source to reduce the amount of mercury used or released by that emission source, including a financial analysis of the costs and benefits of reducing the amount of mercury used or released.

~~C. The department may keep information submitted to the department under this subsection confidential as provided under section 1310-B.~~

The department may keep information submitted to the department under this subsection confidential as provided under section 1310-B.

The department shall submit a report to the joint standing committee of the Legislature having jurisdiction over natural resources matters no later than March 1, 2009 summarizing the mercury emissions and mercury reduction potential from those emission sources subject to this subsection. In addition, the department shall include an evaluation of the appropriateness of the 25-pound mercury standard established in subsection 5. The evaluation must address, but is not limited to, the technological feasibility, cost and schedule of achieving the standards established in subsection 5. The joint standing committee of the Legislature having jurisdiction over natural resources matters is authorized to report out to the 124th Legislature legislation relating to the evaluation.

EXPLANATION

This section corrects a formatting error.

Sec. 25. PL 2005, c. 646, §6, 2nd amending clause is corrected to read:

Sec. ~~6~~ 7. 36 MRSA §5219-AA is enacted to read:

EXPLANATION

This section corrects a numbering error.