

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-THIRD LEGISLATURE

FIRST REGULAR SESSION
December 6, 2006 to June 21, 2007

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FIRST REGULAR SESSION
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IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Penmor Lithographers
Lewiston, Maine
2007

CHAPTER 92
H.P. 270 - L.D. 340

**An Act To Require the
Replacement of Trees Cut in
Shoreland Areas**

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

Sec. 1. 30-A MRSA §4452, sub-§3, ¶C-1, as enacted by PL 1989, c. 727, §1, is repealed.

Sec. 2. 30-A MRSA §4452, sub-§3, ¶C-2 is enacted to read:

C-2. Notwithstanding paragraph C, for violations of the laws and ordinances set forth in subsection 5, paragraph Q, the provisions of this paragraph apply. The court must order the violator to correct or mitigate the violation unless the correction or mitigation would result in a threat or hazard to public health or safety, substantial environmental damage or a substantial injustice.

(1) Except for timber harvesting, correction or mitigation of a violation that involves the cutting of a tree or trees must include, but is not limited to, replacement of each tree cut with a tree of substantially similar size and species to the extent available and feasible.

(2) Except for timber harvesting, correction or mitigation of a violation that involves the cutting of understory vegetation must include, but is not limited to, replacement of the understory vegetation with understory vegetation of substantially similar size and species to the extent available and feasible.

(3) For violations requiring correction or mitigation pursuant to subparagraph (1) or (2), the violator shall submit to the municipality a reforestation plan developed with and signed by a forester licensed pursuant to Title 32, chapter 76 or other qualified professional. The reforestation plan must include consideration of specified site conditions and address habitat and other riparian restoration, visual screening, understory vegetation and erosion and sedimentation control.

For purposes of this paragraph, "timber harvesting" has the same meaning as in Title 38, section 438-B, subsection 1, paragraph C.

For purposes of this paragraph, "understory vegetation" means all saplings that measure less than 2 inches in diameter at 4.5 feet above ground level and all shrubs.

See title page for effective date.

CHAPTER 93
H.P. 345 - L.D. 429

**An Act To Improve Access to
HIV Testing in Health Care
Settings**

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

Sec. 1. 5 MRSA §19203-A, as amended by PL 1999, c. 429, §3, is further amended to read:

§19203-A. Voluntary informed consent required

1. Individual tested. ~~Except as provided in this section and section 19203, subsections 4 and 5, no person may perform an HIV test without first obtaining the written informed consent of the person to be tested an HIV test must be voluntary and undertaken only with a patient's knowledge and understanding that an HIV test is planned. A patient must be informed orally or in writing that an HIV test will be performed unless the patient declines. Oral or written information required to be given to a patient under this subsection must include an explanation of what an HIV infection involves and the meaning of positive and negative test results. A patient must be provided the opportunity to ask questions, either orally or in writing. Informed consent is not required for repeated HIV testing by health care providers to monitor the course of established infection. Anonymous test sites under section 19203 B are exempt from the requirement that the informed consent be in writing.~~

2. Insurers. Persons required to take an HIV test by an insurer, nonprofit hospital or medical service organization or nonprofit health care plan must provide their written informed consent on forms approved by the Superintendent of Insurance. ~~Pretest and post-test~~ If the test is positive, post-test counseling must be provided by the person or organization requesting the test. The Superintendent of Insurance may ~~promulgate~~ adopt rules to define language requirements of the form.

3. Access to medical care. ~~No~~ A health care provider may ~~not~~ deny any person medical treatment or care solely for refusal to give consent for an HIV test. ~~No~~ A health care provider may ~~not~~ request a person's written consent to an HIV test as a precondition to the provision of health care. All written consent to testing ~~shall~~ must be in accordance with section 19201, subsection 5-A. ~~Nothing in this~~ This section ~~may~~ does not prohibit a health care provider from recommending an HIV test for diagnostic or treatment purposes. ~~No~~ A physician or other health care provider ~~may be~~ is not civilly liable for failing to have an HIV test performed for diagnostic or treatment purposes if the test was recommended and refused in writing by the patient.