

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
NON-EMERGENCY LAWS IS
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PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Penmor Lithographers
Lewiston, Maine
2007

Sec. 3. 29-A MRSA §501, sub-§7, ¶D, as amended by PL 1999, c. 790, Pt. C, §5 and affected by §19, is further amended to read:

D. The fee for ~~the a~~ temporary registration permit issued under paragraph A, subparagraph (1) is \$12. The fee for a temporary registration permit issued under paragraph A, subparagraph (2) is \$25.

See title page for effective date.

**CHAPTER 178
S.P. 218 - L.D. 681**

**An Act Concerning the
Examination of Persons in
Protective Custody**

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

Sec. 1. 34-B MRSA §3862, sub-§1, ¶B, as amended by PL 1999, c. 423, §4, is further amended to read:

B. If the law enforcement officer does take the person into protective custody, shall deliver the person immediately for examination as provided in section 3863 or, for a person taken into protective custody who has an advance health care directive authorizing mental health treatment, for examination as provided in Title 18-A, section 5-802, subsection (d) to determine the individual's capacity and the existence of conditions specified in the advance health care directive for the directive to be effective. ~~If the examination occurs in a hospital emergency room, the~~ The examination may be performed by a licensed physician, a licensed clinical psychologist, a physician's assistant, a nurse practitioner or a certified psychiatric clinical nurse specialist. ~~If the examination does not occur in a hospital emergency room, the examination may be performed only by a licensed physician or licensed clinical psychologist.~~

See title page for effective date.

**CHAPTER 179
S.P. 240 - L.D. 791**

**An Act To Ensure Equitable
Geographic Representation on
the State Board of Education**

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

Sec. 1. 20-A MRSA §401, sub-§1, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

1. Appointment. The state board ~~shall consist~~ consists of 9 members ~~who shall be~~, appointed by the Governor. Four members must reside in the State's First Congressional District at the time of appointment, 4 members must reside in the State's Second Congressional District at the time of appointment and one member may reside in either the First Congressional District or the Second Congressional District at the time of appointment. Each appointment ~~shall be~~ is subject to review by the joint standing committee of the Legislature having jurisdiction over education and to confirmation by the Legislature.

Sec. 2. 20-A MRSA §401, sub-§2, as amended by PL 1987, c. 851, §2, is further amended to read:

2. Composition. The membership of the state board ~~shall~~ must be broadly representative of the ~~pub-~~ lie and the geographic regions of the State and of municipalities of varying sizes. A person whose income is derived in substantial portion from work as a teacher or as an administrator in an educational institution ~~may~~ is not be eligible for appointment to or service on the state board. Members must have a strong interest in and knowledge of education.

Sec. 3. Transition. Notwithstanding the Maine Revised Statutes, Title 20-A, section 401, subsection 1, members serving on the State Board of Education on the effective date of this Act continue to serve for the remainder of the terms for which they were appointed. After the expiration of the terms of members serving on the effective date of this Act, the appointment of members to fill vacancies on the State Board of Education must be made consistent with the provisions of Title 20-A, section 401 as amended by this Act.

See title page for effective date.

**CHAPTER 180
S.P. 269 - L.D. 859**

**An Act To Restrict the
Smoking Exemption for
Tobacco Specialty Stores**

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

Sec. 1. 22 MRSA §1541, sub-§8 is enacted to read:

8. Waterpipe or hookah. "Waterpipe" or "hookah" means a device used for smoking tobacco that consists of a tube connected to a container where the smoke is cooled by passing through water.

Sec. 2. 22 MRSA §1542, sub-§2, ¶L, as amended by PL 2005, c. 223, §2, is further amended to read:

L. Smoking is not prohibited in a tobacco specialty store. The on-premises service, preparation or consumption of food or drink, if the tobacco specialty store is not licensed for such service or consumption prior to January 1, 2007, is prohibited in such a store. Smoking a waterpipe or hookah is prohibited in a tobacco specialty store that is newly licensed or that requires a new license after January 1, 2007.

See title page for effective date.

CHAPTER 181

H.P. 680 - L.D. 905

An Act To Amend the Maine Administrative Procedure Act To Strengthen Safeguards for Small Businesses

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

Sec. 1. 5 MRSA §8052, sub-§5-A, as enacted by PL 1989, c. 574, §4, is amended to read:

5-A. Impact on small business. In adopting rules, the agencies shall seek to reduce any economic burdens through flexible or simplified reporting requirements and may seek to reduce burdens through flexible or simplified timetables that take into account the resources available to the affected small businesses. The agency may consider clarification, consolidation, or simplification of compliance or reporting requirements. For the purposes of this subsection, "small business" means businesses that have 20 or fewer employees and gross annual sales not exceeding \$2,500,000.

Prior to the adoption of any proposed rule that may have an adverse impact on small businesses, the agency shall prepare an economic impact statement that includes the following:

A. An identification of the types and an estimate of the number of the small businesses subject to the proposed rule;

B. The projected reporting, record-keeping and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record;

C. A brief statement of the probable impact on affected small businesses; and

D. A description of any less intrusive or less costly, reasonable alternative methods of achieving the purposes of the proposed rule.

Sec. 2. 5 MRSA §8053, sub-§3, ¶D, as amended by PL 1985, c. 77, §2, is further amended to read:

D. If possible, contain the express terms of the proposed rule or otherwise describe the substance of the proposed rule, stating the subjects and issues involved and indicate where a copy of the proposed rule may be obtained; ~~and~~

Sec. 3. 5 MRSA §8053, sub-§3, ¶E, as enacted by PL 1985, c. 77, §2, is amended to read:

E. Refer to the substantive state or federal law to be implemented by the rules; ~~and~~

Sec. 4. 5 MRSA §8053, sub-§3, ¶F is enacted to read:

F. Indicate where a copy of the statement of impact on small business pursuant to section 8052, subsection 5-A may be obtained.

Sec. 5. 5 MRSA §8057, sub-§1, as amended by PL 1985, c. 680, §5, is further amended to read:

1. Rules; exception. Rules adopted in a manner other than that prescribed by section 8052, subsections 1, 2, 3, 4, ~~5-A~~ and 7 and by ~~section~~ sections 8053 and 8054 ~~shall be~~ are void and of no legal effect, ~~provided~~ except that insubstantial deviations from the requirements of section 8053 ~~shall do~~ not invalidate the rule subsequently adopted. Rules in effect prior to July 1, 1978, ~~shall~~ become void and of no legal effect on July 1, 1979, unless originally adopted after notice published in a newspaper of general circulation in some area of the State and opportunity for hearing or unless adopted in accordance with ~~chapter 375~~, this subchapter H.

Sec. 6. 5 MRSA §8057-A, sub-§1, ¶D, as enacted by PL 1989, c. 574, §7, is amended to read:

~~D. An analysis of the rule, including a description of how the agency considers whether the rule would impose an economic burden on small business as described in section 8052, subsection 5-A.~~

See title page for effective date.

CHAPTER 182

H.P. 682 - L.D. 907

An Act To Ensure the Safety of Facilities Dispensing Flammable Liquids

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