

# 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**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 20, 2007**

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

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**Penmor Lithographers**  
**Lewiston, Maine**  
**2007**

**1-A. Limited waiver.** The commissioner may grant a person a written waiver of any of the provisions of subsection 1 and permit the construction of a fixture in, upon or near a state or state aid highway located in a municipality if:

A. The commissioner receives a written statement from the municipal officers requesting or supporting the waiver;

B. The posted speed limit where the construction will occur is no more than 35 miles per hour; and

C. The commissioner determines that highway safety and public welfare will not be adversely affected.

The commissioner may include in the waiver any conditions the commissioner determines necessary to ensure public safety and welfare. Violation of the terms of a waiver constitutes a violation of this section.

**2. Penalties.** The following penalties apply to violations of this section.

A. A person who violates this section commits a civil violation for which a fine of not less than \$5 and not more than \$500 may be adjudged.

B. After having been adjudicated as having violated paragraph A, a person who unlawfully maintains any installations such as buildings, gasoline pumps or other fixtures for 30 days after the adjudication is subject to an additional fine of not more than \$50 for each day such installations are maintained.

**3. Application.** This section does not apply to the installations or other property devoted to the public use of any public utility or district and underground pipelines.

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

Effective May 30, 2007.

**CHAPTER 192**

**S.P. 461 - L.D. 1313**

**An Act To Amend the Solid Waste Management Laws**

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

**Sec. 1. 5 MRSA §12004-I, sub-§68-B** is enacted to read:

**68-B.**

<u>Natural Resources</u>	<u>Solid Waste Management Advisory Council</u>	<u>Expenses for Non-salaried and Non-paid Public Members Only</u>	<u>38 MRSA §2123-C</u>
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**Sec. 2. 38 MRSA §2101, sub-§2** is enacted to read:

**2. Waste reduction and diversion.** It is the policy of the State to actively promote and encourage waste reduction measures from all sources and maximize waste diversion efforts by encouraging new and expanded uses of solid waste generated in this State as a resource.

**Sec. 3. 38 MRSA §2123-B**, as amended by PL 1999, c. 527, §1, is repealed.

**Sec. 4. 38 MRSA §2123-C** is enacted to read:

**§2123-C. Solid Waste Management Advisory Council**

**1. Solid Waste Management Advisory Council.** The Solid Waste Management Advisory Council, referred to in this section as "the council," is established to advise and assist the office in reviewing, as may be appropriate:

A. State solid waste management policy, including the timeline and establishment process for the development of a state-owned solid waste disposal facility;

B. Host community benefits;

C. The development of commercial solid waste facilities and the economic competitiveness of commercial facilities;

D. The appropriateness of developing regional disposal facilities to better serve municipalities and businesses;

E. The continued development and expansion of beneficial reuse and recycling;

F. The proper role of municipal zoning and other local control in regard to siting, expansion and operation of solid waste disposal facilities; and

G. Other related matters as considered appropriate and necessary.

**2. Membership.** The Governor shall appoint 14 members of the council as follows:

A. Three members from the general public;

B. Two members from each of the following:

(1) Municipal government;

(2) Statewide and local environmental organizations;

(3) The recycling industry;

(4) Waste-to-energy facility owners or operators; and

(5) Landfill owners or operators; and

C. One member representing industrial waste generators.

The Director of the State Planning Office, or the director's designee, serves as a nonvoting, ex officio member of the council.

The commissioner, or the commissioner's designee, serves as a nonvoting, ex officio member of the council.

3. Terms. All members, except the Director of the State Planning Office and the commissioner, are appointed for staggered terms of 3 years. A vacancy must be filled by the Governor for the unexpired portion of the term. The council shall annually elect a chair from its membership.

4. Quorum. A quorum is a majority of the members of the council. An affirmative vote of the majority of the members present at a meeting is required for any action. An action may not be considered unless a quorum is present.

5. Compensation; meetings. Members are entitled to compensation according to Title 5, section 12004-I, subsection 68-B. The council shall meet at least once a year and at any time upon the call of the chair upon written request to the chair by 5 of the members.

6. Report. The council shall report annually to the Governor and to the Legislature on its activity during the past year.

7. Staff. The office shall provide the council with all necessary staff.

Sec. 5. 38 MRSA §2124-A, as amended by PL 2003, c. 338, §2, is further amended to read:

**§2124-A. Solid waste generation and disposal capacity report**

By January 1, 1997 2008 and every 2 years annually thereafter, the office shall submit a report to the joint standing committee of the Legislature having jurisdiction over natural resource resources matters, the Governor and the department setting forth information on statewide generation of solid waste, statewide recycling rates and available disposal capacity for solid waste.

The report must include an analysis of how changes in available disposal capacity have affected or are likely to affect disposal prices. When the office determines that a decline in available landfill capacity

has generated or has the potential to generate supra-competitive prices, ~~the office~~ shall include this finding in its report and shall include recommendations for legislative or regulatory changes as necessary.

**Sec. 6. 38 MRSA §2156-A, sub-§2,** as amended by PL 1999, c. 736, §1, is further amended to read:

**2. Recommendation for development.** When the office finds that ~~4-6~~ years or less of licensed and available disposal capacity for municipal solid waste or special waste remains within the State, ~~the office~~ shall submit a report recommending the construction and operation of a state-owned solid waste disposal facility for the disposal of the type of waste for which capacity is needed to the joint standing committee of the Legislature having jurisdiction over natural resource matters. The report must recommend which state agency or department will own the facility and how it will be operated. The report must also include a review of disposal options outside of the State; a review of existing efforts to reduce, reuse, recycle, compost and incinerate the affected municipal solid waste and special waste streams and the impact of these efforts on capacity requirements; a thorough economic analysis of the facility's expected costs; and commitments from entities to utilize the facility and projected revenues. It is the intent of the Legislature that the facility be operated by a private contractor. A state-owned solid waste disposal facility may not be constructed or operated unless authorized by legislation pursuant to subsection 3.

See title page for effective date.

**CHAPTER 193**

**S.P. 584 - L.D. 1678**

**An Act To Implement the Recommendations of the Working Group on the State Purchasing Code of Conduct Laws**

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

**Sec. 1. 5 MRSA §1825-B, sub-§12** is enacted to read:

**12. Vendor's fee.** The State Purchasing Agent may collect a fee in an amount equal to 1% of the bid from a supplier of apparel, footwear or textiles with a winning bid under this section. The State Purchasing Agent shall apply the fee under this subsection to the costs of implementing and administering the state purchasing code of conduct under section 1825-L, including developing a consortium to monitor and in-