

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals  
(may include minor formatting differences from printed original)

**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.**

---

---

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

**CHAPTER 245****H.P. 650 - L.D. 861**

**An Act To Require a  
Commercial Applicator's  
License To Use Pesticides in  
Licensed Food and Eating  
Establishments**

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

**Sec. 1. 22 MRSA §1471-C, sub-§5,** as amended by PL 1987, c. 243, §1, is further amended to read:

**5. Commercial applicator.** "Commercial applicator" means any person, except a government pesticide supervisor, whether or not the person is a private applicator with respect to some uses, who uses or supervises the use of any limited or restricted-use pesticides on any property other than as provided by subsection 22, or who uses general-use pesticides in custom application on such property. "Commercial applicator" also includes individuals who apply any pesticides in connection with their duties as officials or employees of federal, state or local governments. ~~The board may by rule provide for exemptions from licensing requirements and for reduced licensing requirements for classes of commercial applicators of general use pesticides applied by hand or nonpowered equipment, provided that the board finds that applications by those classes do not pose a significant risk to health or the environment and the requirement of licensing does not serve a meaningful public purpose.~~

**Sec. 2. 22 MRSA §1471-C, sub-§5-A,** as amended by PL 1987, c. 243, §2, is further amended to read:

**5-A. Custom application.** "Custom application" means ~~any an~~ application of ~~any a~~ pesticide ~~under contract or for which compensation is received or any application of a pesticide to a property open to use by the public;~~

A. Under contract or for which compensation is received;

B. To a property open to use by the public; or

C. In a food establishment licensed under chapter 551 or an eating establishment licensed under chapter 562, except that "custom application" does not include a pesticides application at a licensed food or eating establishment when:

(1) The establishment is ancillary to the production of an agricultural commodity;

(2) The owner or an employee of that establishment is certified as a private applicator under section 1471-D, subsection 2; and

(3) The property is not open to the public.

**Sec. 3. 22 MRSA §1471-D, sub-§2-C** is enacted to read:

**2-C. Exemptions or reduced licensing requirements for certain commercial or custom applications.** The board may by rule provide for exemptions from licensing requirements and for reduced licensing requirements for classes of commercial applicators of general-use pesticides applied by hand or nonpowered equipment if the board finds that applications by those classes do not pose a significant risk to health or the environment and the requirement of licensing does not serve a meaningful public purpose.

Notwithstanding Title 7, section 610, subsection 6, rules adopted pursuant to this section to provide exemptions from licensing or reduced licensing requirements are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 4. Directive to amend rules known as the Maine Food Code.** Within 180 days of the effective date of this Act, the Department of Agriculture, Food and Rural Resources and the Department of Health and Human Services shall amend the rules adopted by those departments under the Maine Revised Statutes, Title 22, chapters 551 and 562, respectively, and known as the Maine Food Code, to reflect the statutory restrictions on pesticides applications imposed by this Act.

See title page for effective date.

**CHAPTER 246****H.P. 508 - L.D. 659**

**An Act To Establish a  
Mediation Process for  
Landlord-tenant Disputes**

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

**Sec. 1. 10 MRSA §9097-B,** as enacted by PL 1995, c. 60, §1, is amended to read:

**§9097-B. Entry and detainer**

Process of forcible entry and detainer pursuant to Title 14, chapter 709 must be used in mobile home evictions. This process includes mediation under Title 14, chapter 709, subchapter 1.

**Sec. 2. 14 MRSA §6004-A** is enacted to read:

**§6004-A. Mediation**

The court may, in any residential tenancy under this subchapter, at any time refer the parties to mediation on any issue.

**1. Mediated agreement.** An agreement reached by the parties through mediation must be reduced to writing, signed by the parties and presented to the court for approval as a court order.

**2. No agreement; good faith effort required.** When agreement through mediation is not reached on an issue, the court shall determine that the parties made a good faith effort to mediate the issue before proceeding with a hearing. If the court finds that either party failed to make a good faith effort to mediate, the court may order the parties to submit to mediation, may dismiss the action or a part of the action, may render a decision or judgment by default, may assess attorney's fees and costs or may impose any other sanction that is appropriate in the circumstances.

**3. Mediation not ordered; consent.** The court may not order mediation in cases in which no mediator is available or mediation would delay any hearing in the matter, unless the parties consent to a delay in the proceedings to allow mediation to take place.

**4. Mediators provided.** The Court Alternative Dispute Resolution Service, established in Title 4, section 18-B, shall provide mediators for mediations under this section.

**5. Rules; fees.** The Supreme Judicial Court may adopt rules of procedure for actions under this chapter.

**Sec. 3. Fees.** The Supreme Judicial Court may assess a fee pursuant to the Maine Revised Statutes, Title 4, section 18-B as a part of the filing fee for actions under Title 14, chapter 709 to pay for mediation under this Act.

**Sec. 4. Report.** The Court Alternative Dispute Resolution Service, established in the Maine Revised Statutes, Title 4, section 18-B, shall report to the joint standing committee of the Legislature having jurisdiction over judiciary matters no later than January 15, 2009 about the efficiency and use of the residential tenancy mediation program established by this Act.

**Sec. 5. Appropriations and allocations.** The following appropriations and allocations are made.

#### JUDICIAL DEPARTMENT

##### Courts - Supreme, Superior, District and Administrative 0063

Initiative: Allocates funds to cover the cost of providing mediation in landlord-tenant disputes.

OTHER SPECIAL REVENUE FUNDS	2007-08	2008-09
All Other	\$11,250	\$22,500

OTHER SPECIAL	\$11,250	\$22,500
REVENUE FUNDS TOTAL		

**Sec. 6. Effective date.** This Act takes effect January 1, 2008.

Effective January 1, 2008.

#### CHAPTER 247

##### H.P. 1258 - L.D. 1803

#### An Act To Clarify Comprehensive Planning and Land Use Ordinances

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

**Sec. 1. 30-A MRSA §4314, sub-§3,** as amended by PL 2005, c. 397, Pt. A, §31, is further amended to read:

**3. Rate of growth, zoning and impact fee ordinances.** After January 1, 2003, any portion of a municipality's or multimunicipal region's rate of growth, zoning or impact fee ordinance must be consistent with a comprehensive plan adopted in accordance with the procedures, goals and guidelines established in this subchapter. The portion of a rate of growth, zoning or impact fee ordinance not directly related to an inconsistency identified by a court or during a comprehensive plan review by the office in accordance with section 4347-A, subsection 3-A remains in effect. For purposes of this subsection, "zoning ordinance" does not include an ordinance that applies townwide that is a cluster development ordinance or a design ordinance prescribing the color, shape, height, landscaping, amount of open space or other comparable physical characteristics of development. The portion of a rate of growth, zoning or impact fee ordinance that is not consistent with a comprehensive plan is no longer in effect unless:

C. The ordinance or portion of the ordinance is exempted under subsection 2;

D. The municipality or multimunicipal region is under contract with the office to prepare a comprehensive plan or implementation program, in which case the ordinance or portion of the ordinance remains valid for up to 4 years after receipt of the first installment of its first planning assistance grant or for up to 2 years after receipt of the first installment of its first implementation assistance grant, whichever is earlier;

E. The ordinance or portion of the ordinance conflicts with a newly adopted comprehensive plan or plan amendment adopted in accordance with the