

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

tion in accordance with section 347-A against the product manufacturer. For the purpose of this section, "manufacturer" means any person who manufactured the final product or whose brand name is affixed to the product. In the case of a product that was imported into the United States, "manufacturer" includes the importer or domestic distributor of the product if the person who manufactured or assembled the product or whose brand name is affixed to the product does not have a presence in the United States.

13. Department rule-making authority; flame retardants. If the commissioner determines, in consultation with the Department of Health and Human Services, Maine Center for Disease Control and Prevention, that a flame retardant is harmful to the public health and the environment and an alternative to the flame retardant that is safer to the public health and the environment is nationally available and the State Fire Marshal determines that a safer alternative meets applicable fire safety standards, the commissioner may adopt rules to prohibit the manufacture, sale or distribution in the State of:

A. A mattress, a mattress pad or upholstered furniture intended for indoor use in a home or other residential occupancy that has plastic fibers containing that flame retardant; or

B. A television or computer that has a plastic housing containing that flame retardant.

The commissioner's rulemaking under this subsection must be made in accordance with Title 5, chapter 375, subchapter 2-A. The department shall report any rulemaking undertaken pursuant to this subsection to the joint standing committee of the Legislature having jurisdiction over natural resources matters. The joint standing committee of the Legislature having jurisdiction over natural resources matters may submit legislation relating to the department's report. For purposes of this subsection, "flame retardant" means any chemical that is added to a plastic, foam or textile to inhibit flame formation. Rules adopted pursuant to this subsection are routine technical rules.

See title page for effective date.

CHAPTER 297

S.P. 283 - L.D. 895

An Act Concerning Blasting near Residential Areas

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

Sec. 1. 38 MRSA §353-A, sub-§10 is enacted to read:

10. Fees for rock crusher general permit. Rock crushers regulated under a general permit from the department are subject to an annual fee not to exceed the minimum license fee established under subsection 4.

Sec. 2. 38 MRSA §484, sub-§9 is enacted to read:

9. Blasting. Blasting will be conducted in accordance with the standards in section 490-Z, subsection 14 unless otherwise approved by the department.

Sec. 3. 38 MRSA §490-B, first ¶, as enacted by PL 1995, c. 700, §22, is amended to read:

Sections 490-A to 490-K apply to any excavation for borrow, clay, topsoil or silt, whether alone or in combination, ~~if the total excavated area on a parcel is 5 or more acres~~, including reclaimed and unreclaimed areas, ~~and section if the total excavated area on a parcel is 5 or more acres or the total excavated area on adjacent parcels under a common owner or operator is 5 or more acres.~~ Section 490-M applies to a total excavated area of less than 5 acres. This article applies if the excavation is located in whole or in part within an organized area of this State.

Sec. 4. 38 MRSA §490-C, first ¶, as amended by PL 2005, c. 158, §3, is further amended to read:

Except as provided in section 484-A, a person intending to create or operate an excavation under this article must file a notice of intent to comply before the total area of excavation on the parcel equals 5 or more acres excavated since January 1, 1970. Both reclaimed and unreclaimed areas are added together in determining whether this 5-acre threshold is met. A notice filed under this section must be complete, submitted on forms approved by the department and mailed to the municipality, the department, the Maine Historic Preservation Commission and each abutting property owner. The notice that is mailed to the municipality and each abutting property owner must be ~~mailed~~ sent by certified mail at least 7 days prior to filing the notice of intent to comply with the regulator. The notice that is mailed to the regulator must be sent by certified mail, return receipt requested. Upon receiving the postal receipt, the owner or operator may commence operation. The municipality where the proposed excavation is located may submit comments to the department if the proposed excavation may pose an unreasonable adverse impact under the standards in section 490-D. Within 30 days of receipt of the notice of intent to comply, the department must respond to the comments made by the municipality. Abutting property owners, the Maine Historic Preservation Commission or other interested persons may submit comments directly to the department.

Sec. 5. 38 MRSA §490-D, sub-§3, ¶C, as amended by PL 1995, c. 700, §24, is further amended to read:

C. Separation must be maintained between any excavation affected land and any public drinking water source existing prior to the filing of a notice of intent to comply under section 490-C as follows:

- (1) For systems serving a population of 500 persons or less, the minimum separation must be 300 feet;
- (2) For systems serving a population of 501 persons up to 1,000 persons, the separation must be 500 feet;
- (3) For systems serving a population of more than 1,000 persons, the separation must be 1,000 feet; and
- (4) For any system that holds a valid filtration waiver in accordance with the federal Safe Drinking Water Act, the separation must be 1,000 feet.

The department may grant a variance from the provisions of this paragraph upon consultation with the public water supply affected by the excavation. The department may not grant a waiver from the provisions of paragraph A, B or D.

Sec. 6. 38 MRSA §490-D, sub-§3, ¶G, as enacted by PL 1995, c. 700, §24, is amended to read:

G. In the event of excavation below the seasonal high water table, a 300-foot separation must be maintained between the permitted limit of excavation and any predevelopment private drinking water supply, and a ~~400-foot~~ 1,000-foot separation must be maintained between the permitted limit of excavation and any predevelopment public drinking water source or area previously designated for potential use as a public drinking water source by a municipality or private water company.

Sec. 7. 38 MRSA §490-D, sub-§16 is enacted to read:

16. Blasting. Blasting must be conducted in accordance with the standards in section 490-Z, subsection 14 unless otherwise approved by the department.

Sec. 8. 38 MRSA §490-X, first ¶, as enacted by PL 1995, c. 700, §35, is amended to read:

This article applies to any quarry ~~that, including~~ reclaimed and unreclaimed areas, if the quarry is more than one acre in size, the total excavated area including reclaimed and unreclaimed areas, adjacent parcels under a common owner or operator is more than one

acre in size or at which underground production blasting is proposed.

Sec. 9. 38 MRSA §490-Y, first ¶, as amended by PL 2005, c. 158, §10, is further amended to read:

Except as provided in section 484-A, a person intending to create or operate a quarry under this article must file a notice of intent to comply before the total area of excavation of rock or overburden on the parcel exceeds one acre. Both reclaimed and unreclaimed areas are added together in determining whether this one-acre threshold is exceeded. A notice filed under this section must be complete, submitted on forms approved by the department and mailed to the municipality where the quarry is located, the department, the Maine Historic Preservation Commission and each abutting property owner. The notice that is mailed to the municipality and each abutting property owner must be ~~mailed~~ sent by certified mail at least 7 days before the notice of intent to comply is filed with the regulator. The notice that is mailed to the department must be sent by certified mail, return receipt requested. Upon receiving the postal receipt, the owner or operator may commence operation of the quarry. The municipality where the proposed quarry is located may submit comments to the department if the proposed quarry may pose an unreasonable adverse impact under the standards in section 490-Z. Within 30 days of receipt of the notice of intent to comply, the department shall respond to the comments made by the municipality. Abutting property owners, the Maine Historic Preservation Commission or other interested persons may submit comments directly to the department.

Sec. 10. 38 MRSA §490-Z, sub-§14, ¶N is enacted to read:

N. If any blasting activity exceeds the standards in this subsection, the department must be notified within 48 hours of the blast event. Notification must include the name of the blasting operator, the location, date and time of the blasting event and a description of the specific occurrence that is in noncompliance with this subsection. Use of explosives at the quarry may be suspended by the department until the cause of the noncompliance is identified and appropriate steps are implemented to reduce, prevent or eliminate reoccurrence.

Sec. 11. 38 MRSA §490-Z, sub-§14, ¶O is enacted to read:

O. Prior to blasting, the owner or operator shall develop and implement a plan that provides an opportunity for prior notification of a planned blast for all persons located within 1,000 feet of the blast site. Notification may be by telephone, in writing, by public notice in a newspaper of general circulation in the area affected or by other

means identified in the plan. The plan must be in writing and available for inspection by the department.

Sec. 12. Agency study. The Department of Environmental Protection, the Department of Public Safety and the Office of the State Fire Marshal, referred to in this section as "the agencies," shall study methods for the regulation of individuals and companies that conduct blasting operations, including certification and requirements for best management practices. The agencies shall submit a report, including recommendations and any legislation necessary to implement the recommendations, to the Joint Standing Committee on Natural Resources by January 15, 2008. The Joint Standing Committee on Natural Resources may submit legislation related to the report to the Second Regular Session of the 123rd Legislature.

See title page for effective date.

CHAPTER 298

H.P. 215 - L.D. 259

An Act To Clarify the Composition of the Advisory Council on Tax-deferred Arrangements

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

Sec. 1. 5 MRSA §884, first ¶, as amended by PL 2001, c. 503, §1, is further amended to read:

The Advisory Council on Tax-deferred Arrangements, established by section 12004-I, subsection 25, shall meet at least once a year, review the operations of the arrangements program and advise the Department of Administrative and Financial Services on matters of policy relating to the activities under the arrangements program. Members of the advisory council are entitled to compensation as provided in chapter 379. All appointed ~~or elected~~ members serve at the pleasure of ~~their~~ the appointing ~~or electing~~ ~~authorities~~ authority. The advisory council consists of ~~40~~ 12 members as follows.

Sec. 2. 5 MRSA §884, sub-§3, as amended by PL 2001, c. 503, §2, is further amended to read:

3. Employee representatives. The employee representatives of the advisory council are ~~7 classified state~~ 2 employees appointed by the Governor as follows:

~~A. Five employees recommended to the Governor by the Maine State Employees Association, one from each bargaining unit;~~

~~B. One employee recommended to the Governor by the American Federation of State and Municipal Employees; and~~

~~C. One employee recommended to the Governor by the Maine State Troopers Association.~~

D. Seven classified state employees, one from each bargaining unit recognized pursuant to Title 26, chapter 9-B in the executive branch, recommended to the Governor by the employee organizations certified to represent the units;

E. One employee from the largest bargaining unit recognized pursuant to Title 26, chapter 9-B in the legislative branch, recommended to the Governor by the employee organization certified to represent the unit; and

F. One employee from the largest bargaining unit recognized pursuant to Title 26, chapter 14 in the judicial branch, recommended to the Governor by the employee organization certified to represent the unit.

Employee representatives are appointed for terms of 3 years, ~~except that of the first appointments, one must be for one year, one for 2 years and one for 3 years.~~

Sec. 3. Terms. Notwithstanding the Maine Revised Statutes, Title 5, section 884, subsection 3, current employee representatives of the Advisory Council on Tax-deferred Arrangements shall continue serving for the remainder of the terms of their appointments, and additional employee representatives appointed pursuant to Title 5, section 884, subsection 3, paragraphs E and F shall serve terms of 3 years.

See title page for effective date.

CHAPTER 299

H.P. 1225 - L.D. 1759

An Act To Preserve the Recycling Value of Beverage Containers

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

Sec. 1. 32 MRSA §1862, sub-§12-E, as enacted by PL 2003, c. 499, §3, is amended to read:

12-E. Reverse vending machine. "Reverse vending machine" means an automated device that uses a laser scanner and microprocessor to accurately recognize the universal product code on containers and to accumulate information regarding containers redeemed, enabling the reverse vending machine to accept containers from redeemers and to issue script for the containers' refund value. "Reverse vending ma-