

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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Penmor Lithographers
Lewiston, Maine
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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 ~~10~~ 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~~ 9 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-

chine" does not include a hand scanner or other similar device.

Sec. 2. 32 MRSA §1865, sub-§4 is enacted to read:

4. Removal of product. A product that is sold or distributed in the State that is not in compliance with the initiator of deposit or the labeling registration requirements established in this section may be removed from sale by the department.

Sec. 3. 32 MRSA §1866, sub-§3-A is enacted to read:

3-A. Obligation to preserve recycling value. Notwithstanding subsection 5, a distributor or its agent may refuse to accept, or pay the refund value and handling costs to a dealer, redemption center or other person for, a beverage container that has been processed by a reverse vending machine in a way that has reduced the recycling value of the container below current market value. This subsection may not be interpreted to prohibit a written processing agreement between a distributor and a dealer or redemption center and does not relieve a distributor of its obligation under subsection 5 to accept empty, unbroken and reasonably clean beverage containers. The department shall adopt rules to establish the recycling value of beverage containers under this subsection and the rules may authorize the use of a 3rd-party vendor to determine if a beverage container has been processed by a reverse vending machine in a manner that has reduced the recycling value below current market value. The rules must outline the method of allocating among the parties involved the payment for 3rd-party vendor costs. Rules adopted under this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

Sec. 4. 32 MRSA §1866, sub-§9 is enacted to read:

9. License revocation. The department may revoke the license of a dealer or redemption center that has been adjudged to have committed a violation of this section.

Sec. 5. 32 MRSA §1867, sub-§4, as amended by PL 2001, c. 661, §7, is further amended to read:

4. Redemption center acceptance refund account. A local redemption center may not refuse to accept from any consumer or other person not a dealer any empty, unbroken and reasonably clean beverage container of the kind, size and brand sold by a dealer served by the center as long as the label for the container is registered under section 1865, subsection 3 or refuse to pay in cash the refund value of the returned beverage container as established by section 1863-A. A redemption center or reverse vending machine is not obligated to count containers or to pay a cash refund at the time the beverage container is returned as long

as the amount of the refund value due is placed into an account to be held for the benefit of the customer and funded in a manner that allows the customer to obtain deposits due within 2 business days of the time of the return.

See title page for effective date.

CHAPTER 300

S.P. 388 - L.D. 1200

An Act To Authorize the Department of Environmental Protection To Exclude Repeat Violators of Environmental Laws from Receiving Contracts with the Department

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

Sec. 1. 38 MRSA §349-B is enacted to read:

§349-B. Debarment from department contracts

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Repeat violation" means a violation of any legal requirement under this Title, or rules adopted under this Title, or of the terms or conditions of a license, permit or order issued by the board or the commissioner when a previous violation of any legal requirement under this Title, or rules adopted under this Title, or of the terms or conditions of a license, permit or order issued by the board or the commissioner was found.

2. Debarment. The commissioner may, after hearing, debar from participation in contracts with the department for 2 years any person found to have committed a repeat violation when either the time for filing an appeal of the determination of that violation has expired or the appeals process has been exhausted.

See title page for effective date.

CHAPTER 301

H.P. 997 - L.D. 1414

An Act To Support Farms and Limit Sprawl

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

Sec. 1. 7 MRSA c. 2-C is enacted to read: