

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.

Penmor Lithographers
Lewiston, Maine
2007

This section is repealed September 30, ~~2007~~ 2009.

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

Effective June 21, 2007.

CHAPTER 398 H.P. 986 - L.D. 1403

An Act To Provide Parity in the Laws Regarding Licensing of Electricians

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

Sec. 1. 32 MRSA §1202, sub-§1, ¶A, as amended by PL 1993, c. 349, §67 and by PL 2003, c. 20, Pt. OO, §2 and as affected by §4, is further amended to read:

A. For a journeyman electrician's license, a person must:

(1) Complete at least 8,000 hours of service as an apprentice or helper electrician or at least 8,000 hours of experience in electrical installations, as defined in section 1101, and satisfactorily complete a program of study comprising 576 hours as approved by the Electricians' Examining Board or from an accredited institution. The 576 hours shall consist of 225 hours of required study, including an approved course of not less than 45 hours in the current National Electrical Code; and 351 hours of elective study, comprised of all trade-related electives or 225 hours of trade-related courses and 135 hours of degree-related courses;

(2) Be a graduate of an accredited regional applied technology high school 2-year electrical program, have worked for 8,000 hours in the field of electrical installations under the supervision of a master electrician or the equivalent and have completed a course of not less than 45 hours in the current National Electrical Code, the course to be approved by the board;

(3) Be a graduate of an accredited ~~Maine~~ community college electrical program or a vocational-electrical program of the Department of Corrections, have worked for 4,000 hours in the field of electrical installations under the supervision of a master electrician or the equivalent and have completed a course of not less than 45 hours in the current National Electrical Code, the course to be ap-

proved by the board. Persons qualifying under this paragraph may write the journeyman's examination upon graduation if application is made within one year of graduation; or

(4) Be an electrical apprentice registered with the State Apprenticeship and Training Council and have completed 576 hours of related instruction, as defined in this paragraph, prescribed in their apprenticeship program, the 8,000-hour approved program and a course of not less than 45 hours in the current National Electrical Code, the course to be approved by the board. Persons qualifying under this paragraph may write the journeyman's examination after completion of the 576 hours of instruction, if application is made within one year of the completion of the instruction.

Sec. 2. 32 MRSA §1202, sub-§1, ¶D, as amended by PL 1995, c. 325, §13 and by PL 2003, c. 20, Pt. OO, §2 and as affected by §4, is further amended to read:

D. For a journeyman-in-training electrician's license, a person must be a graduate of an accredited ~~Maine~~ community college or Department of ~~Corrections~~ Corrections' electrical program, receive a passing grade on the ~~journeyman journeyman's~~ examination and complete 2,000 hours of experience.

See title page for effective date.

CHAPTER 399 S.P. 610 - L.D. 1743

An Act Concerning the Sustainable Use of and Planning for Water Resources

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

Sec. 1. 5 MRSA §3331, sub-§8 is enacted to read:

8. Water Resources Planning Committee. The council shall convene the Water Resources Planning Committee, referred to in this subsection as "the committee."

A. The committee's membership must include, at a minimum:

(1) Personnel from:

(a) The Department of Conservation, Maine Geological Survey;

(b) The Department of Agriculture, Food and Rural Resources;

(c) The Department of Environmental Protection;

(d) The Maine Land Use Regulation Commission;

(e) The drinking water program of the Department of Health and Human Services; and

(f) The Executive Department, State Planning Office; and

(2) Members of the public with expertise in:

(a) Agriculture;

(b) Public water utilities;

(c) Water bottling and the sale of bottled water;

(d) The use of water by private domestic well owners;

(e) The environment and conservation; and

(f) The use of water by commercial entities.

B. The committee shall meet at least quarterly and report annually to the council, beginning in August 2008. The committee shall plan for the sustainable use of water resources focusing on the following three phases.

(1) In the first phase, the committee shall focus on:

(a) Collecting and reviewing information regarding water withdrawal activities;

(b) Coordinating state water resources information; and

(c) Identifying watersheds at risk by refining the watersheds-at-risk analysis previously performed by the Maine Geological Survey, including:

(i) Conducting appropriate water resource investigations in watersheds at risk;

(ii) Considering projected increased water use by population, agricultural irrigation, commercial users, industrial users and other users in refining the watersheds-at-risk analysis;

(iii) Considering seasonal use in refining the watersheds-at-risk analysis;

(iv) Considering potential effects of climate change when refining the watersheds-at-risk analysis;

(v) Considering the effects of anticipated future water quality classification changes on the availability of water for withdrawal when refining the watersheds-at-risk analysis;

(vi) In establishing priorities for such investigations, seeking input from the user community, from towns dealing with multimunicipal aquifers and from towns with significant local aquifers; and

(vii) Developing guidelines for consistency in investigations.

(2) In the 2nd phase, the committee shall focus on convening planning groups in watersheds at risk or regions encompassing multiple watersheds at risk to develop water use management plans for water withdrawals. Based on the needs of the individual watershed or region, planning group participants must be drawn from:

(a) Personnel from:

(i) The Department of Conservation, Maine Geological Survey;

(ii) The Department of Agriculture, Food and Rural Resources;

(iii) The Department of Environmental Protection;

(iv) The Maine Land Use Regulation Commission;

(v) The drinking water program of the Department of Health and Human Services;

(vi) The Executive Department, State Planning Office; and

(vii) The Department of Inland Fisheries and Wildlife; and

(b) Members of the public with expertise in:

(i) Agriculture;

(ii) Public water utilities;

(iii) Water bottling and the sale of bottled water;

(iv) The environment and conservation;

(v) Aquaculture;

(vi) Business and commerce;

(vii) Industrial water use; and

(viii) Municipal government.

(3) In the 3rd phase, if oversubscription of water use remains after the analysis conducted in the 2nd phase, the committee shall recommend a process to resolve issues.

C. The committee shall conduct annual reviews of state policy with regard to:

(1) Conservation of water resources;

(2) The development of regional sources and solutions to water use issues;

(3) Incentives for stewardship of water resources; and

(4) Impacts of surface water quality improvements on water withdrawal opportunities.

D. The committee shall provide guidance to municipalities and develop and disseminate educational materials on water resources and the regulatory regime.

Sec. 2. 12 MRSA §5017 is enacted to read:

§5017. Disclosure of interest

An applicant or permit holder who directly or indirectly retains an environmental professional for the purpose of providing information to the department shall disclose to the department if the environmental professional has either a direct or an indirect financial interest in the applicant or permit holder or in the property or activity that is the subject of the permit.

Sec. 3. 22 MRSA §2660, as enacted by PL 1987, c. 531, §1, is repealed.

Sec. 4. 22 MRSA §2660-A, sub-§2, as amended by PL 1989, c. 502, Pt. B, §22, is further amended to read:

2. **Exceptions.** The prohibition in this section does not apply to:

A. Any water utility as defined in Title 35-A;

B. Water transported for use in well drilling, construction activities, concrete mixing, swimming pool filling, servicing portable toilets, fire-fighting, hospital operations, aquaculture, agricultural applications or civil emergencies;

C. Water distilled as a by-product of a manufacturing process; and

D. Water transported from a water source that, before July 1, 1987, was used to supply water for bottling and sale, and which that is used exclusively for bottling and is sold in its pure form or as a carbonated or flavored beverage product; and

E. Water withdrawn pursuant to a permit issued by the Department of Environmental Protection or the Maine Land Use Regulation Commission.

Sec. 5. 22 MRSA §2660-A, sub-§3, ¶A, as enacted by PL 2003, c. 121, §1, is amended to read:

A. Transport of the water will not constitute a threat to public health, safety or welfare; and

Sec. 6. 22 MRSA §2660-A, sub-§3, ¶B, as enacted by PL 2003, c. 121, §1, is repealed.

Sec. 7. 22 MRSA §2660-A, sub-§3, ¶C, as enacted by PL 2003, c. 121, §1, is repealed.

Sec. 8. 38 MRSA §343-F, as enacted by PL 1993, c. 355, §5, is amended by adding at the end a new paragraph to read:

An applicant or permit holder who directly or indirectly retains an environmental professional for the purpose of providing information to the department shall disclose to the department if the environmental professional has a direct or indirect financial interest in the applicant, the permit holder or the property or activity that is the subject of the permit.

Sec. 9. 38 MRSA §352, sub-§5-A, as amended by PL 1999, c. 731, Pt. Z, §1, is further amended to read:

5-A. **Accounting system.** In order to determine the extent to which the functions set out in this section are necessary for the licensing process or are being performed in an efficient and expeditious manner, the commissioner shall require that all employees of the department involved in any aspect of these functions keep accurate and regular daily time records. These records must describe the matters worked on, services performed and the amount of time devoted to those matters and services, as well as amounts of money expended in performing those functions. Records must be kept for a sufficient duration of time as determined by the commissioner to establish to the commissioner's satisfaction that the fees are appropriate.

TABLE I

MAXIMUM FEES IN DOLLARS

TITLE 36 SECTION	PROCESSING FEE	CERTIFICATION FEE
656, sub-§1, ¶E, Pollution Control Facilities		
A. Water pollution control facilities with capacities at least 4,000 gallons of waste per day and §1760, sub-§29, water pollution control facilities	\$250	\$20

B. Air pollution control and §1760, sub-§30, air pollution control facilities	250	20	587, Ambient air quality or emissions standards variances	5,050	50
			590, Air emissions licenses	See section 353-A	
			633, Hydropower projects		
			A. New or expanded generating capacity	450/MW	50/MW
TITLE 38	PROCESSING	LICENSE	B. Maintenance and repair or other structural alterations not involving an increase in generating capacity	150	150
SECTION	FEE	FEE			
344, sub-§7, Permit by rule	\$50	\$0			
413, Waste discharge licenses	See section 353-B				
480-E, Natural resources protection			33 United States Code, Chapter 26, Water Quality Certifications, in conjunction with applications for hydropower project licensing or relicensing		
A. Any alteration of a protected natural resource, except coastal wetlands and coastal sand dunes, causing less than 20,000 square feet of alteration of the resource	140	50	A. Initial consultation	1,000	0
B. Any alteration of a coastal wetland causing less than 20,000 square feet of alteration of the resource	240	60	B. Second consultation	1,000	0
C. Any alteration of a protected natural resource, except coastal sand dunes, causing 20,000 square feet or more of alteration of the resource	.015/sq. ft. alteration	.005/sq. ft. alteration	C. Application		
<u>C-1. Significant groundwater well</u>	<u>4,577</u>	<u>1,961</u>	1. Storage	1,000	0
<u>C-2. Activity within a community public water supply primary protection area.</u>	<u>183</u>	<u>64</u>	2. Generating	300/MW	50/MW
D. Any alteration of a coastal sand dune	3,500	1,500	1304, Waste management		
E. Condition compliance	84	0	A. Septage disposal		
F. Minor modification	184	0	1. Site designation	50	25
485-A, Site location of development			B. Land application of sludges and residuals program approval		
A. Residential subdivisions			1. Industrial sludge	400	400
1. Affordable housing	50/lot	50/lot	2. Municipal sludge	300	275
2. On public water and sewers	175/lot	175/lot	3. Bioash	300	275
3. All Other	250/lot	250/lot	4. Wood ash	300	75
B. Industrial parks	460/lot	460/lot	5. Food waste	300	75
C. Mining	1,500	1,000	6. Other residuals	300	175
D. Structures	4,000	2,000	C. Landfill		
E. Other	1,000	1,000	1. Closing plans for secure landfills	1,500	1,500
543, Oily waste discharge	40	160	2. Closing plans for attenuation landfills	500	500
560, Vessels at anchorage	125	100	3. Post-closure report	175	175
			4. Preliminary information reports	175	175
			5. License transfers	500	175
			6. Special waste disposal		
			a. One-time disposal of quantities of 6 cubic yards or less	50	50

b. One-time disposal of quantities greater than 6 cubic yards	100	100	b. Municipal sludge	75	200
c. Program approval for routine disposal of a special waste	300	300	c. Bioash	75	200
7. Minor revision for secure land fills	600	100	d. Wood ash	50	125
8. Minor revision for attenuation landfills	100	100	e. Food waste	50	125
9. Public benefit determination	175	175	f. Other residuals	50	125
D. Incineration facility			2. Sites without program approval		
2. License transfer	175	175	a. Industrial sludge	300	550
E. License transfer other than for landfills and incinerators	100	100	b. Municipal sludge	150	250
F. Minor revision for septage facilities and solid waste facilities other than landfills	100	100	c. Bioash	150	250
G. Permit by rule for one-time activities	100	100	d. Wood ash	75	200
			e. Food waste	75	200
			f. Other	75	200
			1310-N, Solid waste facility siting		
			A. Landfill		
			1. Existing, nonsecure municipal solid waste landfills accepting waste from fewer than 15,000 people	3,500	1,000
			2. Existing, nonsecure municipal solid waste landfills accepting waste from more than 15,000 people	3,500	3,500
			3. New or expanded for secure landfill	5,000	8,500
			5. Nonsecure wood waste or demolition debris landfills, or both, if less than or equal to 6 acres	700	750

TABLE II

**WASTE MANAGEMENT FEES -
ANNUAL LICENSE
MAXIMUM FEES IN DOLLARS**

TITLE 38 SECTION	PROCESSING FEE	ANNUAL LICENSE FEE			
1304, Waste management					
A. Septage disposal			B. Incineration facilities		
1. Landspreading	\$550	\$250	1. New or expanded for the acceptance of municipal or special wastes, or both	3,500	5,000
2. Storage	50	75	2. Municipally owned and operated solid waste incinerators with licensed capacity of 10 tons per day or less	3,500	1,000
B. Residuals compost facility			C. Transfer station and storage facility	750	175
1. Type I	150	150	D. Tire storage facility	400	450
3. Type II and Type III less than 3,500 cubic yards	700	500	F. Processing facility other than municipal solid waste composting	700	700
5. Type II and Type III 3,500 cubic yards or greater	1,400	850	G. Beneficial use activities other than agronomic utilization		
C. Land application of sludges and residuals					
1. Sites with program approval					
a. Industrial sludge	150	250			

3. Fuel substitution	700	500
4. Beneficial use without risk assessment	700	200
5. Beneficial use with risk assessment	1,400	500
H. Permit by rule for ongoing activities	100	100

Sec. 10. 38 MRSA §480-B, sub-§9-A is enacted to read:

9-A. Significant groundwater well. "Significant groundwater well" is defined as follows.

A. "Significant groundwater well" means any well, wellfield, excavation or other structure, device or method used to obtain groundwater that is:

(1) Withdrawing at least 75,000 gallons during any week or at least 50,000 gallons on any day and is located at a distance of 500 feet or less from a coastal or freshwater wetland, great pond, significant vernal pool habitat, water supply well not owned or controlled by the applicant or river, stream or brook; or

(2) Withdrawing at least 216,000 gallons during any week or at least 144,000 gallons on any day and is located at a distance of more than 500 feet from a coastal or freshwater wetland, great pond, significant vernal pool habitat, water supply well not owned or controlled by the applicant or river, stream or brook.

Withdrawals of water for firefighting are not applied toward these thresholds.

B. "Significant groundwater well" does not include:

(1) A public water system as defined in Title 22, section 2601, subsection 8 other than a public water system used solely to bottle water for sale;

(2) Individual home domestic supply;

(3) Agricultural use or storage;

(4) A development or part of a development requiring a permit pursuant to article 6, article 7 or article 8-A; or

(5) A structure or development requiring a permit from the Maine Land Use Regulation Commission.

Sec. 11. 38 MRSA §480-C, sub-§4 is enacted to read:

4. Significant groundwater well. A person may not perform or cause to be performed the establish-

ment or operation of a significant groundwater well without first obtaining a permit from the department.

Sec. 12. 38 MRSA §480-D, sub-§10 is enacted to read:

10. Significant groundwater well. If the proposed activity includes a significant groundwater well, the applicant must demonstrate that the activity will not have an undue unreasonable effect on waters of the State, as defined in section 361-A, subsection 7, water-related natural resources and existing uses, including, but not limited to, public or private wells within the anticipated zone of contribution to the withdrawal. In making findings under this subsection, the department shall consider both the direct effects of the proposed withdrawal and its effects in combination with existing water withdrawals.

Sec. 13. Transition. If a person who requires a permit for establishment or operation of a significant groundwater well from the Department of Environmental Protection pursuant to the Maine Revised Statutes, Title 38, section 480-C is authorized to transport water pursuant to Title 22, section 2660-A on the effective date of this Act and applies for a permit for establishment or operation of the significant groundwater well prior to expiration of the water transport authorization, the person may continue to withdraw water until final agency action on the permit application.

Sec. 14. Rulemaking public information meetings. The Department of Environmental Protection and the Maine Land Use Regulation Commission shall amend their rules to require that a public information meeting be held prior to submission of an application for a significant groundwater well. The public information meeting must meet the requirements for public information meetings contained in the Department of Environmental Protection's rule concerning the processing of applications and other administrative matters. Rules adopted pursuant to this section are routine technical rules as defined in the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A.

Sec. 15. Rulemaking independent monitoring; fees. The Department of Environmental Protection and the Maine Land Use Regulation Commission shall periodically contract with independent environmental professionals to provide a technical review and assessment of monitoring information submitted to the Department of Environmental Protection or the Maine Land Use Regulation Commission related to significant groundwater wells, and each shall through rulemaking develop a fee structure to provide funding for the contracts. Rules adopted pursuant to this section are routine technical rules as defined in the

Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A.

See title page for effective date.

CHAPTER 400

S.P. 643 - L.D. 1808

An Act To Improve Road Safety and Update Bicycling Laws

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

Sec. 1. 14 MRSA §159-D is enacted to read:

§159-D. Liability related to a bicyclist using a drive-up window

1. Limited liability. An establishment that has a drive-up window is not liable for personal injury, property damage or death caused to a bicyclist who uses that establishment's drive-up window.

2. Limitations. This section does not limit any liability that may otherwise exist for willful or malicious actions or failures to guard or warn against a known dangerous condition related to the use of the drive-up window.

3. No duty created. This section does not create a duty of care or ground for liability.

4. Costs and fees. The court may award any direct legal costs, including reasonable attorney's fees, to an establishment that is found not to be liable for injury to a bicyclist pursuant to this section.

Sec. 2. 29-A MRSA §2063, sub-§1, as amended by PL 2005, c. 577, §29, is further amended to read:

1. Definitions. For the purpose of this section, "bicycle" includes a motorized bicycle, a motorized tricycle or a motorized scooter, ~~and "toy vehicle" includes, but is not limited to, skateboards, rollerskates, wagons, sleds and coasters.~~

Sec. 3. 29-A MRSA §2063, sub-§2, as repealed and replaced by PL 2001, c. 667, Pt. C, §17, is repealed and the following enacted in its place:

2. Riding to the right. A person operating a bicycle upon a roadway at a speed less than the normal speed of traffic moving in the same direction at that time and place shall drive on the right portion of the way as far as practicable except when it is unsafe to do so or:

A. When overtaking and passing another bicycle or other vehicle proceeding in the same direction;

B. When preparing for or making a left turn at an intersection or into a private road or driveway;

C. When proceeding straight in a place where right turns are permitted; and

D. When necessary to avoid hazardous conditions, including, but not limited to, fixed or moving objects, vehicles, bicycles, pedestrians, animals, broken pavement, glass, sand, puddles, ice, surface hazards or opening doors from parallel-parked vehicles, or a lane of substandard width that makes it unsafe to continue along the right portion of the way. For purposes of this paragraph, "lane of substandard width" means a lane that is too narrow for a bicycle and a vehicle to travel safely side by side in the lane.

This subsection does not apply in a municipality that, by ordinance approved by the Department of Public Safety and the Department of Transportation, makes other provisions regarding the operating location of a bicycle on a roadway.

Sec. 4. 29-A MRSA §2063, sub-§3, as amended by PL 2003, c. 452, Pt. Q, §42 and affected by Pt. X, §2, is further amended to read:

3. Seating. A person operating a bicycle may not ride other than upon or astride a regular and permanently attached seat.

Sec. 5. 29-A MRSA §2063, sub-§4, as repealed and replaced by PL 2001, c. 667, Pt. C, §17, is amended to read:

4. Hitching rides. A person riding on a bicycle, ~~or scooter or toy vehicle~~ may not attach it to a moving vehicle on a way.

Sec. 6. 29-A MRSA §2063, sub-§7, as repealed and replaced by PL 2001, c. 667, Pt. C, §17, is amended to read:

7. Penalties. A person 17 years of age or over who violates this section commits a ~~traffic infraction~~ civil violation for which a ~~forfeiture fine of no not less than \$25 and not more than \$10~~ \$250 may be adjudged. A person under 17 years of age is not subject to a fine under this section.

Sec. 7. 29-A MRSA §2063-B is enacted to read:

§2063-B. Toy vehicles

1. Definitions. For the purpose of this section, "toy vehicle" includes, but is not limited to, skateboards, rollerskates, wagons, sleds and coasters.

2. Hitching rides. A person riding on a toy vehicle may not attach it to a moving vehicle on a way.

3. Penalties. A person 17 years of age or over who violates this section commits a civil violation for