

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-THIRD LEGISLATURE

SECOND REGULAR SESSION
January 2, 2008 to March 31, 2008

FIRST SPECIAL SESSION
April 1, 2008 to April 18, 2008

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 30, 2008

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
JULY 18, 2008

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

Penmor Lithographers
Lewiston, Maine
2008

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

Sec. 1. 26 MRSA §1166, sub-§1, ¶B, as enacted by PL 2007, c. 352, Pt. A, §1, is amended to read:

B. "Competitive Skills Scholarship Fund planned yield" means the percentage of wages, as defined in section 1043, subsection 19, equal to .02% of the ~~contributions of total wages~~ for each contributing employer subject to this chapter.

Sec. 2. 26 MRSA §2033, sub-§4, ¶A, as enacted by PL 2007, c. 352, Pt. A, §3, is amended to read:

A. The education or training provided through the program must be for employment in industries with significant demand for skilled labor that have been:

- (1) Identified by the ~~Division of Labor Market Information Services~~ Center for Workforce Research and Information as providing opportunity for employment in jobs with high compensation;
- (2) Recommended by the Maine Jobs Council; and
- (3) Approved by the Governor or the Governor's designee.

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

Effective March 20, 2008.

CHAPTER 507

S.P. 859 - L.D. 2227

An Act To Minimize the Potential for Slope Failure in Gravel Pits

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

Sec. 1. 38 MRSA §490-D, sub-§9, ¶C is enacted to read:

C. If a reclaimed slope or working pit is adjacent to steep slopes and a protected natural resource, measures must be taken to prevent storm water from ponding at the base of the reclaimed slope or working pit.

See title page for effective date.

CHAPTER 508

H.P. 1492 - L.D. 2106

An Act To Enhance the Newborn Hearing Program

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

Sec. 1. 22 MRSA §42, sub-§5, as amended by PL 2001, c. 407, §1, is further amended to read:

5. Confidentiality of records containing certain medical information. Department records that contain personally identifying medical information that are created or obtained in connection with the department's public health activities or programs are confidential. These records include, but are not limited to, information on genetic, communicable, occupational or environmental disease entities, and information gathered from public health nurse activities, or any program for which the department collects personally identifying medical information.

The department's confidential records may not be open to public inspection, are not public records for purposes of Title 1, chapter 13, subchapter 1 and may not be examined in any judicial, executive, legislative or other proceeding as to the existence or content of any individual's records obtained by the department.

Exceptions to this subsection include release of medical and epidemiologic information in such a manner that an individual can not be identified; disclosures that are necessary to carry out the provisions of chapter 250; disclosures made upon written authorization by the subject of the record, except as otherwise provided in this section; and disclosures that are specifically provided for by statute or by departmental rule. The department may participate in a regional or national tracking system as provided in section 8824 or both.

Nothing in this subsection precludes the department, during the data collection phase of an epidemiologic investigation, from refusing to allow the inspection or copying of any record or survey instrument, including any redacted record or survey instrument, containing information pertaining to an identifiable individual that has been collected in the course of that investigation. The department's refusal is not reviewable.

Sec. 2. 22 MRSA §8824, first ¶, as amended by PL 2007, c. 236, §1, is further amended to read:

The department is authorized to implement a tracking system that provides the information necessary to effectively plan, establish and evaluate a comprehensive system of developmentally appropriate services for newborn infants and children up to 3 years of age who are deaf or hard-of-hearing and to ensure that all families are given information regarding the availability of hearing screening for their infants. The

services must be designed to reduce the likelihood of associated disabling conditions for these children. The tracking system ~~must~~ may be integrated with any national database or similar system developed by the Federal Government or with any regional database or with both.

See title page for effective date.

CHAPTER 509

S.P. 773 - L.D. 1979

An Act Regarding the Use of Designated State-approved ATV Trails

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

Sec. 1. 12 MRSA §13157-A, sub-§1-A, as enacted by PL 2005, c. 397, Pt. E, §21, is amended to read:

1-A. Permission required. A person may not operate an ATV on the land of another without the permission of the landowner or lessee. Permission is presumed on designated state-approved ATV trails ~~that are conspicuously posted~~ or in areas open to ATVs by landowner policy. A landowner may limit the use of a designated state-approved ATV trail on that landowner's property through agreements with the State or an ATV club to address environmental, public safety or management concerns. Written permission of the landowner or lessee is required on cropland or pastureland or in an orchard. As used in this subsection, "cropland" means acreage in tillage rotation, land being cropped and land in bush fruits and "pastureland" means acreage devoted to the production of forage plants used for animal production. Nothing in this subsection may be construed to limit or expand a landowner's property rights.

A. A person who violates this subsection commits a civil violation for which a fine of not less than \$100 or more than \$500 may be adjudged.

B. A person who violates this subsection after having been adjudicated of having committed 3 or more civil violations under this Part within the previous 5-year period commits a Class E crime.

See title page for effective date.

CHAPTER 510

H.P. 1467 - L.D. 2081

An Act To Prohibit the Retail Sale and Distribution of Novelty Lighters

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, novelty lighters have features that are attractive to children, including visual effects, flashing lights, musical sounds and toy-like designs; and

Whereas, the federal Consumer Product Safety Commission has recalled thousands of novelty lighters since 1996 due to their danger to public safety; and

Whereas, fire setting by juveniles has been identified as the fastest growing fire threat in the United States, with more than 300 people killed annually, 30% of whom are children, and almost \$1 billion in property destroyed; and

Whereas, in Maine, fire setting by juveniles has resulted in several deaths and millions of dollars in property damage and destruction; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 25 MRSA §2467 is enacted to read:

§2467. Retail sale and distribution of novelty lighters prohibited

1. Definition. For purposes of this section, "novelty lighter" means a mechanical or electrical device typically used for lighting cigarettes, cigars or pipes that is designed to appear to be a toy, feature a flashing light or make musical sounds. "Novelty lighter" does not include:

A. A lighter manufactured prior to January 1, 1980;

B. A lighter incapable of being fueled or lacking a device necessary to produce combustion or a flame; or

C. Any mechanical or electrical device primarily used to ignite fuel for fireplaces or for charcoal or gas grills.