

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

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.

2. Prohibition; penalty. A person may not sell at retail, offer for retail sale or distribute for retail sale or promotion in this State a novelty lighter. A person who violates this subsection commits a civil violation for which a fine of not more than \$500 may be imposed.

3. Exception. The prohibition specified in subsection 2 does not apply to the transportation of novelty lighters through this State or the storage of novelty lighters in a warehouse or distribution center in this State that is closed to the public for purposes of retail sales.

4. Enforcement. This section may be enforced by the State Fire Marshal's Office; a state, county or municipal law enforcement officer; or a municipal code enforcement officer.

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

Effective March 24, 2008.

CHAPTER 511

H.P. 1550 - L.D. 2180

An Act To Ensure the Integrity of Prepaid Calling Accounts

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

Sec. 1. 35-A MRSA §7308 is enacted to read:

§7308. Prepaid calling service

1. Definition. For purposes of this section, "prepaid calling service" has the same meaning as in Title 36, section 2551, subsection 9.

2. Prohibition on retroactive rate increase for prepaid calling services. A provider of prepaid calling services may not increase the rate charged for the quantity of service that the consumer purchased until the balance of the purchased service is consumed or expires in accordance with an expiration date of which the consumer had notice at the time of purchase. The quantity of service must be determined by the rates, terms and conditions in effect at the time of the purchase.

3. Notice of rate increase for prepaid calling service purchased by telephone or on the Internet. A provider of a prepaid calling service shall notify a consumer of the prepaid calling service of an increase in the rate charged for that service before that consumer purchases additional service from that provider by telephone or on the Internet. This notice may be in the form of a telephone recording.

4. Notice of variance between in-state and interstate rates. A provider of a prepaid calling service shall notify a consumer of the prepaid calling service if that provider charges different rates for in-state and interstate service. If that service is purchased in a store, this notice must be on the packaging of the prepaid calling service product. If that service is purchased by telephone, this notice must be in the form of a telephone recording. If that service is purchased on the Internet, this notice must be on the website on which that service is purchased.

See title page for effective date.

CHAPTER 512

H.P. 1435 - L.D. 2051

An Act To Prohibit the Sale of Firearms Other than Handguns to Persons 16 or 17 Years of Age without Parental Consent

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

Sec. 1. 17-A MRSA §554-A, as amended by PL 2003, c. 188, §1, is further amended to read:

§554-A. Unlawful transfer of a firearm other than a handgun to a minor

1. As used in this section, the following terms have the following meanings.

A. "Transfer" means to sell, furnish, give, lend, deliver or otherwise provide, with or without consideration.

B. "Minor" means a person under 16 years of age.

C. "Sell" means to furnish, deliver or otherwise provide for consideration.

D. "Firearm" means a firearm other than a handgun as defined in section 554-B, subsection 1, paragraph A.

2. ~~Except as provided in section 554-B, a~~ A person is guilty of unlawfully transferring a firearm to a ~~minor~~ person under 16 years of age if that person, who is not the parent, foster parent or guardian of the ~~minor~~ person under 16 years of age, knowingly transfers a firearm to a ~~minor~~ person under 16 years of age. Violation of this subsection is a Class D crime.

2-A. A person is guilty of unlawfully selling a firearm to a person 16 years of age or older and under 18 years of age if that person, who is not the parent, foster parent or guardian of the person 16 years of age or older and under 18 years of age, knowingly sells a firearm to a person 16 years of age or older and under 18 years of age.