

# 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.**

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**Penmor Lithographers**  
**Lewiston, Maine**  
**2008**

**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.

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## 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.

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## 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.

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

B. A person who violates this subsection after having been adjudicated as having committed one or more violations under this subsection commits a Class D crime.

3. It is an affirmative defense to a prosecution under subsection 2 that:

A. The actor reasonably believed the person receiving the firearm had attained 16 years of age. A reasonable belief ~~can not~~ cannot be based solely upon the physical appearance of the person or upon the oral representation of that person as to that person's age; or

B. The transfer of the firearm to the ~~minor~~ person under 16 years of age was approved by the parent, foster parent or guardian of the ~~minor~~ person under 16 years of age.

3-A. It is an affirmative defense to a prosecution under subsection 2-A that:

A. The actor reasonably believed the person receiving the firearm had attained 18 years of age. A reasonable belief cannot be based solely upon the physical appearance of the person or upon the oral representation of that person as to that person's age; or

B. The sale of the firearm to the person 16 years of age or older and under 18 years of age was approved by the parent, foster parent or guardian of the person 16 years of age or older and under 18 years of age.

~~4. Unlawful transfer of a firearm to a minor is a Class D crime.~~

See title page for effective date.

**CHAPTER 513**

**H.P. 1397 - L.D. 2013**

**An Act To Extend the Application of Certain Rebuttable Presumptions in the Child Protection Laws**

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

**Sec. 1. 18-A MRSA §9-304, sub-§(b-1), ¶(1)**, as enacted by PL 2005, c. 366, §1, is amended to read:

(1). Has been convicted of an offense listed in Title 19-A, section 1653, subsection 6-A, paragraph A in which the victim was a minor at the

time of the offense and the petitioner was at least 5 years older than the minor at the time of the offense except that, if the offense was gross sexual assault under Title 17-A, section 253, subsection 1, paragraph B or C, or an offense in another jurisdiction that involves conduct that is substantially similar to that contained in Title 17-A, section 253, subsection 1, paragraph B or C, and the minor victim submitted as a result of compulsion, the presumption applies regardless of the ages of the petitioner and the minor victim at the time of the offense; or

**Sec. 2. 19-A MRSA §1653, sub-§6-A, ¶A**, as amended by PL 2005, c. 366, §2, is further amended to read:

A. For the purposes of this section, "child-related sexual offense" means the following sexual offenses if, at the time of the commission of the offense, the victim was under 18 years of age:

- (1) Sexual exploitation of a minor, under Title 17-A, section 282;
- (2) Gross sexual assault, under Title 17-A, section 253;
- (3) Sexual abuse of a minor, under Title 17-A, section 254;
- (4) Unlawful sexual contact, under Title 17-A, section 255-A or former section 255;
- (5) Visual sexual aggression against a child, under Title 17-A, section 256;
- (6) Sexual misconduct with a child under 14 years of age, under Title 17-A, section 258;
- (6-A) Solicitation of a child by computer to commit a prohibited act, under Title 17-A, section 259; or

(7) An offense in another jurisdiction, ~~including, but not limited to, that of a state, federal, military or tribal court, that includes the essential elements of an offense listed that involves conduct that is substantially similar to that contained in subparagraph (1), (2), (3), (4), (5), (6) or (6-A).~~ For purposes of this subparagraph, "another jurisdiction" means the Federal Government, the United States military, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, Guam, American Samoa and each of the several states except Maine. "Another jurisdiction" also means the Passamaquoddy Tribe when that tribe has acted pursuant to Title 30, section 6209-A, subsection 1, paragraph A or B and the Penobscot Nation when that tribe has