

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals
(may include minor formatting differences from printed original)

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

(2) For a patient at a designated nonstate mental health institution, modification or vacation of the order by the director of the Office of Adult Mental Health Services within the department; or

(3) An alteration or stay of the order entered by the Superior Court after reviewing the entry of the order by the clinical review panel on appeal under paragraph F.

F. The provisions of this paragraph apply to the review and appeal of an order of the clinical review panel entered under paragraph B.

(1) The order of the clinical review panel at a state mental health institute is final agency action that may be appealed to the Superior Court in accordance with Rule 80C of the Maine Rules of Civil Procedure.

(2) The order of the clinical review panel at a designated nonstate mental health institution may be reviewed by the director of the Office of Adult Mental Health Services within the department or the designee of the director upon receipt of a written request from the patient submitted no later than one day after the patient receives the order of the clinical review panel. Within 3 business days of receipt of the request for review, the director or designee shall review the full clinical review panel record and issue a written decision. The decision of the director or designee may affirm the order, modify the order or vacate the order. The decision of the director or designee takes effect one business day after the director or designee issues a written decision. The decision of the director or designee is final agency action that may be appealed to the Superior Court in accordance with Rule 80C of the Maine Rules of Civil Procedure.

Sec. 3. PL 2007, c. 446, §5 is repealed.

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

Effective April 8, 2008.

CHAPTER 581

H.P. 1580 - L.D. 2213

An Act To Implement the Recommendations of the Working Group To Improve Public Understanding and Participation in the Rulemaking Process

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

Sec. 1. 5 MRSA §8051-A, as enacted by PL 1989, c. 574, §2, is amended to read:

§8051-A. Appointment of liaison

The commissioner or director of each state agency shall designate a person to serve as a liaison between the agency and the general public, the Legislature, the Secretary of State and the office of the Attorney General with respect to rulemaking. The liaison shall serve as a representative of the agency with respect to providing information about agency rules. The liaison ~~shall be~~ is responsible for implementing the procedural provisions of this subchapter. The Secretary of State shall maintain a list of all agency liaisons and their contact information on a publicly accessible website.

Sec. 2. 5 MRSA §8052, sub-§1, as amended by PL 1997, c. 110, §2, is further amended to read:

1. Notice; public hearing. Prior to the adoption of any rule, the agency shall give notice as provided in section 8053 and may hold a public hearing, ~~provided except~~ that a public hearing ~~is~~ must be held if otherwise required by statute or requested by any 5 interested persons ~~or if the rule is a major substantive rule as defined in section 8071, subsection 2, paragraph B.~~

A public meeting or other public forum held by an agency for any purpose that includes receiving public comments on a proposed agency rule is a public hearing and is subject to all the provisions of this subchapter regarding public hearings.

Sec. 3. 5 MRSA §8053, sub-§6 is enacted to read:

6. Electronic publication. In addition to the printed publication required in subsection 5, the Secretary of State shall maintain a publicly accessible website for posting the notices of all proposed and adopted rules. The notice must include a brief explanation of the proposed or adopted rule and an e-mail link to the agency liaison. Departments and agencies shall either post proposed and adopted rules in their jurisdictions on publicly accessible agency websites or link to the rules posted on the Secretary of State's website. Notice of each rule-making proceeding must be published on the Secretary of State's website 17 to 24 days prior to the public hearing on the proposed rule or at least 30 days prior to the last date on which views and arguments may be submitted to the agency for consideration if no public hearing was scheduled.

Sec. 4. 5 MRSA §8054, sub-§2, as amended by PL 1979, c. 425, §6, is further amended to read:

2. Agency findings. Any emergency rule ~~shall~~ must include, with specificity, the agency's findings with respect to the existence of an emergency, including any modifications of procedures, and such findings

~~shall be~~ are subject to judicial review under section 8058. No emergency ~~shall may~~ be found to exist when the primary cause of the emergency is delay caused by the agency involved.

Sec. 5. 5 MRSA §8057-A, sub-§1, as amended by PL 2007, c. 181, §6, is further amended to read:

1. Preparation of rules. At the time that an agency is preparing a rule, the agency shall consider the goals and objectives for which the rule is being proposed, possible alternatives to achieve the goals and objectives and the estimated impact of the rule. The agency's estimation of the impact of the rule ~~shall~~ must be based on the information available to the agency and any analyses conducted by the agency or at the request of the agency. The agency shall establish a fact sheet that provides the citation of the statutory authority of the rule. In addition, the agency, to the best of its ability, shall also include in the fact sheet ~~the following:~~

- A. The principal reasons for the rule;
- B. A comprehensive but concise description of the rule that accurately reflects the purpose and operation of the rule;
- C. An estimate of the fiscal impact of the rule; ~~and~~
- D. An analysis of the rule; ~~and~~
- E. A brief summary of the relevant information considered during the development of the rule.

Sec. 6. Improve rule-making information on website. Upon the effective date of this Act, the Secretary of State shall begin working with the InforME Board and InforME, created pursuant to the Maine Revised Statutes, Title 1, chapter 14, to improve the sorting, searchability and arrangement of rule-making information on the "maine.gov" website. The work required under this section must be accomplished within the existing resources of InforME and the Department of the Secretary of State.

Sec. 7. Review boards contact information posted. The Secretary of State shall post on a publicly accessible website the names and contact information of members on all Governor-appointed review boards and councils that are engaged in rulemaking.

Sec. 8. Rulemaking notice redesign. The Secretary of State shall redesign the so-called "MAPA-3" and "MAPA-4" notices that are filled out by each department, bureau or agency when submitting proposed and adopted rules to the Secretary of State. The redesigned notices must include a summary paragraph that is easily identified by any member of the public interested in the rule and must be written in plain English that is understandable by the average

citizen. The notice must also include the e-mail address of the agency liaison.

Sec. 9. Improve the role of liaison between agency and public. The Secretary of State shall work with state agencies to ensure that each has designated a liaison between the agency and the public as required in the Maine Revised Statutes, Title 5, section 8051-A. The liaison must be able to direct members of the public to staff who can answer queries in a timely manner.

Sec. 10. Legislative policy committee oversight and training. The Secretary of State shall work with the Legislative Council to improve training and orientation sessions for new Legislators, committee chairs and ranking minority members on rulemaking and the Maine Administrative Procedure Act, including ideas for scheduling committee meetings with briefings from agency liaisons designated pursuant to the Maine Revised Statutes, Title 5, section 8051-A and reviewing the departmental regulatory agendas under committee jurisdictions.

See title page for effective date.

CHAPTER 582

H.P. 1440 - L.D. 2056

An Act To Conserve Gasoline and Preserve Clean Air

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

Sec. 1. 38 MRSA §585-K is enacted to read:

§585-K. Idling requirements for motor vehicles

1. Applicability. This section applies to:

A. Commercial motor vehicles, as defined in 49 Code of Federal Regulations, Section 390.5 (2007), and commercial motor vehicles used on a highway in intrastate commerce;

B. Locations where commercial motor vehicles load or unload; and

C. Gasoline-powered motor vehicles except private passenger vehicles.

2. General requirement for loading and unloading locations. A person who owns a location where a commercial motor vehicle that is not subject to an exemption under subsection 4 loads or unloads may not cause a driver of that vehicle to idle for a period longer than 30 minutes by requesting that the vehicle continue running while waiting to load or unload at that location. To the maximum extent practical, a person subject to this subsection shall minimize delays in loading and unloading operations in order to reduce idling times.