

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

D. A summary of the compensation panel's rationale in deciding eligibility and the compensation award amount.

All information other than that described in paragraphs A to D supporting or corroborating a claim continues to be confidential until those records are destroyed. This confidential information may be released only to the Attorney General, the Governor and the chairs of the joint standing committee of the Legislature having jurisdiction over judiciary matters and remains confidential in their custody.

Sec. 15. Retroactivity. That section of this Act that enacts the Maine Revised Statutes, Title 20-A, chapter 304-A applies retroactively to July 1, 2007.

See title page for effective date.

**CHAPTER 598
S.P. 915 - L.D. 2294**

**An Act To Modernize the
Local Health Officer Statutes**

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

Sec. 1. 20-A MRSA §6301, sub-§5-A, as enacted by PL 1983, c. 661, §6 and amended by PL 2003, c. 689, Pt. B, §6, is further amended to read:

5-A. Notification. The superintendent shall cause notice of the communicable disease to be given to the Department of Health and Human Services, in accordance with the requirements of Title 22, ~~chapter~~ chapters 250 and 251, and rules issued under ~~that chapter~~ those chapters.

Sec. 2. 20-A MRSA §6301, sub-§6, as enacted by PL 1981, c. 693, §§5 and 8 and amended by PL 2003, c. 689, Pt. B, §6, is further amended to read:

6. Authority and duties of the Department of Health and Human Services. The Department of Health and Human Services ~~shall have~~ has the authority and duties prescribed in Title 22, ~~chapter~~ chapters 250 and 251 ~~on~~ with respect to the control of notifiable diseases and conditions and communicable diseases.

Sec. 3. 20-A MRSA §6356, sub-§1, as enacted by PL 1983, c. 661, §8, is amended to read:

1. Public health official action. When a public health official has reason to believe that the continued presence in a school of a child who has not been immunized against one or more diseases presents a clear danger to the health of others, the public health official shall notify the Department of Health and Human Services, Maine Center for Disease Control and Prevention and the superintendent of the school. The superintendent shall cause the child to be excluded from

school during the period of danger or until the child receives the necessary immunizing agent.

Whenever, as a result of this section, a child is absent from the public school for more than 10 days, the superintendent shall make arrangements to meet the educational needs of the child.

Sec. 4. 22 MRSA §252, as amended by PL 1989, c. 487, §2, is further amended to read:

§252. Penalties

~~Whoever willfully~~ A person who intentionally or knowingly violates any provision of section 451, ~~454, 456 454-A,~~ 461 or 462, or of rules adopted pursuant to those sections, or neglects or refuses to obey any order or direction of any local health officer authorized by those provisions, the penalty for which is not specifically provided, or ~~willfully intentionally or knowingly~~ interferes with any person or thing to prevent the execution of those sections or of the rules, ~~is guilty of a Class B crime~~ commits a civil violation for which a fine of not more than \$500 may be adjudged. The District Court ~~shall have~~ has jurisdiction of all offenses under these sections.

Sec. 5. 22 MRSA §451, sub-§2, as enacted by PL 2007, c. 462, §1, is amended to read:

2. Qualifications. The local health officer must be qualified by education, training or experience in the field of public health or a combination as determined by standards adopted by department rule no later than June 1, 2008. A person who is employed as a local health officer who is not qualified by education, training or experience must meet qualification standards adopted by department rule no later than ~~June 1, 2009.~~ June 1, 2009. ~~On or after June 1, 2009, a person may not be appointed and employed as a local health officer unless that person is first qualified pursuant to the standards set by department rule 6 months after appointment.~~ Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 6. 22 MRSA §454, as repealed and replaced by PL 1997, c. 387, §1 and amended by PL 2003, c. 689, Pt. B, §7, is repealed.

Sec. 7. 22 MRSA §454-A is enacted to read:

§454-A. Powers and duties

1. Supervision. For the purposes of this section, a local health officer is subject to the supervision and direction of the commissioner or the commissioner's designee.

2. Duties. Within jurisdictional limits, a local health officer shall:

A. Make and keep a record of all the proceedings, transactions, ordinances, orders and rules acted upon by the local health officer;

B. Report to the commissioner or the commissioner's designee facts that relate to communicable diseases and cases of communicable disease as required by department rules;

C. During a declared health emergency, as defined in section 802, subsections 2 and 2-A, report to the commissioner or the commissioner's designee facts regarding potential notifiable diseases and cases that directly relate to the declared health emergency, as the rules of the department require;

D. Receive and examine the nature of complaints made by members of the public concerning conditions posing a public health threat or a potential public health threat;

E. With the consent of the owner, agent or occupant, enter, inspect and examine any place or premises where filth, whether or not the cause of sickness, or conditions posing a public health threat are known or believed to exist. An agent with special expertise appointed by the local health officer may inspect and examine the place or premises. If entry is refused, the local health officer shall apply for an inspection warrant from the District Court, pursuant to Title 4, section 179, prior to conducting the inspection;

F. After consulting with the commissioner or the commissioner's designee, order the suppression and removal of nuisances and conditions suspected of posing or found to pose a public health threat;

G. Act as a resource for connecting residents with the public health services and resources provided by the Maine Center for Disease Control and Prevention; and

H. Enforce public health safety laws, including:

(1) Laws pertaining to the exclusion of students from school under Title 20-A, section 6356;

(2) Laws pertaining to control of browntail moths under section 1444;

(3) Laws pertaining to the removal of a private nuisance or nuisance of a dead animal under sections 1561 and 1562;

(4) Laws pertaining to the establishment of temporary health care facilities under section 1762; and

(5) Laws pertaining to prohibited dumping under Title 30-A, section 3352.

For purposes of this subsection, "public health threat" means any condition or behavior that can reasonably be expected to place others at significant risk of exposure to infection with a communicable disease.

Sec. 8. 22 MRSA §459, as amended by PL 1989, c. 487, §§6 and 7 and PL 2003, c. 689, Pt. B, §6, is repealed.

Sec. 9. 22 MRSA §801, sub-§6, as enacted by PL 1989, c. 487, §11, is amended to read:

6. Local health officer. "~~Municipal~~ Local health officer" means a person who is a municipal official appointed pursuant to section 451 and who is authorized by the department to enforce this chapter.

Sec. 10. 22 MRSA §804, sub-§1, as enacted by PL 1989, c. 487, §11, is amended to read:

1. Rules enforced. All agents of the department, ~~municipal local~~ health officers, sheriffs, state and local law enforcement officers and other officials designated by the department ~~shall~~ **are authorized to** enforce the rules of the department made pursuant to section 802 to the extent that enforcement is authorized in those rules.

Sec. 11. 22 MRSA §1313-A, first ¶, as amended by PL 2007, c. 133, §2, is further amended to read:

If an undomesticated animal suspected of having rabies bites or may have otherwise exposed to rabies a person or a domestic animal, an animal control officer, ~~a local health officer~~ or a game warden shall immediately either remove the undomesticated animal or cause the undomesticated animal to be removed and euthanized for testing. If a wolf hybrid suspected of having rabies bites or may have otherwise exposed to rabies a person or a domestic animal, an animal control officer, ~~a local health officer~~ or a law enforcement officer shall immediately cause the animal to be euthanized for testing. When in the judgment of the animal control officer, ~~local health officer~~, game warden or law enforcement officer the animal poses an immediate threat to a person or domestic animal, the animal control officer, ~~local health officer~~, game warden or law enforcement officer may immediately kill or order killed that animal without destroying the head. The Department of Inland Fisheries and Wildlife shall arrange for the transportation of the head to the State Health and Environmental Testing Laboratory, except that the animal control officer shall make the arrangements if the animal is a wolf hybrid.

Sec. 12. 22 MRSA §2608, sub-§3, as enacted by PL 1983, c. 837, §2, is repealed.

Sec. 13. 30-A MRSA §1560, sub-§1, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106 and amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is further amended to read:

1. Removal. If a prisoner in a jail is afflicted with a disease ~~which that the local health officer~~ **Commissioner of Health and Human Services or the commissioner's designee**, by medical advice, considers dangerous to the safety and health of other prisoners or

of the inhabitants of the municipality, the ~~local health officer~~ commissioner or designee shall, by written order, direct the person's removal to some place of safety, to be securely kept and provided for until the ~~officer's~~ commissioner's or designee's further order.

Sec. 14. 30-A MRSA §1560, sub-§4, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106 and amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is further amended to read:

4. Notice. If the diseased person was committed to the place of confinement by an order of court or judicial process, the ~~local health officer~~ Commissioner of Health and Human Services or the commissioner's designee shall send the following to the office of the clerk of court from which the order or process was issued:

- A. The order for the diseased person's removal or a copy of the order attested by the ~~local health officer~~ commissioner or designee; and
- B. A statement describing the actions taken under the order.

Sec. 15. 38 MRSA §2171, sub-§1, as amended by PL 1993, c. 310, Pt. B, §4, is further amended to read:

1. Membership. The committee must be comprised of citizens from each affected municipality, appointed by the municipal officers, including, but not limited to: a ~~municipal~~ local health officer; a municipal officer; and at least 3 additional residents of the municipality, including abutting property owners and residents potentially affected by pollution from the facility. In addition, each committee may include members representing any of the following interests: environmental and community groups; labor groups; professionals with expertise relating to landfills or incinerators; experts in the areas of chemistry, epidemiology, hydrogeology and biology; and legal experts.

Sec. 16. Qualifications standards for current local health officers. A person who is employed as a local health officer on the effective date of this Act who is not qualified by education, training or experience or who has not met the qualification standards adopted by rule by the Department of Health and Human Services pursuant to the Maine Revised Statutes, Title 22, section 451, subsection 2 shall meet those qualification standards no later than June 30, 2009.

See title page for effective date.

**CHAPTER 599
H.P. 1658 - L.D. 2299**

An Act To Make Technical Corrections in the Laws Regarding Funding Adult Education Programs and the Closure of an Elementary School in a School District

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

Whereas, certain inconsistencies have been identified in the school district reorganization law, Public Law 2007, chapter 240, Part XXXX, that may adversely affect the ability of school administrative units to raise and appropriate funds for adult education programs; and

Whereas, certain inconsistencies have been also identified in the school district reorganization law, Public Law 2007, chapter 240, Part XXXX, that may adversely affect the authority of member municipalities in school administrative districts and community school districts to close an elementary school; and

Whereas, the provisions of this Act must take effect immediately to allow school administrative units to raise and appropriate funds for adult education programs and to restore the authority of member municipalities in school administrative districts and community school districts to close an elementary school; 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. 20-A MRSA §4102, sub-§4, ¶A, as enacted by PL 1983, c. 422, §17, is amended to read:

A. Elementary schools in school administrative districts and community school districts may only be closed if approved by the voters in accordance with the procedures set out in section 1407 and section 1751, subsection 5 1512 for regional school units.

Sec. 2. 20-A MRSA §8603-A, as enacted by PL 2007, c. 131, §3, is amended to read: