

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

CHAPTER 603
H.P. 1361 - L.D. 1923

**An Act To Implement the
Recommendations of the Right
To Know Advisory Committee
Creating the Public Access
Ombudsman**

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

Sec. 1. 5 MRSA §200-I is enacted to read:

§200-I. Public Access Division; Public Access Ombudsman

1. Public Access Division; Public Access Ombudsman. There is created within the Department of the Attorney General the Public Access Division to assist in compliance with the State's freedom of access laws, Title 1, chapter 13. The Attorney General shall appoint the Public Access Ombudsman, referred to in this section as "the ombudsman," to administer the division.

2. Duties. The ombudsman shall:

A. Prepare and make available interpretive and educational materials and programs concerning the State's freedom of access laws in cooperation with the Right To Know Advisory Committee established in Title 1, section 411;

B. Respond to informal inquiries made by the public and public agencies and officials concerning the State's freedom of access laws;

C. Respond to and work to resolve complaints made by the public and public agencies and officials concerning the State's freedom of access laws;

D. Furnish, upon request, advisory opinions regarding the interpretation of and compliance with the State's freedom of access laws to any person or public agency or official in an expeditious manner. The ombudsman may not issue an advisory opinion concerning a specific matter with respect to which a lawsuit has been filed under Title 1, chapter 13. Advisory opinions must be publicly available after distribution to the requestor and the parties involved; and

E. Make recommendations concerning ways to improve public access to public records and proceedings.

3. Assistance. The ombudsman may request from any public agency or official such assistance, services and information as will enable the ombudsman to effectively carry out the responsibilities of this section.

4. Confidentiality. The ombudsman may access records that a public agency or official believes are confidential in order to make a recommendation concerning whether the public agency or official may release the records to the public. The ombudsman's recommendation is not binding on the public agency or official. The ombudsman shall maintain the confidentiality of records and information provided to the ombudsman by a public agency or official under this subsection and shall return the records to the public agency or official when the ombudsman's review is complete.

5. Report. The ombudsman shall submit a report not later than March 15th of each year to the Legislature and the Right To Know Advisory Committee established in Title 1, section 411 concerning the activities of the ombudsman for the previous year. The report must include:

A. The total number of inquiries and complaints received;

B. The number of inquiries and complaints received respectively from the public, the media and public agencies or officials;

C. The number of complaints received concerning respectively public records and public meetings;

D. The number of complaints received concerning respectively:

(1) State agencies;

(2) County agencies;

(3) Regional agencies;

(4) Municipal agencies;

(5) School administrative units; and

(6) Other public entities;

E. The number of inquiries and complaints that were resolved;

F. The total number of written advisory opinions issued and pending; and

G. Recommendations concerning ways to improve public access to public records and proceedings.

6. Repeal. This section is repealed June 30, 2009.

Sec. 2. Pilot project. Notwithstanding the Maine Revised Statutes, Title 5, section 200-I, subsection 1, the Department of the Attorney General may establish the Public Access Division and appoint the Public Access Ombudsman as a pilot project if funding is available.

Sec. 3. Appropriations and allocations.

The following appropriations and allocations are made.

ATTORNEY GENERAL, DEPARTMENT OF THE**Administration - Attorney General 0310**

Initiative: Allocates funds for a part-time Assistant Attorney General position and general operating expenses required to carry out the purposes of this Act.

FEDERAL EXPENDITURES FUND	2007-08	2008-09
POSITIONS - LEGISLATIVE COUNT	0.000	0.500
Personal Services	\$0	\$39,458
All Other	\$0	\$1,718
FEDERAL EXPENDITURES FUND TOTAL	\$0	\$41,176

See title page for effective date.

CHAPTER 604**H.P. 1437 - L.D. 2053**

**An Act To Ensure That
Children's Toys and Products
Are Free of Lead**

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

Sec. 1. 22 MRSA §1316-A is enacted to read:

§1316-A. Restrictions on lead-containing children's products

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Child" means a person under 12 years of age.

B. "Child care article" means a product designed or intended by the manufacturer to facilitate the sleep, relaxation or feeding of children or to help children with sucking or teething.

C. "Children's jewelry" means jewelry that is made for, marketed for use by or marketed to a child and that is:

(1) Represented by its packaging, display, distribution or advertising as appropriate for use by children;

(2) Sold in conjunction with, attached to or packaged together with other products that

are packaged, displayed or advertised as appropriate for use by children;

(3) Sized for children and not intended for use by adults;

(4) Sold in a vending machine; or

(5) Sold in a retail store, catalog or website, or in a defined area of that store, catalog or website, in which a person exclusively offers for sale products that are packaged, displayed or advertised as appropriate for use by children.

D. "Children's lunch box" means a fabricated container marketed or intended for use to carry food or drink for consumption by a child.

E. "Children's product" means a product that is marketed for use by a child or the use of which by a child is foreseeable, including but not limited to a toy, child care article, children's lunch box or children's jewelry.

F. "Lead-containing children's product" means a children's product that:

(1) Contains lead in the aggregate, excluding lead in a paint or surface coating, at more than .009% of the total weight or is made with a product component containing lead at more than .009% of the total weight of the product component, except that if the product or product component lead level is preempted by federal law then the federal standard for lead level governs; or

(2) Is coated with a paint or surface coating with a lead content that exceeds the Consumer Product Safety Commission safety rule as established in 16 Code of Federal Regulations, Part 1303, as amended.

G. "Toy" means a product designed and made for the amusement of a child or for the child's use in play.

2. Restriction. Beginning July 1, 2009, a person may not manufacture, or knowingly sell, distribute or offer for sale or distribution, a lead-containing children's product except as provided in subsection 3.

3. Exception. The restrictions imposed in subsection 2 do not apply to consumer electronic products in which the lead-containing component is inaccessible to children, including but not limited to electronic toys, personal computers, audio and video equipment, calculators, wireless telephones, game consoles, handheld electronic and electrical devices that incorporate a video screen used to access interactive software, and their related devices and products that comply with the provisions of directive 2002/95/EC of the European Union as adopted by the European Parliament and the Council of the European Union.