

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

Sec. 10. 8 MRSA §1001, sub-§36, as enacted by PL 2003, c. 687, Pt. A, §5 and affected by Pt. B, §11, is repealed.

Sec. 11. 8 MRSA §1035, as enacted by PL 2003, c. 687, Pt. A, §5 and affected by Pt. B, §11, is amended to read:

§1035. Location of slot machines

Slot machines may be located only on the premises of a commercial track. For the purposes of this section, "premises of a commercial track" means property owned by the person who owns the property on which a commercial track is located and that is either within 200 feet of the outside edge of the racing oval or, if the commercial track was owned by a municipality when a license to operate slot machines in association with that commercial track was issued, within 2,000 feet of the center of the racing oval.

See title page for effective date.

CHAPTER 612

H.P. 1676 - L.D. 2316

An Act Regarding Flavored Cigarettes and Cigars

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

Whereas, the First Regular Session of the 123rd Legislature enacted into law, as the Maine Revised Statutes, Title 22, section 1560-D, a ban on certain flavored cigarettes and cigars and authorized the Attorney General to adopt major substantive rules to implement the law; and

Whereas, in the process of adopting major substantive rules to implement the new law the Attorney General determined that amendment to Title 22, section 1560-D would strengthen the law and provide additional clarity that will help in enforcement of the law and in the exemption process; 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. 22 MRSA §1560-D, sub-§5, as enacted by PL 2007, c. 467, §3, is amended to read:

5. Exemptions. For flavored cigarettes and flavored cigars that were first on the market after January

1, 1985, the Attorney General shall establish and administer a process by rule for granting exemptions based on a determination by the Attorney General that the characterizing flavor ~~and the associated packaging, promotion and brand style do not directly or indirectly target~~ is not one known to appeal or likely to appeal to youth or encourage the initiation of smoking.

A. After an exemption has been granted for a flavored cigarette or flavored cigar under this subsection, a person or entity to whom an exemption has been granted has an affirmative duty to inform the Attorney General at the time that a material change is made in the characterizing flavor of the flavored cigarette or flavored cigar. A violation of the duty to inform imposed by this paragraph constitutes a civil violation for which a fine of not more than \$10,000 may be adjudged.

B. The Attorney General may revoke an exemption granted under this subsection if the Attorney General determines that a material change has been made to the product's characterizing flavor.

Sec. 2. Emergency rulemaking. The Attorney General shall amend Chapter 10, Rules for Exemptions to the Ban on Flavored Cigarettes and Cigars to conform to the changes in section 1 of this Act. Rules adopted pursuant to this section are major substantive rules as defined in the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A and may be adopted on an emergency basis in order to avoid a threat to the public health and safety.

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

Effective April 14, 2008.

CHAPTER 613

H.P. 998 - L.D. 1424

An Act Requiring Long-range Budget Planning

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

Sec. 1. 5 MRSA §1664, sub-§1, ¶F, as enacted by PL 2005, c. 601, §1, is amended to read:

F. Include statements of the bonded indebtedness of the State Government showing the debt redemption requirements, the debt authorized and unissued and the condition of the sinking funds; ~~and~~

Sec. 2. 5 MRSA §1664, sub-§1, ¶G, as enacted by PL 2005, c. 601, §1, is amended to read:

G. Contain any statements relative to the financial plan that the Governor-elect or the Governor considers desirable or that may be required by the Legislature; and

Sec. 3. 5 MRSA §1664, sub-§1, ¶H is enacted to read:

H. Include a long-range plan for State Government. The long-range plan must describe the vision of the Governor-elect or the Governor for State Government for the upcoming biennium and the 2 succeeding biennia and how the proposed biennial budget fits into and moves State Government toward this long-range vision.

See title page for effective date.

CHAPTER 614

S.P. 802 - L.D. 2008

An Act To Provide Ongoing Funding for the Historic Preservation Tax Credit

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

Sec. 1. 36 MRSA §5219-R, sub-§4 is enacted to read:

4. Credit fund. Beginning July 1, 2009, the following revenues attributable to historic rehabilitation for which a credit is claimed under this section must be transferred monthly by the State Controller to the historic rehabilitation credit fund that is established in this subsection:

A. Taxes paid under Part 3 on sales or use made for purposes of the construction portion of an eligible historic rehabilitation project; and

B. Taxes paid under chapter 711-A on the transfer of real estate that is included in the project when the transfer occurred no more than one year before the federal certification of an eligible historic rehabilitation project.

By the 15th day of each month, the State Tax Assessor shall notify the State Controller of the amounts to be transferred to the historic rehabilitation credit fund for the previous month. By the end of each fiscal year, the State Tax Assessor shall notify the State Controller of the total value of all credits determined under this section for tax years ending in the preceding calendar year, and the State Controller shall transfer that amount to the General Fund to the extent that resources are available in the fund. The State Tax Assessor shall submit an annual report by January 15th identifying the amounts transferred into and out of the fund under this subsection.

Sec. 2. Report. By January 15, 2009, the State Tax Assessor shall submit a report to the joint standing committee of the Legislature having jurisdiction over taxation matters, recommending ways to identify income tax revenues attributable to construction activities related to historic preservation expenditures for which an income tax credit is available under the Maine Revised Statutes, Title 36, section 5219-R. The committee may submit legislation related to the report to the First Regular Session of the 124th Legislature.

See title page for effective date.

CHAPTER 615

S.P. 824 - L.D. 2156

An Act To Amend the Laws Governing Marine Resources

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

Sec. 1. 12 MRSA §6001, sub-§8, as amended by PL 2003, c. 248, §1, is repealed and the following enacted in its place:

8. Common carrier. "Common carrier" means a vehicle that is:

A. Operating under authority granted by either the Federal Government or the carrier's home state; and

B. Transporting goods for hire and the carrier does not own the marine organisms being transported.

Sec. 2. 12 MRSA §6022, sub-§5, as enacted by PL 1977, c. 661, §5, is amended to read:

5. Property. The commissioner may acquire and hold any right or interest in real or personal property on behalf of the State. The commissioner may by sale, lease or otherwise dispose of any such property, or portion of any such property or interest in any such property, subject to the provisions of section 598-A.

Sec. 3. 12 MRSA §6024, sub-§1-A, as amended by PL 2007, c. 176, §1 and c. 240, Pt. QQ, §2, is repealed and the following enacted in its place:

1-A. Appointment; composition; term; compensation. The Marine Resources Advisory Council, established by Title 5, section 12004-G, subsection 27, consists of 16 members. The chair of the Lobster Advisory Council, the chair of the Marine Recreational Fishing Advisory Council, the chair of the Sea Run Fisheries and Habitat Advisory Council and the chair of the Sea Urchin Zone Council are ex officio members of the council. Each other member is appointed by the Governor and is subject to review by the joint standing committee of the Legislature having jurisdic-