

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

commission in the course of an investigation that is covered by a privilege against discovery or use as evidence is not a public record unless the privilege is waived.

See title page for effective date.

CHAPTER 631

H.P. 1491 - L.D. 2105

An Act To Change the Timing of the Health Care Occupations Report and To Add and Clarify Definitions Relating to Swimming Pools and Spas

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

Sec. 1. 22 MRSA §256-A, first ¶, as amended by PL 2007, c. 240, Pt. RR, §2, is further amended to read:

Beginning in 2006, the Department of Labor, in conjunction with the Office of Health Data and Program Management's Division of Data, Research and Vital Statistics, shall compile and annually update a health care occupations report to be completed and presented to the health workforce forum established in section 257 by September 15th. Beginning in 2009, the health care occupations report must be completed and presented to the health workforce forum established in section 257 by September 15th and presented every 4th year thereafter. The report must be posted on a publicly accessible site on the Internet maintained by the Department of Labor and provide the following information:

Sec. 2. 22 MRSA §257, as amended by PL 2005, c. 327, §3, is further amended to read:

§257. Health workforce forum

The department shall convene at least once annually a health workforce forum to review the latest report developed under section ~~256~~ 256-A and discuss current health care workforce issues. The forum must include representatives of health professionals, licensing boards, employers, health education programs and the Department of Labor.

The department shall use the information gathered through the forum to develop its health policy and planning decisions authorized under this Title and to make appropriate policy recommendations based on its analysis of the health care workforce. The department shall post ~~its annual~~ the report and recommendations on a publicly accessible site on the Internet maintained by the department by December 31st ~~of each year,~~ beginning in ~~2006~~ 2009.

Sec. 3. 22 MRSA §2661, as enacted by PL 1985, c. 150, is amended to read:

§2661. Purpose

The purpose of this chapter is to provide minimum requirements and standards for the protection of the public health, safety and welfare of persons using public ~~swimming~~ pools or spas.

Sec. 4. 22 MRSA §2662, as enacted by PL 1985, c. 150 and amended by PL 2003, c. 689, Pt. B, §6, is further amended to read:

§2662. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Communicable disease. "Communicable disease" is a disease capable of being transmitted from one person to another.

2. Department. "Department" means the Department of Health and Human Services.

2-A. Medical facility pool or medical facility spa. "Medical facility pool" or "medical facility spa" means a pool or spa under the direct supervision and control of licensed medical personnel.

2-B. Pool. "Pool" means a basin, chamber or tank constructed of smooth, impervious and easily cleaned materials, located either indoors or outdoors, in-ground, aboveground or on-ground, provided with a controlled water supply and containing an artificial body of water used for swimming, recreational bathing or wading. "Pool" includes any related equipment, structures, areas and enclosures that are intended for the use of persons using or operating the pool, including equipment, dressing lockers, showers and toilet rooms.

3. Pool depth. "Pool depth" means the distance between the floor of the pool and the maximum operating water level.

4. Residential spa. "~~Private~~ Residential spa" means any constructed spa, permanently installed or portable, which that is used in connection with a single or multifamily residence, used by tenants of apartment buildings, owners of condominiums or members of property owners associations and available only to ~~the~~ these residents and their private guests.

5. Residential swimming pool. "~~Private~~ Residential swimming pool" means any constructed pool which that is used ~~as a~~ for swimming pool in connection with a single or multifamily residence, used by tenants of apartment buildings, owners of condominiums and members of property owners associations and available only to ~~the~~ these residents and their private guests. A pool on the premises of a family child care

provider who is certified or required to be certified under section 8301-A is a residential pool.

6. Public spa. "Public spa" means any constructed spa other than a ~~private~~ residential spa or medical facility spa.

7. Public pool. "Public ~~swimming~~ pool" means any constructed or prefabricated pool other than a ~~private swimming~~ residential pool or medical facility pool that is intended to be used for swimming, recreational bathing or wading and is operated by an owner, lessee, tenant or concessionaire or by a person licensed by the department, regardless of whether a fee is charged for use. A pool on the premises of a child care facility that is licensed or required to be licensed under section 8301-A is a public pool.

8. Spa. "Spa" means a unit containing water primarily designed for therapeutic or nontherapeutic use which that is not drained, cleaned or refilled for each individual. It may include, but is not limited to, hydrojet circulation, hot water, cold water, mineral baths, air induction bubbles or any combination thereof. The term spa "Spa" includes, but is not limited to, a therapeutic pool, hydrotherapy pool, whirlpool, hot spa and hot tubs tub.

9. Swimming pool. "Swimming pool" means any basin, chamber or tank constructed of impervious material, located either indoors or outdoors containing an artificial body of water for swimming or recreational bathing and having a depth of 2 feet or more at any point. This includes any related equipment, structures, areas and enclosures that are intended for the use of persons using or operating the swimming pool such as equipment, dressing lockers, showers and toilet rooms.

Sec. 5. 22 MRSA §2663, as enacted by PL 1985, c. 150, is amended to read:

§2663. Existing installations

1. Public pool or spa; existing use. Any public swimming pool or spa installed prior to the ~~effective date of this chapter~~ September 19, 1985, may have its existing use, maintenance or repair continued if the use, maintenance or repair is in accordance with the original design and location and no hazard to the public health, safety or welfare has been created by the installation.

2. Public pool or spa; maintenance. The owner or ~~his the owner's~~ designated agent ~~shall be~~ is responsible for the maintenance of the public swimming pool or spa in a safe and sanitary condition.

Sec. 6. 22 MRSA §2664, as enacted by PL 1985, c. 150, is amended to read:

§2664. Rules

The department may ~~promulgate~~ adopt and enforce rules necessary to protect public health and

safety and carry out the provisions of this chapter relating directly to the safe and sanitary design, construction and operation of public swimming pools and spas.

Sec. 7. 22 MRSA §2665, as enacted by PL 1985, c. 150, is amended to read:

§2665. Submission of plans

~~No A~~ person may ~~not~~ begin construction of a public swimming pool or spa or substantially alter or reconstruct any public swimming pool or spa without first having submitted plans and specifications to the department for review and approval. The department review ~~shall be~~ is limited to matters relating directly to safety and sanitation.

The design criteria to be followed by the department in the review and approval is the minimum standard for public swimming all pools and the minimum standard for public all spas published by the ~~National Swimming Pool Institute~~ American National Standards Institute and the Association of Pool and Spa Professionals or successor organizations.

The design criteria standards that the department is using to review and approve pools and spas must be posted annually on the department's publicly accessible website.

Sec. 8. 22 MRSA §2666, as enacted by PL 1985, c. 150, is amended to read:

§2666. Health and safety

1. ~~Employment; communicable disease.~~ ~~No person having a communicable disease may be employed or work at a public swimming pool or spa.~~

2. Nuisance. Any public swimming pool or spa found to be unsanitary, as defined by the department's rules, is declared to be a nuisance.

3. Supervision. Every public swimming pool or spa ~~shall must~~ be under the supervision of a ~~capable individual person as defined in standards by American National Standards Institute and the Association of Pool and Spa Professionals or successor organizations~~ who shall assume the responsibility for compliance with this chapter relating to the safe and sanitary operation and maintenance of a public swimming pool or spa. ~~Nothing in this~~ This chapter may ~~not~~ be construed to require a lifeguard to be on duty when a public swimming pool or spa is open to the public.

Sec. 9. 22 MRSA §2667, as enacted by PL 1985, c. 150, is amended to read:

§2667. Inspections

The department may conduct the inspections as it ~~deems considers~~ necessary to ~~insure ensure~~ compliance with the provisions of this chapter and ~~shall have~~ has right of entry at any reasonable hour to public swimming pools or spas for this purpose.

Sec. 10. 22 MRSA §2668, as enacted by PL 1985, c. 150, is amended to read:

§2668. Closure

The department may close any public ~~swimming~~ pool or spa for failure to comply with the provisions of this chapter.

Before closing a public ~~swimming~~ pool or spa, the department shall issue a notice in writing enumerating instances of failure to comply with the law or rules. The owner ~~shall~~ **must** have an opportunity to request a fair hearing before the department pursuant to Title 5, sections 9052 to 9064.

Closed public ~~swimming~~ pools and spas ~~shall~~ **must** be reopened upon presentation of evidence that the deficiencies causing the closing have been corrected.

Sec. 11. Maine Revised Statutes headnote amended; revision clause. In the Maine Revised Statutes, Title 22, chapter 602, in the chapter headnote, the words "public swimming pools and spas" are amended to read "public pools and spas" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

See title page for effective date.

CHAPTER 632

S.P. 775 - L.D. 1981

An Act To Ensure Legislative Review of Fire Sprinkler Rules

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

Sec. 1. 25 MRSA §2452, first ¶, as amended by PL 2003, c. 535, §3, is further amended to read:

The Commissioner of Public Safety shall adopt and may amend, ~~after notice in accordance with the Maine Administrative Procedure Act, reasonable~~ rules governing the safety to life from fire in or around all buildings or other structures and mass outdoor gatherings, as defined in Title 22, section 1601, subsection 2, within the commissioner's jurisdiction. These rules do not apply to nursing homes having 3 or fewer patients. Automatic sprinkler systems may not be required in existing noncommercial places of assembly. Non-commercial places of assembly include those facilities used for such purposes as deliberation, worship, entertainment, amusement or awaiting transportation that have a capacity of 100 to 300 persons. Rules adopted pursuant to this section are routine technical rules, except that rules pertaining to fire sprinklers are major substantive rules, both of which are defined in Title 5, chapter 375, subchapter 2-A.

Sec. 2. 25 MRSA §2452, sub-§1, as amended by PL 1997, c. 728, §25, is repealed.

Sec. 3. Rules and policies pertaining to fire sprinklers; retroactivity. Notwithstanding any provision of law to the contrary, rules and policies pertaining to fire sprinklers that implement the National Fire Protection Association 2006 Life Safety Code adopted by the State Fire Marshal on or after September 1, 2007 are major substantive rules.

This section applies retroactively to September 1, 2007.

See title page for effective date.

CHAPTER 633

H.P. 1557 - L.D. 2187

An Act To Allow Limited Charitable Solicitations by Law Enforcement Associations

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

Sec. 1. 25 MRSA §3701, sub-§8 is enacted to read:

8. Catastrophic illness. "Catastrophic illness" means an unforeseen, prolonged and extended illness, medical condition or injury that will likely cause death or permanent disability as determined by a licensed physician whose determination must be in writing.

Sec. 2. 25 MRSA §3701, sub-§9 is enacted to read:

9. Designated public benefit corporation. "Designated public benefit corporation" means a "public benefit corporation," as described in Title 13-B, section 1406, subsection 1, that does not employ or have on its board of directors any certified law enforcement officer and that has entered into an agreement with a law enforcement agency or law enforcement association as provided in section 3702-C.

Sec. 3. 25 MRSA §3701, sub-§10 is enacted to read:

10. Immediate family member. "Immediate family member" means a law enforcement officer's spouse, domestic partner, child or legal dependent.

Sec. 4. 25 MRSA §3702-C, as enacted by PL 2005, c. 397, Pt. C, §19, is amended to read:

§3702-C. Solicitation unlawful; exceptions

A Except as provided in this section, a law enforcement agency, law enforcement association, law enforcement officer or solicitation agent may not solicit property from the general public when the property or any part of that property in any way tangibly