

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. 1. 3 MRSA §168-A, sub-§1, ¶D, as amended by PL 2003, c. 20, Pt. F, §2, is further amended to read:

D. ~~Meet~~ Except as provided in this paragraph, meet at least 3 times but not more than 6 times per year, including not more than 2 public hearings on issues of importance to youth. The council may meet up to an additional 3 times in a year if the Executive Director of the Legislative Council determines that sufficient budgeted resources remain after paying all costs associated with the initial 6 meetings to pay any additional costs associated with any additional meetings; and

Sec. 2. 3 MRSA §168-A, sub-§1, ¶E, as amended by PL 2005, c. 616, Pt. B, §1, is further amended to read:

E. Report biennially to the Legislative Council on its activities by ~~December 1st preceding each second regular session of the Legislature~~ the first business day in February of each even-numbered year. The council may submit proposed legislation as part of its report to the Legislative Council to implement its recommendations.

Sec. 3. Cocurricular honor contracts. A school board, as defined in the Maine Revised Statutes, Title 20-A, section 1, subsection 28, may elect to adopt a cocurricular honor contract that may specify the types of behavior covered by the contract, the extent to which the contract covers the behavior of a student while off school grounds at other than school-sponsored activities, the standards or process to be used to determine if a student has violated the contract and standards to ensure that the contract, if adopted by the board, will be enforced consistently and fairly.

Sec. 4. Appropriations and allocations. The following appropriations and allocations are made.

LEGISLATURE

Legislature 0081

Initiative: Appropriates funds for 3 additional meetings of the Legislative Youth Advisory Council annually.

GENERAL FUND	2007-08	2008-09
All Other	\$0	\$3,000
	_____	_____
GENERAL FUND TOTAL	\$0	\$3,000

See title page for effective date.

CHAPTER 680
S.P. 891 - L.D. 2263

**An Act Establishing an
Outdoor Wood Boiler Fund**

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

Sec. 1. 38 MRSA §610-B, sub-§4 is enacted to read:

4. Emergency powers. If the commissioner finds after investigation that an outdoor wood boiler is being operated in a manner that creates a nuisance condition or may create or creates a danger to public health or safety, the commissioner may order the owner or any person operating that outdoor wood boiler to immediately cease or prevent that operation, and the commissioner may take such action as may be necessary to terminate or mitigate the danger or likelihood of danger.

A. An order issued under this subsection must contain findings of fact describing, insofar as possible, the site of the operation and the nuisance condition or danger to the public health or safety.

B. Service of a copy of the commissioner's findings and order under this subsection must be made by the sheriff or deputy sheriff or by hand delivery by an authorized representative of the department in accordance with the Maine Rules of Civil Procedure.

C. The person to whom the order is directed shall comply immediately. An order may not be appealed to the Superior Court, but the person to whom the order is directed may apply to the board for a hearing on the order if the application is made within 10 working days after receipt of the order by the person to whom the order was directed. Within 15 working days after receipt of the application, the board shall hold a hearing, make findings of fact and vote on a decision that continues, revokes or modifies the order. That decision must be in writing and signed by the board chair using any means for signature authorized in the department's rules and published within 2 working days after the hearing and vote.

The nature of the hearing before the board is an appeal. At the hearing, all witnesses must be sworn and the commissioner shall first establish the basis for the order and for naming the person to whom the order is directed. The decision of the board may be appealed to the Superior Court in accordance with Title 5, chapter 375, subchapter 7.

Sec. 2. 38 MRSA §610-C is enacted to read:

§610-C. Outdoor Wood Boiler Fund

1. Fund established. The Outdoor Wood Boiler Fund, referred to in this section as "the fund," is established as a nonlapsing fund administered by the commissioner to be used by the department to upgrade, purchase and replace outdoor wood boilers that create a nuisance condition as defined in the department's rules or threat to public health or safety.

2. Sources of money. The fund consists of any money received from the following sources:

- A. Appropriations by the State;
- B. Contributions from any other source, both public and private; and
- C. Up to \$200,000 of civil penalties for violations of air quality laws or rules administered by the department if the penalties are imposed pursuant to an administrative consent agreement or court-ordered consent decree and the person against whom the penalty is imposed expressly assents in the agreement or decree that the penalty may be paid into the fund.

3. Application of fund. The department shall apply the money in the fund toward the upgrade, purchase and replacement of outdoor wood boilers installed prior to February 1, 2008 and determined by the department to constitute a nuisance condition or threat to public health or safety. The department shall adopt rules that include, but are not limited to, criteria for determining whether an outdoor wood boiler constitutes a nuisance condition or threat to public health or safety and is eligible for use of the fund, compensation criteria and amounts and procedures for certification and verification of removal and possible replacement of eligible outdoor wood boilers. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

4. Repeal. This section is repealed August 31, 2013.

Sec. 3. Appropriations and allocations. The following appropriations and allocations are made.

**ENVIRONMENTAL PROTECTION,
DEPARTMENT OF**

Air Quality 0250

Initiative: Allocates general operating expenses for the Outdoor Wood Boiler Fund.

OTHER SPECIAL REVENUE FUNDS	2007-08	2008-09
All Other	\$0	\$200,000

OTHER SPECIAL	\$0	\$200,000
REVENUE FUNDS TOTAL		

See title page for effective date.

CHAPTER 681

H.P. 1659 - L.D. 2301

An Act To Amend the Maine Certificate of Need Act of 2002

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 Maine Certificate of Need Act of 2002 is an important tool in the planning and development of affordable health care services in the State; and

Whereas, this legislation is necessary immediately for the enhancement of the strength and clarity of the Maine Certificate of Need Act of 2002; 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 §328, sub-§16, as amended by PL 2003, c. 469, Pt. C, §4, is further amended to read:

16. Major medical equipment. "Major medical equipment" means a single unit of medical equipment or a single system of components with related functions used to provide medical and other health services that costs \$1,200,000 or more. "Major medical equipment" does not include medical equipment acquired by or on behalf of a clinical laboratory to provide clinical laboratory services if the clinical laboratory is independent of a physician's office and a hospital and has been determined to meet the requirements of the United States Social Security Act, Title XVIII, Section 1861(s), paragraphs 10 and 11. In determining whether medical equipment costs more than the threshold provided in this subsection, the cost of studies, surveys, designs, plans, working drawings, specifications and other activities essential to acquiring the equipment must be included. If the equipment is acquired for less than fair market value, the term "cost" includes the fair market value. Beginning September 30, 2004 and annually thereafter through 2007, the