

# 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.**

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**Penmor Lithographers**  
**Lewiston, Maine**  
**2008**

**CHAPTER 188**  
**H.P. 1516 - L.D. 2136**

**Resolve, Regarding Legislative  
Review of Portions of Chapter  
101: Maine Unified Special  
Education Regulation, a Major  
Substantive Rule of the  
Department of Education**

**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 Revised Statutes, Title 5, chapter 375, subchapter 2-A requires legislative authorization before major substantive agency rules may be finally adopted by the agency; and

**Whereas**, the above-named major substantive rule has been submitted to the Legislature for review; and

**Whereas**, immediate enactment of this resolve is necessary to record the Legislature's position on final adoption of the rule; 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

**Sec. 1. Adoption. Resolved:** That final adoption of portions of Chapter 101: Maine Unified Special Education Regulation, a provisionally adopted major substantive rule of the Department of Education that has been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A, is authorized only if the provisionally adopted rule is amended as set out in this section.

1. The rule must be amended in Section VII by deleting the part of the rule designated "3. Determination of Adverse Effect for Children Three to Twenty."

2. The rule must be amended in Section VII by deleting the part of the rule designated "4. Needs special education and related services."

3. The rule must be amended in Section V in the part designated "1. Evaluations, Parental Consent, and Reevaluations" to establish provisions that require that an initial evaluation or a reevaluation of a child be conducted within 45 school days of receiving parental consent for the evaluation; and be it further

**Sec. 2. Guidance on appropriate assessments. Resolved:** That the Commissioner of Education shall provide administrative guidance to local

educational agencies, including intermediate educational units and school administrative units, pertaining to the determination of adverse effect on educational performance for children from 3 to 20 years of age as set forth in the Department of Education Rule Chapter 101: Maine Unified Special Education Regulation as amended pursuant to section 1. The guidance provided to local educational agencies must explain the importance of using assessments that are appropriate to identify any area of educational performance that may be negatively influenced by the child's disability; and be it further

**Sec. 3. Clarification of content of written notice. Resolved:** That the Commissioner of Education shall provide guidance to school administrative units that clarifies the content of the written notice to be provided to the parents of a child with a disability as set forth in the Department of Education Rule Chapter 101: Maine Unified Special Education Regulation in "Appendix 1" in the part designated "Written Notice." The guidance provided to school administrative units must clarify that the contents of the written notice provided to parents must be equivalent to the detailed summary and descriptions required by the former Department of Education Rule Chapter 101 provisions for the minutes of pupil evaluation team meetings.

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

Effective April 8, 2008.

**CHAPTER 189**  
**S.P. 896 - L.D. 2273**

**Resolve, To Temporarily  
Suspend the Rate-setting  
Procedures for the Forest  
Products Industry**

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

**Whereas**, Maine is dependent on its natural resources-based economy; and

**Whereas**, the Legislature recognizes that fuel costs and other economic forces have a devastating impact on the Maine economy, especially with regards to loggers and truckers carrying forest products; and

**Whereas**, it is in the public interest to ensure a reasonable rate of compensation for wood harvesting and hauling services in all regions of the State and to assess the impact of the Maine Revised Statutes, Title 26, chapter 18 on those services; and

**Whereas**, ensuring a reasonable rate of compensation for wood harvesting and hauling services is achievable via a statewide market power study of the forest products industry; and

**Whereas**, fairness dictates that the provisions of the Maine Revised Statutes, Title 26, chapter 18, except certain portions of Title 26, section 1354, be suspended pending completion of such a study and enactment of legislation pursuant to that study; and

**Whereas**, a majority of the providers of wood harvesting and hauling services subject to the Maine Revised Statutes, Title 26, chapter 18 have voted to support the suspension of those statutory provisions until June 1, 2009; 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

**Sec. 1. Rates of compensation for forest products harvesting and hauling services termination. Resolved:** That the operation of the Maine Revised Statutes, Title 26, chapter 18 is suspended until June 1, 2009, except that forest products harvesters and haulers may continue to join together and form an association to meet, confer and share information as provided in Title 26, section 1354. The Legislature may consider terminating the suspension described in this section on or after January 7, 2009 by resolve. The Governor may terminate the suspension described in this section at any time that the Legislature is not in session. The Governor shall make the termination in writing. The termination does not become effective until 60 days following the written notice; and be it further

**Sec. 2. Department of the Attorney General to study the statewide market for forest products harvesting and hauling services. Resolved:** That the Department of the Attorney General, referred to in this section as "the department," shall conduct a study of the statewide market for forest products harvesting and hauling services. The department shall examine competition within the industry and determine what, if any, changes are necessary to ensure fair competition throughout the State. The department shall consider the relevance of and study at a minimum the following on a statewide basis:

1. Issues of market concentration and horizontal market power;
2. Issues of vertical market power arising from integrated ownership or control of hauling, harvesting and other related assets;

3. The existence of barriers to entry into the harvesting and hauling industry, including required capitalization;

4. The extent to which imbalances of supply and demand create opportunities for the unreasonable exercise of market power;

5. The advantages and disadvantages of altering the current market system in the harvesting and hauling of forest products;

6. The approaches taken in other states to address similar issues; and

7. The statewide market for such services.

In conducting the study, the department shall consult with the Executive Department, State Planning Office; the Department of Labor; forest landowners; industry representatives; and other parties as determined appropriate by the department. Records collected by the Department of the Attorney General pursuant to its responsibilities under this resolve are subject to the Maine Revised Statutes, Title 16, section 614, subsection 1.

The department shall use the services of the State Economist and may retain an independent expert as it determines necessary in order to conduct the study.

The department shall make available a draft interim report for public comment not later than December 1, 2008. The final report of its findings and recommendations must be submitted no later than January 15, 2009 to the joint standing committee of the Legislature having jurisdiction over forest products harvesting and hauling services. The interim and final reports must include any legislation necessary to implement the recommendations of the department. If the department requires an extension of time to make its reports, it may apply to the Legislative Council, which may grant the extension. Any legislation or recommendation of the department pursuant to the study must apply to all landowners in the State; and be it further

**Sec. 3. Legislation. Resolved:** That the joint standing committee of the Legislature having jurisdiction over the compensation of forest harvesters and haulers may submit a bill related to the study to the First Regular Session of the 124th Legislature.

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

Effective April 8, 2008.