

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE

FIRST REGULAR SESSION
December 3, 2008 to June 13, 2009

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 12, 2009

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Augusta, Maine
2009

fined in Title 12, section 13001, subsection 28 or their component parts.

Sec. 2. Recycling program submission date for existing manufacturers. A manufacturer subject to the Maine Revised Statutes, Title 38, section 1672 and in existence on the effective date of this Act shall submit its proposed recycling program pursuant to Title 38, section 1672, subsection 4, paragraph B by January 1, 2010.

Sec. 3. Report on recycling of mercury-added lamps from businesses. The Department of Environmental Protection shall submit a report by January 1, 2010 to the Joint Standing Committee on Natural Resources on the recycling of mercury-added lamps from businesses, including, but not limited to, linear fluorescent lamps. The report must include:

1. An estimate of the number of mercury-added lamps recycled and the recycling rate for mercury-added lamps from businesses over each of the last 3 years;
2. A comprehensive strategy for improving lamp recycling rates;
3. Any legislation necessary to implement the strategy proposed in the report; and
4. The availability of nonmercury lamps to replace mercury-added lamps.

The Joint Standing Committee on Natural Resources may submit legislation to the Second Regular Session of the 124th Legislature to implement recommendations included in the report.

Sec. 4. Report on recycling of mercury-added lamps from households. The Department of Environmental Protection shall submit a report by January 1, 2010 to the Joint Standing Committee on Natural Resources on the recycling of mercury-added lamps from households pursuant to the Maine Revised Statutes, Title 38, section 1672. The report must include, but is not limited to:

1. An assessment of the costs of the manufacturer recycling programs for mercury-added lamps to manufacturers, consumers, municipalities and others;
2. After consultation with manufacturers of mercury-added lamps, recommendations for streamlining the recycling of mercury-added lamps from households; and
3. A review and assessment of education and outreach alternatives.

The Joint Standing Committee on Natural Resources may submit legislation to the Second Regular Session of the 124th Legislature to implement recommendations included in the report.

See title page for effective date.

CHAPTER 273

H.P. 62 - L.D. 73

An Act To Protect the Right To Use Solar Energy

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

Sec. 1. 30-A MRSA §3013 is enacted to read:

§3013. Solar energy devices; ordinances

A municipal ordinance, bylaw or regulation adopted after September 30, 2009 that directly regulates the installation or use of solar energy devices on residential property must comply with the requirements of Title 33, chapter 28-A. For the purposes of this section, "solar energy device" has the same meaning as in Title 33, section 1421, subsection 5.

Sec. 2. 33 MRSA c. 28-A is enacted to read:

CHAPTER 28-A

SOLAR RIGHTS

§1421. Definitions

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

1. Legal instrument. "Legal instrument" includes:

A. Municipal ordinances, bylaws or regulations that directly regulate the installation or use of solar energy devices on residential property;

B. Rules, bylaws or regulations of an association of property owners, including but not limited to a homeowners association, unit owners association or condominium owners association; and

C. Deed restrictions, restrictive covenants, declarations, contracts or similar binding agreements.

2. Residential property. "Residential property" means real property located in this State that is used for residential dwelling purposes.

3. Solar clothes-drying device. "Solar clothes-drying device" means a clothes line, drying rack or other equipment used for solar drying of clothing.

4. Solar collector. "Solar collector" means a device, structure or part of a device or structure that is designed and used to transform solar energy into thermal, chemical or electrical energy to meet the water heating, space heating, space cooling or electricity generation requirements of one residential dwelling.

5. Solar energy device. "Solar energy device" means a solar collector or solar clothes-drying device.

§1422. Policy

It is the policy of the State to promote the use of solar energy and to avoid unnecessary obstacles to the use of solar energy devices.

§1423. Use and installation of solar energy devices

1. Application. This section applies to a legal instrument adopted or created after September 30, 2009 that defines or limits the rights or privileges of owners or renters with respect to the use of residential property.

2. Right to install and use solar energy devices. Except as provided in subsections 3 and 4, a legal instrument subject to this section may not prohibit a person from installing or using:

A. A solar energy device on residential property owned by that person; or

B. A solar clothes-drying device on residential property leased or rented by that person.

3. Exception. A legal instrument subject to this section may prohibit the installation and use of solar energy devices on residential property in common ownership with 3rd parties or common elements of a condominium.

4. Reasonable restrictions. A legal instrument subject to this section may include reasonable restrictions on the installation and use of a solar energy device. For the purposes of this section, a reasonable restriction is any restriction that is necessary to protect:

A. Public health and safety, including but not limited to ensuring safe access to and rapid evacuation of buildings;

B. Buildings from damage;

C. Historic or aesthetic values, when an alternative of reasonably comparable cost and convenience is available; or

D. Shorelands under shoreland zoning provisions pursuant to Title 38, chapter 3, subchapter 1, article 2-B.

§1424. Limitation

This chapter does not supersede any existing authority of any entity to adopt and enforce any laws, rules or regulations on any matter other than the installation and use of solar energy devices on residential property.

See title page for effective date.
