

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

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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

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

Sec. 1. 12 MRSA §6448, sub-§8, ¶E is enacted to read:

E. A person who has either successfully completed the requirements of the apprentice program under section 6422 or 6475 or held a Class I, Class II or Class III lobster and crab fishing license in the previous calendar year and who has registered to enter an established island limited-entry program as described under section 6449 may declare as that person's declared lobster zone the zone in which that island limited-entry program is located when the person becomes eligible to enter the island limited-entry program.

Sec. 2. 12 MRSA §6449 is enacted to read:

§6449. Island limited-entry programs

An island limited-entry program may be established pursuant to this section in order to maintain a number of licenses appropriate for the needs of an island community and the local lobster resource.

1. Proposal to the commissioner. Notwithstanding section 6448, subsection 7, a year-round island community may petition the commissioner for the establishment of an island limited-entry zone program if a minimum of 5 island residents that are holders of a Class I, Class II or Class III lobster and crab fishing license or 10% of the island residents that are holders of a Class I, Class II or Class III lobster and crab fishing license, whichever is greater, signs the petition submitted to the commissioner. If 2/3 of the Class I, Class II or Class III lobster and crab fishing license holders that are residents on the island voting in a referendum held pursuant to section 6447, subsection 6 support the establishment of an island limited-entry zone program, the commissioner may adopt rules to establish such a program, including a waiting list. Before establishing or amending the number of licenses available to island residents, the commissioner shall determine the number of licenses preferred by 2/3 of the Class I, Class II or Class III lobster and crab fishing license holders resident on the island. The commissioner may accept the preferences proposed by 2/3 of the license holders as reasonable and adopt those preferences or reject the preferences as unreasonable. The commissioner shall consult with the lobster management policy council for the lobster management zone in which the island is located before making the decision.

2. No longer resident. An individual who obtains a Class I, Class II or Class III lobster and crab fishing license through an island limited-entry program but who no longer wishes to maintain residency on the island is subject to the following requirements.

A. A person who held a Class I, Class II or Class III lobster and crab fishing license and maintained residency on the island for a period of not less than 8 years and who can document to the commissioner that the person harvested lobsters in each of the 8 years may end the person's residency on the island and fish elsewhere in the lobster management zone in which the island is located without going on a waiting list as established in section 6448.

B. A person who holds a Class I, Class II or Class III lobster and crab fishing license and who either has maintained residency on the island for less than 8 years or who has maintained residency on the island for at least 8 years but cannot document to the commissioner that the person harvested lobsters in each of the 8 years may end the person's residency on the island and become eligible to fish elsewhere in the lobster management zone in which the island is located if that person complies with the waiting list requirement established in accordance with section 6448.

3. Restriction. This section applies only to an island in the coastal waters with a year-round community that is not connected to the mainland by an artificial structure.

4. Rules. The commissioner shall adopt rules to implement the island limited-entry program. The rules must include but are not limited to:

- A. A definition of residency on an island;
- B. Allowances for the temporary absence from an island due to a medical condition or educational requirements; and
- C. Providing for an opportunity for increasing the number of Class I, Class II or Class III lobster and crab fishing license holders on an island, if appropriate, based on the characteristics of the island and the lobster resource.

Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

See title page for effective date.

**CHAPTER 295
H.P. 888 - L.D. 1269**

**An Act To Clarify the Laws
Regarding Significant
Groundwater Wells**

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

Sec. 1. 38 MRSA §480-B, sub-§9-A, as enacted by PL 2007, c. 399, §10, is amended to read:

9-A. Significant groundwater well. "Significant groundwater well" is defined as follows.

A. "Significant groundwater well" means any well, wellfield, excavation or other structure, device or method used to obtain groundwater that is:

- (1) Withdrawing at least 75,000 gallons during any week or at least 50,000 gallons on any day and is located at a distance of 500 feet or less from a coastal or freshwater wetland, great pond, significant vernal pool habitat, water supply well not owned or controlled by the applicant or river, stream or brook; or
- (2) Withdrawing at least 216,000 gallons during any week or at least 144,000 gallons on any day and is located at a distance of more than 500 feet from a coastal or freshwater wetland, great pond, significant vernal pool habitat, water supply well not owned or controlled by the applicant or river, stream or brook.

Withdrawals of water for firefighting or preoperational capacity testing are not applied toward these thresholds.

B. "Significant groundwater well" does not include:

- (1) A public water system as defined in Title 22, section 2601, subsection 8 ~~other than a public water system used solely to bottle water for sale,~~ except that "significant groundwater well" includes:
 - (a) A public water system used solely to bottle water for sale; and
 - (b) Any portion of a public water system that is:
 - (i) Constructed on or after January 1, 2009;
 - (ii) Used solely to bottle water for sale; and
 - (iii) Not connected to another portion of the public water system through pipes intended to convey water.

For purposes of this paragraph, a public water system that is used solely to bottle water for sale includes a public water system that bottles water for sale and may provide a de minimus amount of water for other purposes, such as employee or other use, as determined by the department;

- (2) Individual home domestic supply;

- (3) Agricultural use or storage;

(3-A) Dewatering of a mining operation;

- (4) A development or part of a development requiring a permit pursuant to article 6, article 7 or article 8-A; or

- (5) A structure or development requiring a permit from the Maine Land Use Regulation Commission.

Sec. 2. PL 2007, c. 399, §13 is amended to read:

Sec. 13. Transition. If a person who requires a permit for establishment or operation of a significant groundwater well from the Department of Environmental Protection pursuant to the Maine Revised Statutes, Title 38, section 480-C is authorized to transport water pursuant to Title 22, section 2660-A ~~on the effective date of this Act~~ September 20, 2007 and applies for a permit for establishment or operation of the significant groundwater well prior to expiration of the water transport authorization, the person may continue to withdraw water until final agency action on the permit application.

For purposes of this section, "significant groundwater well" has the same meaning as in the Maine Revised Statutes, Title 38, section 480-B, subsection 9-A.

Sec. 3. PL 2007, c. 399, §14 is amended to read:

Sec. 14. Rulemaking public information meetings. The Department of Environmental Protection and the Maine Land Use Regulation Commission shall amend their rules to require that a public information meeting be held prior to submission of an application for a significant groundwater well or project including a significant groundwater well unless the project already has a public information meeting requirement. The public information meeting must meet the requirements for public information meetings contained in the Department of Environmental Protection's rule concerning the processing of applications and other administrative matters. Rules adopted pursuant to this section are routine technical rules as defined in the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A.

For purposes of this section, "significant groundwater well" has the same meaning as in the Maine Revised Statutes, Title 38, section 480-B, subsection 9-A, except that a development or part of a development requiring a permit pursuant to Title 38, chapter 3, subchapter 1, article 6 or a structure or development requiring a permit from the Maine Land Use Regulation Commission is not excluded from the definition of "significant groundwater well."

This section applies to a significant groundwater well that requires approval pursuant to Title 12, chapter 206-A or Title 38, chapter 3, subchapter 1, article 5-A or 6.

Sec. 4. PL 2007, c. 399, §15 is amended to read:

Sec. 15. Rulemaking independent monitoring; fees. The Department of Environmental Protection and the Maine Land Use Regulation Commission shall periodically contract with independent environmental professionals to provide a technical review and assessment of monitoring information submitted to the Department of Environmental Protection or the Maine Land Use Regulation Commission related to significant groundwater wells that are part of projects or developments permitted under the Maine Revised Statutes, Title 12, chapter 206-A or Title 38, chapter 3, subchapter 1, article 5-A or 6, and each shall through rulemaking develop a fee structure to provide funding for the contracts. Rules adopted pursuant to this section are routine technical rules as defined in the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A.

For purposes of this section, "significant groundwater well" has the same meaning as in the Maine Revised Statutes, Title 38, section 480-B, subsection 9-A, except that a development or part of a development requiring a permit pursuant to Title 38, chapter 3, subchapter 1, article 6 or a structure or development requiring a permit from the Maine Land Use Regulation Commission is not excluded from the definition of "significant groundwater well."

The Department of Environmental Protection or the Maine Land Use Regulation Commission may exclude certain types of pumping or certain significant groundwater wells or portions of significant groundwater wells from a fee requirement when appropriate based upon considerations such as the applicability of other fees, the type or amount of pumping or insignificant risk to protected natural resources or other wells.

See title page for effective date.

CHAPTER 296

S.P. 528 - L.D. 1443

An Act To Support the Center of Excellence for At-risk Students

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 rising dropout rate in the State derives an increasing number of youth of education essential to their future success, while creating the

potential for greater costs on the State's social welfare system; and

Whereas, many school administrative units have limited resources available to tailor programs to address the needs of youth at risk of failing or dropping out of school; and

Whereas, a private, nonprofit charitable organization with a long history of education and caring for children at risk is currently working with a major Maine charitable foundation to create a statewide center of excellence to serve students at risk of failure; and

Whereas, immediate support for that effort is essential to ensure that the organization can begin serving students in the 2009-2010 school year; 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. 20-A MRSA c. 227 is enacted to read:

CHAPTER 227

CENTER OF EXCELLENCE FOR AT-RISK STUDENTS

§6951. Center establishment

1. Center established. The Center of Excellence for At-risk Students is established.

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

A. "At-risk student" means an elementary student or secondary student who is at risk of failing or dropping out of a regular public school program.

B. "Center" means the Center of Excellence for At-risk Students established in subsection 1.

3. Center requirements. The center shall provide a comprehensive residential and nonresidential program for educating at-risk students. The center shall also provide information and resources for other schools serving at-risk students. The center may be administered by a private, nonprofit charitable corporation with a public purpose that meets the requirements of section 2951. The commissioner may grant a waiver from any requirements of sections 2901, 2902 and 2951 that the commissioner determines appropriate in consideration of the special characteristics of the center.