

# 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.**

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**Augusta, Maine**  
**2009**

public or private, that it considers necessary to carry out its legislative purposes. The board shall establish an account, known as the seed potato account, to receive and expend funds for carrying out the board's responsibilities under Title 7, chapter 403.

**Sec. 7. Transition provisions.**

**1. Management; ownership.** The Department of Agriculture, Food and Rural Resources and the Maine Potato Board established under the Maine Revised Statutes, Title 36, section 4603 shall cooperatively oversee the Seed Potato Board, established under Title 5, section 12004-H, subsection 5, and manage the production of seed potatoes during a transition period. The transition in oversight and management responsibilities from the Department of Agriculture, Food and Rural Resources to the Maine Potato Board must be completed no later than April 1, 2010.

By April 1, 2010, the Department of Agriculture, Food and Rural Resources shall transfer to the Seed Potato Board assets of the department used by the Seed Potato Board in the production and certification of seed potatoes. The Seed Potato Board must use the transferred assets to ensure a continued supply of seed potatoes.

**2. Employees.** All current full-time and part-time positions of the Seed Potato Board are terminated by the State prior to the time the Maine Potato Board assumes ownership and operation of the Seed Potato Board. Employees of the Seed Potato Board after the transfer are employees of the Maine Potato Board.

**3. Transition of funds.** No later than July 1, 2010 or, if earlier, at the time of transfer of the Seed Potato Board to the Maine Potato Board, and during subsequent years, all funds received by the Department of Agriculture, Food and Rural Resources or the Seed Potato Board for the operation of the Porter Seed Farm must be paid to the Maine Potato Board.

**Sec. 8. Funding.** The Department of Agriculture, Food and Rural Resources shall provide the Maine Potato Board, as established by the Maine Revised Statutes, Title 36, section 4603, funding in support of the Seed Potato Board not to exceed the sum of \$250,000 for fiscal year 2009-10 and the sum of \$175,000 for fiscal year 2010-11. These funds must be paid to the Maine Potato Board at the beginning of each fiscal year.

**Sec. 9. Staggered terms.** Notwithstanding the Maine Revised Statutes, Title 7, section 2151, in making initial appointments to the Seed Potato Board, the Commissioner of Agriculture, Food and Rural Resources shall appoint the member that is a processor producer for a one-year term and the Maine Potato Board shall appoint 3 members for one-year terms. The other 4 members are appointed for 2-year terms.

**Sec. 10. Appropriations and allocations.** The following appropriations and allocations are made.

**POTATO BOARD, MAINE**

**Potato Board 0429**

Initiative: Establishes the Seed Potato Account within the Maine Potato Board with a base allocation of \$500.

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
All Other	\$500	\$500
OTHER SPECIAL REVENUE FUNDS TOTAL	\$500	\$500

See title page for effective date.

**CHAPTER 380**

**S.P. 551 - L.D. 1476**

**An Act Regarding the Transfer of Licenses for Energy Recovery Facilities**

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

**Sec. 1. 38 MRSA §1310-Q**, as amended by PL 2005, c. 612, §3, is further amended to read:

**§1310-Q. Transfer of license**

**1. Transfer.** ~~No~~ A person may not transfer a license issued pursuant to this Title without the transfer of the license being approved by the department prior to transfer of the ownership of the property, facility or structure that constitutes or is part of the solid waste disposal facility. The department, at its discretion, may require that the proposed new owner of the facility apply for a new license or may approve the transfer of the existing license upon a satisfactory showing that the new owner can abide its terms and conditions and will be able to comply with the provisions of this Title, except that the department may not approve the transfer of an existing license of a municipal solid waste disposal facility to a private entity and the department may not approve the transfer of the license of a solid waste facility subject to subsection 2 unless the provisions of that subsection are satisfied. The department shall consider the extent to which the disposal facility was sited and developed and is currently operated to meet the capacity needs of municipalities within a specific geographic region. The department shall approve the transfer of license when, in addition to all other requirements of this Title, the applicant has demonstrated that:

- A. The facility will continue to be operated to meet the municipal disposal capacity needs for which the facility was sited and developed and for which it is currently operated;
- B. The applicant has made substantially equivalent, alternative provisions to satisfy these disposal capacity needs; or
- C. These disposal capacity needs no longer exist.

**2. Transfers of solid waste license for a facility that incinerates municipal solid waste or special waste.** In addition to the provisions of subsection 1, during the stated term of any waste handling contract between a solid waste facility that incinerates municipal solid waste or special waste and the host community in which the facility is geographically sited, the department may approve the transfer of a solid waste facility license from the solid waste facility only after the expiration of a due diligence review period for the host community in which the facility is geographically sited, which must conclude within 180 days of the date of filing of the application for transfer of the license. For purposes of this section, any change of owner or operator of the solid waste facility, whether accomplished through sale, merger, lease, sale of stock, assignment or otherwise, is subject to the requirement set forth in this subsection. Any facility owned wholly or in part by a regional association pursuant to section 1304-B, subsection 5 is exempt from this subsection. A transfer to a host community in which the facility is geographically sited is exempt from this subsection.

The board shall decide all applications for transfer of a license subject to this subsection. The board shall hold a public hearing on a transfer application within or in the vicinity of the municipality in which the facility is located after expiration of the due diligence review period prescribed in this subsection.

**Sec. 2. Retroactivity.** This Act applies retroactively to April 1, 2009.

See title page for effective date.

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**CHAPTER 381**

**H.P. 1049 - L.D. 1492**

**An Act To Improve Opportunity in the Maine Woods**

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

**Whereas,** workers in the Maine woods and the wood industry in Maine face significant economic obstacles; and

**Whereas,** a recent study by the Office of the Attorney General of logging industry conditions in northern and eastern Maine found "clear evidence of market concentration" but was unable, due to lack of access to information, to determine whether market concentration resulted in the payment of below-market rates for services; and

**Whereas,** the rate-setting law designed to counteract the effects of market concentration and provide increased opportunities for workers to make a living in the Maine woods is currently having an adverse impact on those opportunities; and

**Whereas,** federal and state officials are beginning vigorous efforts to enforce federal and state laws related to the use of foreign labor and foreign labor certification to ensure that Maine workers have a fair opportunity to fill jobs in the Maine woods before foreign labor is brought into the country; and

**Whereas,** those efforts include in-person verification of equipment ownership by employers of bond workers to enforce the Maine Revised Statutes, Title 26, section 872; and

**Whereas,** this legislation triples the fines applicable for violations of the Maine Revised Statutes, Title 26, section 872; and

**Whereas,** the United States Department of Labor is undertaking a review of contractor practices to investigate allegations that contractors are not following federal law in their efforts to obtain foreign labor to work in the Maine woods and may deny or revoke authorization to use foreign labor to those contractors who are not in compliance with federal law; and

**Whereas,** the Maine Department of Labor is requesting that the United States Department of Labor establish rates to allow owners to obtain fair pay for equipment in the Maine woods; and

**Whereas,** the Governor is committed to keeping up pressure on the United States Department of Labor as well as overseeing the efforts of the Maine Department of Labor to implement these enhanced enforcement efforts for the purpose of improving economic opportunity for workers in the Maine woods; and

**Whereas,** changes are needed immediately to improve economic opportunity in the current logging season; 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,