

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

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.

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,

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

Sec. 1. 26 MRSA §872, sub-§2, as enacted by PL 2005, c. 461, §1, is amended to read:

2. Proof of ownership required. An employer in this State who employs a bond worker in a logging occupation shall provide proof of the employer's ownership of any logging equipment used by that worker in the course of employment, including proof of ownership of at least one piece of logging equipment for every 2 bond workers employed by the employer in a logging occupation. The employer shall provide proof of ownership as required by this subsection on a form provided by the Commissioner of Labor. The proof required by this subsection must include, but not be limited to, a receipt for payment for the equipment purchased in a bona fide transaction and documentation of payment of any tax assessed on the equipment pursuant to Title 36, chapter 105 for the year in which the bond worker is employed by the employer. Proof of ownership must be carried in the equipment and, upon request by the department, the operator of equipment subject to this section shall provide proof of ownership. Notwithstanding section 3, information regarding proof of ownership is not confidential and may be disclosed to the public.

Sec. 2. 26 MRSA §872, sub-§5, as enacted by PL 2005, c. 461, §1, is amended to read:

5. Violation. An employer who violates this section commits a civil violation for which a fine of not less than ~~\$1,000~~ \$3,000 and not more than ~~\$5,000~~ \$15,000 per violation may be adjudged.

Sec. 3. 26 MRSA §872, sub-§6 is enacted to read:

6. Assistance. The Department of Conservation shall provide interagency support and field information to assist the Department of Labor in enforcing this section.

Sec. 4. 26 MRSA §931-B, as enacted by PL 2003, c. 670, §2, is repealed.

Sec. 5. 26 MRSA c. 18, as amended, is repealed.

Sec. 6. Appropriations and allocations. The following appropriations and allocations are made.

LABOR, DEPARTMENT OF

Labor Relations Board 0160

Initiative: Reduces funds for the per diem and related costs of the State Board of Arbitration and Conciliation due to the repeal of the rate determination process for forest products hauling and harvesting services.

GENERAL FUND	2009-10	2010-11
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All Other	(\$3,300)	(\$3,300)
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GENERAL FUND TOTAL	(\$3,300)	(\$3,300)
OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
Personal Services	(\$12,500)	(\$12,500)
All Other	(\$5,860)	(\$5,860)
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OTHER SPECIAL REVENUE FUNDS TOTAL	(\$18,360)	(\$18,360)

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

Effective June 12, 2009.

CHAPTER 382

H.P. 1051 - L.D. 1495

An Act To Implement Tax Relief and Tax Reform

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

PART A

Sec. A-1. 36 MRSA §5111, as amended by PL 1999, c. 731, Pt. T, §§1 to 7, is repealed and the following enacted in its place:

§5111. Imposition and rate of tax

A tax is imposed for each taxable year beginning on or after January 1, 2010 on the Maine taxable income of every resident individual of this State at the rate of 6.5%.

Sec. A-2. 36 MRSA §5111-A, as repealed and replaced by PL 1987, c. 819, §3, is repealed.

Sec. A-3. 36 MRSA §5111-C is enacted to read:

§5111-C. Income tax surcharge

For tax years beginning on or after January 1, 2010, in addition to the tax imposed pursuant to section 5111 for the taxable year, there is imposed a tax surcharge on the amount of state tax liability due for any tax year that begins on or after January 1, 2010. The tax surcharge is .35% of the Maine taxable income that exceeds \$250,000. The Maine taxable income threshold amount of \$250,000 must be indexed in accordance with chapter 841 and if the amount so indexed is not a multiple of \$50 the indexed amount must be rounded to the next lowest multiple of \$50.