

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE**

**SECOND REGULAR SESSION**  
**January 6, 2010 to April 12, 2010**

**THE GENERAL EFFECTIVE DATE FOR**  
**SECOND REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**JULY 12, 2010**

**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**  
**2010**

rials from forest products during the entire operational life of the development;

C. The expected market area for wood supply necessary to supply the development; and

D. Other relevant wood supply information.

**1-C. Long-term construction projects.** The department shall adopt rules identifying requirements for a long-term construction project that allow approval of development within a specified area and within specified parameters such as maximum area and groundwater usage, although the specific nature and extent of the development or timing of construction may not be known at the time a permit for the long-term construction project is issued. The location and parameters of the development must meet the standards of this article. This subsection does not apply to metallic mineral mining or advanced exploration activities. ~~Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.~~

**2. Hearing request.** If the department has issued an order without a hearing regarding any person's development, that person may request, in writing, a hearing before the board within 30 days after notice of the department's decision. This request must set forth, in detail, the findings and conclusions of the department to which that person objects, the basis of the objections and the nature of the relief requested. Upon receipt of the request, the board shall schedule and hold a hearing limited to the matters set forth in the request. Hearings must be scheduled in accordance with section 486-A.

**3. Failure to notify commissioner.** The commissioner may, at any time with respect to any person who has commenced construction or operation of any development without having first notified the commissioner pursuant to this section, schedule and conduct a public hearing with respect to that development.

**4. Permit display.** A person issued a permit pursuant to this article for activities in a great pond watershed shall have a copy of the permit on site while work authorized by that permit is being conducted.

**Sec. 3. 38 MRSA §489-E** is enacted to read:

**§489-E. Rulemaking**

Except for rules adopted pursuant to section 488, subsections 14 and 18, rules adopted pursuant to this article by the department after January 1, 2010 and before January 1, 2012 are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A. Any rules adopted by the department pursuant to this article on or after January 1, 2012 are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 4. Rules.** The Department of Environmental Protection shall submit any major substantive

rules provisionally adopted in 2010 pursuant to this Act to the joint standing committee of the 125th Legislature having jurisdiction over natural resources matters for review.

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

Effective April 2, 2010.

**CHAPTER 603**

**H.P. 15 - L.D. 20**

**An Act To Require Insurance Companies To Cover the Cost of Prosthetics Containing Microprocessors**

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

**Sec. 1. 24-A MRSA §4315, sub-§6**, as enacted by PL 2003, c. 459, §1 and affected by §2, is amended to read:

**6. Exclusions.** Coverage is not required pursuant to this section for a prosthetic device ~~that contains a microprocessor or~~ that is designed exclusively for athletic purposes.

**Sec. 2. Application.** The requirements of this Act apply to all policies, contracts and certificates executed, delivered, issued for delivery, continued or renewed in this State on or after January 1, 2011. For purposes of this Act, all contracts are deemed to be renewed no later than the next yearly anniversary of the contract date.

See title page for effective date.

**CHAPTER 604**

**S.P. 627 - L.D. 1662**

**An Act To Improve Maine's Air Quality and Reduce Regional Haze at Acadia National Park and Other Federally Designated Class I Areas**

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

**Sec. 1. 38 MRSA §603-A, sub-§2**, as amended by PL 2007, c. 95, §5, is further amended to read:

**2. Prohibitions.** Except as provided in subsections 4, 5 and 8 ~~2~~, ~~no~~ a person may not use any liquid

fossil fuel with a sulfur content exceeding the limits in paragraph A or any solid fossil fuel with a sulfur content to heat content ratio exceeding the limits of paragraph B.

A. The sulfur content for liquid fossil fuels is as follows.

(1) In the Central Maine, Downeast, Aroostook County and Northwest Maine Air Quality Control Regions and the Metropolitan Portland Air Quality Control Region outside the Portland Peninsula Air Quality Control Region, no a person may not use any liquid fossil residual fuel oil with a sulfur content greater than 2.5% until November 1, 1991, and 2.0% by weight any time thereafter; beginning January 1, 2018, the limit for those regions is 0.5% by weight. In the Metropolitan Portland Air Quality Control Region outside the Portland Peninsula Air Quality Control Region, no person may use any liquid fossil fuel with a sulfur content greater than 2.5% until November 1, 1991, and 2.0% by weight any time thereafter.

(2) In the Portland Peninsula Air Quality Control Region, ~~no a person may not use any liquid fossil residual fuel oil with a sulfur content greater than 1.5% by weight any time after November 1, 1975; beginning January 1, 2018, the limit for that region is 0.5% by weight.~~

(3) Statewide, a person may not use a distillate fuel:

(a) Beginning January 1, 2016, with a sulfur content greater than 0.005% by weight; and

(b) Beginning January 1, 2018, with a sulfur content greater than 0.0015% by weight.

The sulfur content requirements in this subparagraph do not apply to the use of distillate fuel for manufacturing purposes.

B. The sulfur content for solid fossil fuels is as follows:

(1) One and two-tenths pounds sulfur per million British Thermal Units until November 1, 1991, and .96 pounds sulfur per million British Thermal Units thereafter, calculated as a calendar quarter average for sources in the Central Maine, Downeast, Aroostook County, Northwest Maine Air Quality Control Regions and that portion of the Metropolitan Portland Air Quality Region outside the Portland Peninsula Air Quality Region. A calendar quarter is composed of the months as follows: (1) January, February, March; (2)

April, May, June; (3) July, August, September; and (4) October, November, December; and

(2) Seventy-two hundredths pounds sulfur per million British Thermal Units calculated as a calendar quarter average for sources in the Portland Peninsula Air Quality Region. A calendar quarter is composed of the months as follows: (1) January, February, March; (2) April, May, June; (3) July, August, September; and (4) October, November, December.

**Sec. 2. 38 MRSA §603-A, sub-§9** is enacted to read:

**9. Equivalent alternative sulfur reduction application.** The department shall adopt major substantive rules as defined in Title 5, chapter 375, subchapter 2-A that provide an opportunity for a licensed air contamination source that holds a license on the effective date of this subsection to apply for an equivalent alternative sulfur reduction strategy to the residual fuel oil and distillate fuel requirements in subsection 2. The rules must provide for the achievement of equivalent sulfur emission reductions through other means, including, but not limited to, reductions in consumption of residual fuel oil and distillate fuel, early sulfur emission reductions from a baseline emissions inventory year of 2002 and conversions to alternative fuels. The department shall submit the major substantive rules to the Legislature by January 31, 2014. Approved alternate sulfur reduction strategies must be in effect by January 1, 2018.

**Sec. 3. Advisory committee on reducing reliance on fuel oil.** The Department of Environmental Protection shall establish an advisory committee to assess the barriers and impediments to air emissions sources' reducing their reliance on fuel oils, including, but not limited to, the feasibility of increased gas supply, conversion to other fuels that reduce air pollution including greenhouse gases and the reductions in demand for energy derived from fuel oil. The advisory committee shall present its findings with initial recommendations to the Legislature by January 15, 2011 and a final report with recommendations by January 15, 2012. The advisory committee consists of 9 members including the Commissioner of Environmental Protection, who serves as the chair. The commissioner shall appoint the members of the advisory committee, which include 4 members representing the industrial sector, 2 members representing environmental interests and 2 representatives from other state agencies.

**Sec. 4. Fuel oil supply study.** The Department of Environmental Protection shall conduct a fuel oil supply study in 2014 and submit the results of its findings to the Legislature by January 15, 2015. The department shall hold a public hearing on the subject

matter of this section and allow for submittal of oral and written comment.

See title page for effective date.

## CHAPTER 605

### S.P. 598 - L.D. 1561

#### An Act To Regulate the Use of Automated License Plate Recognition Systems

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

**Sec. 1.** 29-A MRSA §2117-A is enacted to read:

#### §2117-A. Use of automated license plate recognition systems

**1. Definitions.** As used in this section, unless the context otherwise indicates, "automated license plate recognition system" means a system of one or more mobile or fixed high-speed cameras combined with computer algorithms to convert images of registration plates into computer-readable data. "Automated license plate recognition system" does not include a photo-monitoring system, as defined in Title 23, section 1980, subsection 2-A, paragraph B, subparagraph (4), when used by the Maine Turnpike Authority or a law enforcement agency for toll enforcement purposes.

**2. Prohibition.** Except as otherwise provided in subsection 3, a person may not use an automated license plate recognition system.

**3. Exception.** Subsection 2 does not apply to:

A. The Department of Transportation for the purposes of protecting public safety and transportation infrastructure;

B. The Department of Public Safety, Bureau of State Police for the purposes of commercial motor vehicle screening and inspection; and

C. Any state, county or municipal law enforcement agency when providing public safety, conducting criminal investigations and ensuring compliance with local, state and federal laws. For purposes of this paragraph, an automated license plate recognition system may use only information entered by a law enforcement officer as defined by Title 17-A, section 2, subsection 17 and based on specific and articulable facts of a concern for safety, wrongdoing or a criminal investigation or pursuant to a civil order or records from

the National Crime Information Center database or an official published law enforcement bulletin.

An authorized user under this subsection of an automated license plate recognition system may use an automated license plate recognition system only for the official and legitimate purposes of the user's employer.

**4. Confidentiality.** Data collected or retained through the use of an automated license plate recognition system in accordance with subsection 3 are confidential under Title 1, chapter 13 and are available for use only by a law enforcement agency in carrying out its functions or by an agency collecting information under subsection 3 for its intended purpose and any related civil or criminal proceeding.

A law enforcement agency may publish and release as public information summary reports using aggregate data that do not reveal the activities of an individual or firm and may share commercial motor vehicle screening data with the Federal Motor Carrier Safety Administration for regulatory compliance purposes.

**5. Data retention.** Data collected or retained through the use of an automated license plate recognition system in accordance with subsection 3 that are not considered intelligence and investigative information as defined by Title 16, section 611, subsection 8, or data collected for the purposes of commercial motor vehicle screening, may not be stored for more than 21 days.

**6. Penalty.** Violation of this section is a Class E crime.

**Sec. 2. Working group to study the use of automated license plate recognition systems.** The Secretary of State shall establish a working group to study and assess potential issues relating to the use of automated license plate recognition systems by law enforcement agencies and other authorized agencies. In addition to the Secretary of State, the working group must include, but is not limited to, representatives of the Department of Public Safety, Bureau of State Police, representatives of local and county law enforcement, representatives of the Department of Transportation, representatives of the Maine Turnpike Authority and representatives of organizations or individuals representing privacy and constitutional interests.

The working group report under section 3 must include a review of a September 2009 report, completed by an international association of chiefs of police that studied the privacy impact of enhanced collection, analysis and dissemination of license plate data made possible by automated license plate recognition system technology. The working group report must include model policy or draft legislation, either developed by the working group or by an association