

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

Whereas, the above-named major substantive rule has been submitted to the Legislature for review; and

Whereas, immediate enactment of this resolve is necessary to record the Legislature's position on final adoption of the rule; 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

Sec. 1. Adoption. Resolved: That final adoption of portions of Chapter 41: Special Restrictions on Pesticide Use, a provisionally adopted major substantive rule of the Department of Agriculture, Food and Rural Resources, Board of Pesticides Control that has been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A, is authorized.

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

Effective June 9, 2009.

**CHAPTER 119
S.P. 137 - L.D. 395**

**Resolve, To Further Regulate
the Use of Tanning Booths by
Minors**

Sec. 1. Amend the rules for the use of tanning equipment. Resolved: That the Department of Health and Human Services shall amend the rules for the use of tanning facilities by minors in Rule Chapter 223, Part T as provided in this section. Rules adopted pursuant to this section are routine technical rules as defined by the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A. The rules must:

1. For minors under 14 years of age, prohibit the use of tanning devices;
2. For minors 14 years of age and older:
 - A. Require the tanning facility operator to confirm the identification of the minor and the minor's parent or legal guardian;
 - B. Require the tanning facility to obtain the written consent of the minor's parent or legal guardian and written acknowledgement by the minor and the parent or legal guardian that they have read and understood the information required to be disclosed by Rule Chapter 223, Part T, section 12, paragraph A, subparagraphs (1) and (3). Both

written consent and written acknowledgement must be executed in the presence of the operator of the tanning facility;

C. Limit the effect of the parent's or legal guardian's written consent to one year and allow revocation of consent by the parent or legal guardian at any time; and

D. Require the presence of the minor's parent or legal guardian for minors 14 and 15 years of age.

The department shall amend the rules to provide an increase in the licensing fees for tanning facilities to assist in covering the cost of regulation of the facilities; and be it further

Sec. 2. Work group; report. Resolved: That the Department of Health and Human Services shall convene a work group of representatives of operators of tanning facilities and representatives of a statewide consortium active in the prevention and treatment of skin cancer and other interested parties to examine existing rules, training requirements and compliance issues and funding methods and shall report to the Joint Standing Committee on Health and Human Services by January 15, 2010. The department shall provide notification of the dates, times and locations of the meetings of the work group to members of the joint standing committee. The joint standing committee is authorized to submit legislation on the report to the Second Regular Session of the 124th Legislature.

See title page for effective date.

**CHAPTER 120
H.P. 787 - L.D. 1143**

**Resolve, Directing a Study of
Domestic Violence and
Parental Rights and
Responsibilities**

Sec. 1. Study. Resolved: That the Maine Commission on Domestic and Sexual Abuse shall study domestic abuse, parental rights and responsibilities and the protection from abuse process, including the laws and practices governing parental rights when domestic abuse is alleged or suspected. The study must include:

1. A review of how the best interests of the child are determined;
2. An examination of the issues concerning the presentation of evidence that accurately portrays domestic violence and its effects in the family relationship;
3. How other states have addressed domestic violence when establishing parental rights and responsi-

bilities, including the adoption of rebuttable presumptions, and how those procedures are working in those states;

4. Whether misuse of the protection from abuse process is happening and, if so, why and to what extent the misuse is occurring and whether there are problems with the process itself that lead participants to the conclusion that the process is biased, unfair or inconsistently applied; and

5. A review of the training provided to the judiciary and guardians ad litem concerning domestic abuse and parental rights and responsibilities; and be it further

Sec. 2. Participation. Resolved: That the commission shall invite interested parties to participate in the study, including but not limited to: the Family Law Advisory Commission; the Maine Coalition to End Domestic Violence; the Maine Guardian Ad Litem Institute; the Family Law Section of the Maine State Bar Association; the judicial branch; the Maine Association of Criminal Defense Lawyers; and any others the commission determines helpful to the study; and be it further

Sec. 3. Report; legislation. Resolved: That the commission shall submit a report to the Joint Standing Committee on Judiciary no later than February 1, 2010. The report must summarize the activities of the commission, identify the participants in the study under section 1 and include recommendations for action by the legal profession, the judicial branch, advocates for victims of domestic violence, law enforcement and prosecutors. The report may include recommendations for further data collection, research and analysis to address the subjects that are included in the study. The report may include recommended legislation. The Joint Standing Committee on Judiciary may report out legislation to the 124th Legislature in 2010 based on the report.

See title page for effective date.

**CHAPTER 121
S.P. 351 - L.D. 929**

**Resolve, Regarding the
Classification of Wildlife
Management District 2**

Sec. 1. District classification. Resolved: That under rules adopted by the Commissioner of Inland Fisheries and Wildlife the classification of Wildlife Management District 2 must be the same as that of Wildlife Management District 3 for purposes of moose hunting. Rules adopted under this section are

routine technical rules as defined in the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A.

See title page for effective date.

**CHAPTER 122
H.P. 864 - L.D. 1245**

**Resolve, To Improve the
Continuity of Care for
Individuals with Behavioral
Issues in Long-term Care**

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

Whereas, citizens of the State who are elderly and who develop behavioral issues due to dementia or other reasons are receiving inappropriate treatment, often at significant emotional costs to themselves and at significant financial cost to the State; and

Whereas, the long-term care facilities that provide care to these individuals lack the resources to serve the persons they are caring for; and

Whereas, there exist policies and best practices that could improve the treatment of these individuals and that can be made reasonably available within existing resources; 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

Sec. 1. Implementation of recommendations. Resolved: That the Department of Health and Human Services, referred to in this resolve as "the department," shall continue its efforts to implement the recommendations contained in its report to the Joint Standing Committee on Health and Human Services pursuant to Resolve 2007, chapter 61. The department shall report to the Joint Standing Committee on Health and Human Services by February 1, 2010 on the department's progress. In implementing these recommendations, the department shall:

1. Redirect its services to adult MaineCare members to focus on earlier intervention so as to treat challenging behaviors at an earlier stage;
2. Identify individuals for earliest possible intervention and provide support and training to nursing facility staff in regard to managing the challenging behaviors of these individuals;