

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE

FIRST REGULAR SESSION
December 1, 2010 to June 29, 2011

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 28, 2011

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH THE MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Augusta, Maine
2011

4. **Duties.** The work group, in consultation with the Public Utilities Commission, shall examine ways to clarify and simplify the so-called "dig safe" laws and rules to facilitate compliance and to eliminate regulatory uncertainty. The work group, in consultation with the Public Utilities Commission, shall examine at least the following matters:

- A. Preexcavation marking standards for excavators;
- B. Marking standards for owners and operators of underground facilities;
- C. Enforcement procedures and standards and the appropriate use of penalties; and
- D. Clarification of incident reporting and ensuring that incident investigations involve appropriate fact-finding and do not assume or require inappropriate admission of fault.

5. **Staff assistance.** The Public Advocate and the Public Utilities Commission shall provide necessary staffing services to the work group.

6. **Report.** No later than January 15, 2012, the Public Utilities Commission and the chair of the work group shall jointly submit a report to the Joint Standing Committee on Energy, Utilities and Technology that includes all findings and recommendations supported by at least 2/3 of the appointed members of the work group. The commission shall also submit provisionally adopted rules to the Second Regular Session of the 125th Legislature pursuant to the Maine Revised Statutes, Title 23, section 3360-A, subsection 13 necessary to carry out the recommendations of the work group and any legislation necessary to carry out the recommendations of the work group.

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

Effective May 9, 2011.

CHAPTER 73

H.P. 459 - L.D. 629

**An Act Pertaining to the Laws
Governing Pull Events**

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

Sec. 1. 7 MRSA §96, sub-§8, as enacted by PL 2005, c. 563, §3, is amended to read:

8. Administrative hearing; suspension. In lieu of a civil action under subsection 9, the commissioner may institute an administrative proceeding on any alleged violation of this section. If the commissioner institutes an administrative proceeding, the commis-

sioner shall give notice and an opportunity for hearing under Title 5, chapter 375, subchapter 4. Upon giving notice to a person who is alleged to be in violation of this section, the commissioner shall immediately prohibit that person from competing in an event within the State. This prohibition remains in effect for 30 days or until the commissioner's decision following the hearing is received, whichever occurs first, except that the prohibition period is extended by any delays of the hearing requested by the person against whom the violation is alleged.

If the person against whom the violation is alleged does not request a hearing or if, after a hearing, the commissioner finds the person has committed the violation, the commissioner shall prohibit that person from competing in any event within the State for a period of up to 2 years and shall also exclude the animal from competing in any event within the State for a period of up to one year. The commissioner may also, in an adjudicatory proceeding, in lieu of a civil action under subsection 9, impose an administrative penalty not to exceed \$1,000 for a violation of this section.

The commissioner may establish, by rule, a schedule of administrative penalties for violations of this section that includes fines and prohibitions on competing. The schedule must be based on the severity of the violation. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 2. 7 MRSA §98, sub-§2, as enacted by PL 2005, c. 563, §3, is amended to read:

2. Chair; meetings; secretary. The Pull Events Commission shall elect one of its members as chair. The chair serves a 2-year term and may not serve as chair for consecutive terms. The commission shall meet a minimum of twice annually. ~~The agricultural fair coordinator from the department shall~~ commissioner shall designate a person to serve as secretary to the Pull Events Commission.

See title page for effective date.

CHAPTER 74

H.P. 439 - L.D. 556

**An Act Concerning the Lake
and River Protection Fund**

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

Sec. 1. 12 MRSA §10257, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by Pt. D, §7 and c. 614, §9, is amended to read:

§10257. Lake and River Protection Fund

1. Fund established. The Lake and River Protection Fund, referred to in this section as the "fund," is established within the department as a nonlapsing fund. The fund must be administered by the commissioner. The fund is funded from fees collected for lake and river protection stickers issued under section 13058, subsection 3 and from other funds accepted for those purposes by the commissioner or allocated or appropriated by the Legislature. Money in the fund may be used for enforcing laws pertaining to invasive aquatic plants and nuisance species, inspecting watercraft for invasive aquatic plant and nuisance species materials, educational and informational efforts targeted at invasive aquatic plant and nuisance species prevention, eradication and management activities and the production and distribution of lake and river protection stickers required under section 13058, subsection 3. For purposes of this section, "nuisance species" has the same meaning as in Title 38, section 1861, subsection 2.

See title page for effective date.

**CHAPTER 75
S.P. 96 - L.D. 316**

**An Act To Clarify the Scope of
Maine's Franchise Laws for
Dealers of Power Equipment,
Machinery and Appliances**

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

Whereas, there is uncertainty regarding the extraterritorial effect of Maine's franchise laws for dealers of power equipment, machinery and appliances and whether these laws apply to out-of-state dealerships; and

Whereas, such uncertainty has the potential to immediately and substantially disrupt the ability of Maine manufacturers, distributors and franchisors to maintain dealerships in other states and cause such manufacturers and distributors to relocate out of Maine, which could cost Maine jobs; 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. 10 MRSA §1361, sub-§1, as enacted by PL 1993, c. 195, §1, is amended to read:

1. Dealer. "Dealer" means a person located within this State who sells goods or solicits or advertises the sale of goods to the public. "Dealer" does not include receivers, trustees, administrators, executors, guardians or other persons appointed by or acting under judgment, decree or order of any court nor does it include public officers performing their duties as officers.

Sec. 2. 10 MRSA §1361, sub-§4, as enacted by PL 1993, c. 195, §1, is amended to read:

4. Franchisee. "Franchisee" means a person, dealer or distributor of goods located within this State to whom a franchise is offered or granted.

Sec. 3. Intent; application. It is the intent of the Legislature that the amendments set forth in this Act are a clarification of existing law, not a change in the law. Notwithstanding the Maine Revised Statutes, Title 1, section 302, this Act applies to all actions and proceedings pending on the effective date of this Act.

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

Effective May 16, 2011.

**CHAPTER 76
H.P. 253 - L.D. 320**

**An Act To Amend Shelter
Provisions To Accommodate
Rotational Grazing of
Livestock**

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

Sec. 1. 7 MRSA §4015, sub-§2, ¶B, as amended by PL 2007, c. 439, §27, is further amended to read:

B. Except as provided in subsections 5, ~~5-A~~ and 6, shelter from inclement weather must be as follows.

(1) An artificial shelter, with a minimum of 3 sides and a waterproof roof, appropriate to the local climatic conditions and for the species and breed of the animal must be provided as necessary for the health of the animal.

(2) If a dog is tied or confined unattended outdoors under weather conditions that adversely affect the health of the dog, a shelter must be provided in accordance with subsection 6, paragraph A to accommodate the dog and protect it from the weather and, in par-