

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

Sec. 1. 29-A MRSA §1912, sub-§6, as amended by PL 2005, c. 314, §11, is repealed and the following enacted in its place:

6. Defense for noise violations by motor vehicles and motorcycles. The following are defenses to a violation of subsection 1 or 3.

A. If a muffler or exhaust system of a motor vehicle as defined in section 101, subsection 42, not including a motorcycle, does not emit noise in excess of 95 decibels as measured in accordance with standards and specifications outlined in standard J-1169 adopted by the Society of Automotive Engineers in May 1998, subsections 1 and 3 do not apply. A person served with a Violation Summons and Complaint charging a violation of subsection 1 or 3 must provide satisfactory evidence that the muffler or exhaust system does not emit noise in excess of 95 decibels as measured in accordance with standards and specifications outlined in standard J-1169 adopted by the Society of Automotive Engineers in May 1998. Measurements must be made by a participating certified inspection station.

B. Subsections 1 and 3 do not apply to a muffler or exhaust system of a motorcycle that does not emit noise, as measured in accordance with standards and specifications outlined in standard J-2825 adopted by the Society of Automotive Engineers in May 2009, in excess of 92 decibels at an idle and emits noise that does not measure:

(1) More than 96 decibels using the set RPM test or swept RPM test for an engine configuration other than a 3-cylinder or 4-cylinder engine configuration; or

(2) More than 100 decibels using the set RPM test or swept RPM test for a 3-cylinder or 4-cylinder engine configuration.

A person served with a Violation Summons and Complaint charging a violation of subsection 1 or 3 must provide satisfactory evidence that the muffler or exhaust system does not exceed decibel levels as described in this paragraph. Measurements must be made by a participating certified inspection station.

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

Effective May 26, 2011.

**CHAPTER 159
S.P. 331 - L.D. 1098**

**An Act To Increase
Accountability for the Most
Serious Offenders of Laws
Prohibiting Operating under
the Influence of Drugs and
Alcohol**

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

Sec. 1. 29-A MRSA §2411, sub-§1-A, ¶D, as amended by PL 2009, c. 447, §38, is further amended to read:

D. Violates paragraph A, B or C and:

(1) In fact causes serious bodily injury as defined in Title 17-A, section 2, subsection 23 to another person;

(1-A) In fact causes the death of another person; or

(2) Has either a prior conviction for a Class B or Class C crime under this section or former Title 29, section 1312-B or a prior criminal homicide conviction involving or resulting from the operation of a motor vehicle while under the influence of intoxicating liquor or drugs or with an alcohol level of 0.08 grams or more of alcohol per 100 milliliters of blood or 210 liters of breath. For purposes of this subparagraph, the 10-year limitation specified in section 2402 and Title 17-A, subsection 9-A, subsection 3 does not apply to the prior criminal homicide conviction.

See title page for effective date.

**CHAPTER 160
H.P. 690 - L.D. 930**

**An Act To Clarify Maine's
Phaseout of the "Deca"
Mixture of Polybrominated
Diphenyl Ethers**

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

Whereas, under current law a person may not replace the "deca" mixture of polybrominated diphenyl ethers with a chemical that is a brominated or chlorinated flame retardant; and

Whereas, a manufacturer that wants to replace the "deca" mixture of polybrominated diphenyl ethers with a brominated or chlorinated flame retardant that may be a safer alternative than the "deca" mixture will not be able to move forward with that replacement until this legislation takes effect; 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. 38 MRSA §1609, sub-§14, ¶B, as enacted by PL 2009, c. 610, §7, is amended to read:

B. Effective June 1, 2011, a person subject to the restrictions under this section may not replace the "deca" mixture of polybrominated diphenyl ethers with a chemical alternative that the commissioner, in consultation with the Department of Health and Human Services, Maine Center for Disease Control and Prevention, determines:

- (1) Has been identified as or meets the criteria for identification as a persistent, bioaccumulative and toxic chemical by the United States Environmental Protection Agency;
- (2) Is a brominated or chlorinated flame retardant, unless the person demonstrates to the satisfaction of the commissioner that the flame retardant is a safer alternative; or
- (3) Creates another chemical as a breakdown product through degradation or metabolism that meets the provisions of subparagraph (1).

A replacement to the "deca" mixture of polybrominated diphenyl ethers may contain an amount of the chemicals listed or described in subparagraphs (1), (2) and (3) equal to or less than 0.1%, except that a replacement may contain an amount of a halogenated organic chemical containing the element fluorine equal to or less than 0.2%.

Upon request by the commissioner, a person subject to the restrictions under this subsection shall provide the commissioner with all existing information about the hazard and exposure characteristics of the replacement chemical that is known to, in the possession or control of or reasonably ascertainable by the person.

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

Effective May 26, 2011.

**CHAPTER 161
H.P. 647 - L.D. 880**

**An Act To Protect Minors
from Questioning by Private
Investigators**

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

Sec. 1. 32 MRSA §8113, sub-§7, as amended by PL 2001, c. 298, §5, is further amended to read:

7. Employment of prohibited person. Employment, in connection with a private investigation business, in any capacity, of any person who has been convicted of a crime punishable by imprisonment for one year or more or any former licensee whose license has been revoked; or

Sec. 2. 32 MRSA §8113, sub-§8, as repealed and replaced by PL 1985, c. 207, §2, is amended to read:

8. Representations that licensee is sworn peace officer. Representation by the licensee ~~which that~~ suggests, or ~~which that~~ would reasonably cause another person to believe, that ~~he~~ the licensee is a sworn peace officer of this State, any political subdivision of this State, any other state or of the Federal Government; or

Sec. 3. 32 MRSA §8113, sub-§9 is enacted to read:

9. Unpermitted contact with a child. Contact or communication with a child who has not attained 14 years of age regarding a private investigation if that contact or communication includes conduct with the intent to harass, torment, intimidate or threaten a child.

See title page for effective date.

**CHAPTER 162
H.P. 842 - L.D. 1136**

**An Act To Require the
Opportunity To Recite the
Pledge of Allegiance in Schools**

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

Sec. 1. 20-A MRSA §4010 is enacted to read:
§4010. Pledge of Allegiance

A school administrative unit shall allow every student enrolled in the school administrative unit the opportunity to recite the Pledge of Allegiance at some