

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

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

point during a school day in which students are required to attend. A school administrative unit may not require a student to recite the Pledge of Allegiance.

See title page for effective date.

CHAPTER 163

H.P. 648 - L.D. 881

An Act To Amend Certain Insurance Provisions Relating to Variable Annuity Death Benefits and Multiple Employer Trusts

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

Sec. 1. 24-A MRSA §2537, sub-§10, as repealed and replaced by PL 2007, c. 544, §1, is amended to read:

10. A variable annuity contract delivered or issued for delivery in this State may include as an incidental benefit a provision for payment on death during the deferred period of an amount equal to ~~the greater of either the value of the contract at the time of death or the sum of the premiums or stipulated payments paid under the contract and the value of the contract at the time of death~~ less adjusted withdrawals from the policy, whichever is greater. The beneficiary under the contract may not be paid any other amount. A variable annuity contract that includes such incidental benefit may not be deemed to be life insurance and therefore is not subject to the provisions of this Title governing life insurance contracts. A variable annuity contract with a provision for any other benefit on death during the deferred period is subject to the provisions of this Title governing life insurance contracts. A payment on death pursuant to a variable annuity contract under this subsection must be made in accordance with section 2436. This subsection applies to variable annuity contracts delivered or issued for delivery in this State on or after January 1, 2009.

Sec. 2. 24-A MRSA §2606-A, first ¶, as enacted by PL 1981, c. 150, §7, is amended to read:

The lives of a group of individuals may be insured under a policy issued to a trust or to the trustee or trustees of a fund established or adopted by 2 or more employers, or by one or more labor unions or similar employee organizations, or by one or more employers and one or more labor unions or similar employee organizations, which trust or trustees are considered the policyholder, to insure employees of the employers or members of the unions or organizations for the benefit

of persons other than the employers or the unions or organizations, subject to the following requirements.

See title page for effective date.

CHAPTER 164

H.P. 1115 - L.D. 1512

An Act To Ensure That the State Is in Compliance with Certain Federal Motor Carrier Safety Regulations

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

Sec. 1. 29-A MRSA §555, sub-§2, as amended by PL 2009, c. 251, §1, is further amended to read:

2. Adoption of federal regulations. The bureau may adopt rules to incorporate by reference federal regulations in 49 Code of Federal Regulations, Parts 40, 382, 383, 385, 390, 391, 392, 393, 395 and 396, and appendices, as amended, and may adopt amendments to those federal regulations. The following provisions apply to the adoption of federal regulations under this section.

A. Except as provided in paragraph A-1, the Maine Administrative Procedure Act does not apply to the adoption by reference of federal regulations under this subsection.

A-1. A rule adopted by the bureau under this subsection is a major substantive rule as defined in Title 5, chapter 375, subchapter 2-A if it:

(1) Adopts by reference any provision of the federal regulations described under this subsection that would result in a modification of the substance or effect of any amendment to the federal regulations adopted by the bureau and in effect on the effective date of this paragraph; or

(2) Adopts an amendment to any federal regulation described under this subsection.

A-2. The bureau may not adopt any rule that exempts motor carriers, vehicles or drivers transporting hazardous materials of a type or quantity that requires the vehicle to be marked or placarded in accordance with 49 Code of Federal Regulations, Part 172 from any federal regulation adopted and incorporated by reference into any rule adopted by the bureau pursuant to this subsection. Notwithstanding paragraph A-1, the Maine Administrative Procedure Act does not apply to the amendment of any rule consistent with the prohibition set forth in this paragraph.