

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

Augusta, Maine
2011

or children's homes that are licensed under section 7801.

~~Cottages shall~~ Rooms and cottages are not be deemed or considered lodging places and subject to a license where not more than 3 rooms and cottages are let.

Stores or other establishments, where bottled soft drinks or ice cream is sold for consumption from the original containers only, and where no tables, chairs, glasses or other utensils are provided in connection with such sale, ~~shall are not be~~ considered eating places ~~within the meaning of this section~~ establishments. At such establishments, straws or spoons may be provided to aid in the consumption of such bottled soft drinks or ice cream, ~~provided as long as they shall be~~ are supplied in original individual single service sterile packages.

Nonprofit organizations including, but not limited to, 4-H Clubs, scouts and ~~agricultural~~ agricultural societies ~~shall be~~ are exempt from department rules and regulations relating to dispensing foods and nonalcoholic beverages at not more than 12 public events or meals within one calendar year.

See title page for effective date.

CHAPTER 194

S.P. 148 - L.D. 515

An Act To Review State Water Quality Standards

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

Sec. 1. 38 MRSA §420, sub-§1-B, ¶F is enacted to read:

F. The department may require mercury testing once per year for facilities that maintain at least 5 years of mercury testing data.

Sec. 2. 38 MRSA §420, sub-§2, ¶J is enacted to read:

J. Notwithstanding any other provision of law to the contrary, the department shall use a one in 10,000 risk level when calculating ambient water quality criteria for inorganic arsenic.

Sec. 3. 38 MRSA §464, sub-§4, ¶¶J and K are enacted to read:

J. For the purpose of calculating waste discharge license limits for toxic substances, the department may use any unallocated assimilative capacity that the department has set aside for future growth if the use of that unallocated assimilative capacity would avoid an exceedance of applicable ambient water quality criteria or a determination by the

department of a reasonable potential to exceed applicable ambient water quality criteria.

K. Unless otherwise required by an applicable effluent limitation guideline adopted by the department, any limitations for metals in a waste discharge license may be expressed only as mass-based limits.

See title page for effective date.

CHAPTER 195

S.P. 407 - L.D. 1310

An Act To Amend the Laws Governing the Address Confidentiality Program

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

Sec. 1. 5 MRSA §90-B, sub-§1, ¶A, as enacted by PL 2001, c. 539, §1, is amended to read:

A. "Address" means a residential street, school or work address of an individual, including any geographically specific description or coordinate that identifies a residential address, as specified on the individual's application to be a program participant under this chapter section.

Sec. 2. 5 MRSA §90-B, sub-§7, as enacted by PL 2001, c. 539, §1, is amended to read:

7. Confidentiality. The program participant's application and supporting materials and the program's state e-mail account are not a public record and must be kept confidential by the secretary.

See title page for effective date.

CHAPTER 196

H.P. 932 - L.D. 1241

An Act To Exempt Employers Subject to Federally Mandated Drug and Alcohol Programs from Maine Substance Abuse Program Laws

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

Sec. 1. 26 MRSA §681, sub-§8, as amended by PL 1995, c. 324, §2, is further amended to read:

8. Nuclear power plants; federal law. The following limitations apply to the application of this subchapter.

A. This subchapter does not apply to nuclear electrical generating facilities and their employees, including independent contractors and employees of independent contractors who are working at nuclear electrical generating facilities.

~~B. This subchapter, except for section 685, subsection 2 and section 689, subsections 1 and 4, does not apply to employees subject to substance abuse testing under any federal law or regulation or under rules adopted by the Department of Public Safety that incorporate any federal laws or regulations related to substance abuse testing for motor carriers. This exception does not prevent the negotiation of collective bargaining agreements that provide greater protection to employees as long as the agreements are consistent with federal law.~~

~~(1) For the purposes of applying section 685, subsection 2 to an employee under this paragraph, the employee is deemed to have previously worked in an employment position subject to random or arbitrary testing under an employer's written policy.~~

C. This subchapter does not apply to any employer subject to a federally mandated drug and alcohol testing program, including, but not limited to, testing mandated by the federal Omnibus Transportation Employee Testing Act of 1991, Public Law 102-143, Title V, and its employees, including independent contractors and employees of independent contractors who are working for or at the facilities of an employer who is subject to such a federally mandated drug and alcohol testing program.

Sec. 2. Report. The Department of Labor, Bureau of Labor Standards shall submit a report that includes its findings and recommendations by January 15, 2012 to the Joint Standing Committee on Labor, Commerce, Research and Economic Development regarding the simplification and streamlining of the Maine Revised Statutes, Title 26, chapter 7, subchapter 3-A. The report and recommendations must include, among other topics, consideration of the following:

1. Initiating substance abuse testing when an employee causes a work-related accident that results in property damage, personal injury or loss of life or a citation or summons being issued to the employee by a law enforcement officer;
2. Submitting supervisory personnel to substance abuse testing on a random or arbitrary basis when an employer requires, requests or suggests that other employees be tested; and
3. Eliminating the requirement that an employer provide an opportunity and pay for an employee to participate in an assistance program when the em-

ployee has received a confirmed positive result on a substance abuse test.

The joint standing committee is authorized to introduce a bill related to the bureau's report to the Second Regular Session of the 125th Legislature.

See title page for effective date.

CHAPTER 197

H.P. 667 - L.D. 908

An Act Regarding Gas Utilities under the Safety Jurisdiction of the Public Utilities Commission

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

Whereas, it is crucial to immediately establish a new framework for safety regulation of certain gas utilities that is not overly burdensome but adequately protects public safety; 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. 35-A MRSA §4702, as repealed and replaced by PL 1999, c. 718, §15, is repealed.

Sec. 2. 35-A MRSA §4702-A is enacted to read:

§4702-A. Safety jurisdiction only over certain gas utilities

The commission may regulate certain gas utilities in accordance with this section as an agent of the United States Department of Transportation Pipeline and Hazardous Materials Safety Administration pursuant to 49 United States Code, Section 60105.

1. Jurisdiction. A gas utility owning, controlling, operating or managing a central tank system or a liquefied petroleum gas system is subject to the jurisdiction of the commission solely with respect to safety if that system serves:

A. Ten or more customers;

B. More than one customer and any portion of the central tank system or liquefied petroleum gas system is located in a public place; or