

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

B. When a private transfer fee obligation is not disclosed as required by paragraph A and a buyer subsequently discovers the existence of the private transfer fee obligation after title to the real property has passed to the buyer, the buyer has the right to recover against the seller all damages resulting from the failure to disclose the private transfer fee obligation, including, but not limited to, the amount of any private transfer fee paid by the buyer and the difference between the market value of the real property subject to the private transfer fee obligation and the market value of the real property if the real property were not subject to the private transfer fee obligation. The buyer is also entitled to recover all attorney's fees, expenses and costs incurred in seeking the remedies under this subsection.

C. Any provision in a contract for the sale of real property that purports to waive the rights of a buyer under this subsection is void.

See title page for effective date.

CHAPTER 201

H.P. 1013 - L.D. 1374

An Act To Protect Seniors and Incapacitated or Dependent Adults from Abuse

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

Sec. 1. 19-A MRSA §4005, sub-§1, as amended by PL 2007, c. 340, §4, is further amended to read:

1. Filing. An adult who has been abused by a family or household member or a dating partner may seek relief by filing a complaint alleging that abuse.

When a minor child in the care or custody of a family or household member or a dating partner has been abused by a family or household member or a dating partner, a person responsible for the child, as defined in Title 22, section 4002, subsection 9, or a representative of the department may seek relief by filing a petition alleging that abuse.

An adult who has been a victim of conduct defined as stalking in Title 17-A, section 210-A or described as sexual assault in Title 17-A, chapter 11, whether or not the conduct was perpetrated by a family or household member or dating partner, may seek relief by filing a complaint alleging that conduct without regard to whether criminal prosecution has occurred. When a minor has been a victim of such conduct, the minor's parent, other person responsible for the child or a representative of the department may seek relief by filing a petition alleging that conduct.

When an adult who is 60 years of age or older or a dependent adult, as defined in Title 22, section 3472, subsection 6, or an incapacitated adult, as defined in Title 22, section 3472, subsection 10, has been the victim of abuse as defined in section 4002, subsection 1 or Title 22, section 3472, subsection 1 by an extended family member or an unpaid care provider, the adult victim, the adult victim's legal guardian or a representative of the department may seek relief by filing a complaint alleging the abusive conduct. For the purposes of this subsection, "extended family member" includes, but is not limited to: a person who is related to the victim by blood, marriage or adoption, whether or not the person resides or has ever resided with the victim. "Unpaid care provider" includes, but is not limited to, a caretaker who voluntarily provides full, intermittent or occasional personal care to the adult victim in the victim's home similar to the way a family member would provide personal care.

See title page for effective date.

CHAPTER 202

H.P. 406 - L.D. 523

An Act To Modify the Regulation of Fireworks

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 a movement to bring historical artillery pieces to Maine to promote a unique cottage industry for Maine craftspeople that will meet the global demand for antique cannons; and

Whereas, this cottage industry employs workers in shipbuilding trades and creates jobs that help strengthen Maine's economy; and

Whereas, Maine has a proud and vibrant maritime history that includes the use of signal cannons at sunset, in celebration of our country and during times of nautical celebration; and

Whereas, ceremonial uses of signal, antique and replica cannons for public entertainment, yachting events and historical reenactment promotes tourism; and

Whereas, to promote tourism, this legislation must go into effect before tourism season; 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. 8 MRSA §221-A, sub-§4, as enacted by PL 1999, c. 671, §2, is amended to read:

4. Fireworks. "Fireworks" means any:

- A. Combustible or explosive composition or substance;
- B. Combination of explosive compositions or substances;
- C. Other article that was prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration or detonation, including blank cartridges or toy cannons in which explosives are used, the type of balloon that requires fire underneath to propel it, firecrackers, torpedoes, skyrockets, roman candles, bombs, rockets, wheels, colored fires, fountains, mines, serpents and other fireworks of like construction;
- D. Fireworks containing any explosive or flammable compound; or
- E. Tablets or other device containing any explosive substance or flammable compound.

The term "fireworks" does not include toy pistols, toy canes, toy guns or other devices in which paper caps or plastic caps containing 25/100 grains or less of explosive compound are used if they are constructed so that the hand can not come in contact with the cap when in place for the explosion, toy pistol paper caps or plastic caps that contain less than 20/100 grains of explosive mixture ~~or~~ sparklers that do not contain magnesium chlorates or perchlorates or signal, antique or replica cannons if no projectile is fired.

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

Effective June 2, 2011.

CHAPTER 203

H.P. 1041 - L.D. 1415

**An Act To Update the
Bankruptcy Laws To
Incorporate Federal Changes
Relating to Exemptions**

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

Whereas, the provisions in the United States Code pertaining to exemptions in bankruptcy proceedings were amended in 2005; and

Whereas, Maine inadvertently did not update its bankruptcy laws to conform with the amended federal law; and

Whereas, it is imperative for this legislation to take effect immediately so that Maine's laws may be updated to remove potential uncertainty for Maine's citizens and judiciary; 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. 14 MRSA §4426, as amended by PL 1989, c. 286, §2, is further amended to read:

§4426. Exemptions in bankruptcy proceedings

Notwithstanding anything to the contrary in the United States Code, Title 11, Section 522(b), a debtor may exempt from property of the debtor's estate under United States Code, Title 11, only that property exempt under the United States Code, Title 11, Section ~~522(b)(2)(A)~~ 522(b)(3)(A) and (B), except that any debtor eligible for a residence exemption under section 4422, subsection 1, paragraph B, may exempt the amount allowed in that paragraph.

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

Effective June 2, 2011.

CHAPTER 204

H.P. 935 - L.D. 1276

**An Act To Increase Efficiency
of the State Court Library
Committee**

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

Sec. 1. 4 MRSA §191, as amended by PL 2001, c. 250, §1, is further amended to read:

§191. State Court Library Committee

The State Court Library Committee, as established in Title 5, section 12004-G, subsection 23, consists of 9 voting members, 3 of whom must be members of the public, 2 of whom must be members of the judiciary and 4 of whom must be attorneys. Each attorney appointed to the committee must be actively engaged in the practice of law and have an established place of business in a county in which a law library