

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

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

established pursuant to section 193 is located. One of the 4 attorney members must be chosen from a county having a census population of from 45,000 to 120,000 and one of the 4 must be chosen from a county having a census population of less than 45,000 persons. The members are appointed by and serve at the pleasure of the Chief Justice of the Supreme Judicial Court. The Chief Justice shall designate the chair. The State Law Librarian, the University of Maine School of Law Librarian and the State Court Administrator are ex officio nonvoting members. A quorum consists of 5 of the voting members. The committee shall meet ~~at least 4 times each year~~ as needed at the call of the chair. Secretarial assistance must be provided by the Administrative Office of the Courts.

Sec. 2. 4 MRSA §193, last ¶, as enacted by PL 2001, c. 250, §2, is amended to read:

All other law libraries must ~~receive equal resources and services regardless of location~~ and have access to the regional court law library centers for the resources not available locally.

See title page for effective date.

CHAPTER 205

H.P. 1020 - L.D. 1387

**An Act To Restore Exemptions
in the Natural Resources
Protection Act**

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

Sec. 1. 38 MRSA §480-Q, sub-§2, as amended by PL 2009, c. 460, §1, is further amended to read:

2. Maintenance and repair. Maintenance and repair of a structure, other than a crossing, in, on, over or adjacent to a protected natural resource ~~and maintenance and repair of a private crossing of a river, stream or brook~~ if:

- A. Erosion control measures are taken to prevent sedimentation of the water;
- ~~B. Crossings do not block passage for fish or other aquatic organisms in water courses. Culverts and installation techniques utilized must achieve natural stream flow. This paragraph applies only to water courses containing fish;~~
- C. There is no additional intrusion into the protected natural resource; and
- D. The dimensions of the repaired structure do not exceed the dimensions of the structure as it existed 24 months prior to the repair, or if the structure has been officially included in or is con-

sidered by the Maine Historical Preservation Commission eligible for listing in the National Register of Historic Places, the dimensions of the repaired structure do not exceed the dimensions of the historic structure.

This subsection does not apply to: the repair of more than 50% of a structure located in a coastal sand dune system; the repair of more than 50% of a dam, unless that repair has been approved by a representative of the United States Natural Resources Conservation Service; or the repair of more than 50% of any other structure, unless the municipality in which the proposed activity is located requires a permit for the activity through an ordinance adopted pursuant to the mandatory shoreland zoning laws and the application for a permit is approved by the municipality;

Sec. 2. 38 MRSA §480-Q, sub-§2-A, as amended by PL 2009, c. 460, §2, is repealed.

Sec. 3. 38 MRSA §480-Q, sub-§2-D is enacted to read:

2-D. Existing crossings. A permit is not required for the repair and maintenance of an existing crossing or for the replacement of an existing crossing, including ancillary crossing installation activities such as excavation and filling, in any protected natural resource area, as long as:

A. Erosion control measures are taken to prevent sedimentation of the water;

B. The crossing does not block passage for fish in the protected natural resource area; and

C. For replacement crossings of a river, stream or brook:

(1) The replacement crossing is designed, installed and maintained to match the natural stream grade to avoid drops or perching; and

(2) As site conditions allow, crossing structures that are not open bottomed are embedded in the stream bottom a minimum of one foot or at least 25% of the culvert or other structure's diameter, whichever is greater, except that a crossing structure does not have to be embedded more than 2 feet.

For purposes of this subsection, "repair and maintenance" includes but is not limited to the riprapping of side slopes or culvert ends; removing debris and blockages within the crossing structure and at its inlet and outlet; and installing or replacing culvert ends if less than 50% of the crossing structure is being replaced.

Sec. 4. Statewide aquatic restoration plan for stream crossings. The Department of Environmental Protection, the Department of Inland Fisheries and Wildlife, the Department of Marine Resources and the Department of Transportation, in con-