

# 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.**

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**Augusta, Maine**  
**2011**

**2-A. Meetings.** The Fund Insurance Review Board shall meet 6 times per year unless the review board votes not to hold a meeting. Action may not be taken unless a quorum is present. A quorum is 6 members.

**2-B. Chair.** The review board shall annually choose a member to serve as chair of the review board.

**2-C. Appeals to review board.** An applicant aggrieved by an insurance claims-related decision under section 568-A, including but not limited to decisions on eligibility for coverage, eligibility of costs and waiver and amount of deductible, may appeal that decision to the Fund Insurance Review Board. The appeals panel is composed of the public members appointed under subsection 1, paragraph B. The appeals panel shall hear and decide the appeal. Except as provided in review board rules, the appeal must be filed within 30 days after the applicant receives the decision made under section 568-A. The appeals panel must hear an appeal at its next meeting following receipt of the appeal unless the appeal petition is received less than 30 days before the meeting or unless the appeals panel and the aggrieved applicant agree to meet at a different time. If the appeals panel overturns the decision made under section 568-A, reasonable costs, including reasonable attorney's fees, incurred by the aggrieved applicant in pursuing the appeal to the review board must be paid from the fund. Reasonable attorney's fees include only those fees incurred from the time of an insurance claims-related decision forward. Decisions of the appeals panel are subject to judicial review pursuant to Title 5, chapter 375, subchapter 7.

**2-D. Report; adequacy of fund.** On or before February 15th of each year, the Fund Insurance Review Board, with the cooperation of the commissioner, shall report to the joint standing committee of the Legislature having jurisdiction over natural resources matters on the department's and the review board's experience administering the Ground Water Oil Clean-up Fund, clean-up activities and 3rd-party damage claims. The report must include an assessment of the adequacy of the fund to cover anticipated expenses and any recommendations for statutory change. The report also must include an assessment of the adequacy of the Underground Oil Storage Replacement Fund and the Waste Oil Clean-up Fund to cover anticipated expenses and any recommendations for statutory change. To carry out its responsibility under this subsection, the review board may order an independent audit of disbursements from the Ground Water Oil Clean-up Fund, the Underground Oil Storage Replacement Fund and the Waste Oil Clean-up Fund.

**3. Repeal date.** This section is repealed December 31, 2015.

**Sec. 4. 38 MRSA §570-H,** as amended by PL 2007, c. 292, §37, is repealed.

**Sec. 5. Transition provision.** Members of the Fund Insurance Review Board created under the Maine Revised Statutes, Title 38, section 568-B, subsection 1 serving on the effective date of this Act may continue to serve on the board for the remainder of their terms. When the term of a member expires, that member's successor is appointed in accordance with this Act. At no time may fewer than 4 public members be appointed.

See title page for effective date.

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## CHAPTER 244

### H.P. 837 - L.D. 1125

#### An Act To Implement the Recommendations of the Joint Standing Committee on State and Local Government To Make Necessary Changes to the Maine Administrative Procedure Act

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

**Sec. 1. 5 MRSA §8054, sub-§2,** as amended by PL 2007, c. 581, §4, is further amended to read:

**2. Agency findings.** Any emergency rule must include, with specificity, the agency's findings with respect to the existence of an emergency, including any modifications of procedures, and such findings are subject to judicial review under section 8058. Such findings must be included in the basis statement for any adopted emergency rule in a section labeled "findings of emergency." No emergency may be found to exist when the primary cause of the emergency is delay caused by the agency involved.

**Sec. 2. 5 MRSA §8054, sub-§4** is enacted to read:

**4. Fiscal impact; curtailment orders.** An emergency rule adopted in whole or in part to satisfy the requirements of a temporary curtailment order by the Governor under section 1668 must include a specification of the dollar amount of curtailed funds attributable to each change adopted in the rule.

**Sec. 3. 5 MRSA §8071-A** is enacted to read:

#### **§8071-A. Definitions**

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

**1. Legislative review session.** "Legislative review session" means the regular session of the Legislature convening after the beginning of the legislative rule acceptance period.

**2. Legislative rule acceptance period.** "Legislative rule acceptance period" means the period beginning on the July 1st preceding the convening of a regular session of the Legislature and ending at 5:00 p.m. on the 2nd Friday in January after the convening of that regular session of the Legislature.

**Sec. 4. 5 MRSA §8072, sub-§3**, as amended by PL 1995, c. 574, §2, is further amended to read:

**3. Legislative review; legislative instrument prepared.** ~~Upon receipt of~~ If the required copies of the provisionally adopted rule and related information, are received by the Executive Director of the Legislative Council during the legislative rule acceptance period, the Executive Director shall immediately forward the materials to notify the Revisor of Statutes, who shall draft an appropriate legislative instrument to allow for legislative review and action upon the provisionally adopted rule during the legislative review session. The Secretary of the Senate and the Clerk of the House ~~for placement~~ shall place the legislative instrument on the Advance Journal and Calendar ~~and distribution to a committee as provided in this subsection.~~ The secretary and clerk shall jointly suggest reference of the legislative instrument to a joint standing committee of the Legislature that has jurisdiction over the subject matter of the proposed rule and shall provide for publication of that suggestion in the Advance Journal and Calendar first in the Senate and then in the House of Representatives no later than the next legislative day following receipt of the legislative instrument. After floor action on referral of the rule legislative instrument to committee is completed, the Secretary of the Senate and the Clerk of the House of Representatives shall send copies of the rule and related information to each member of that committee. Each rule submitted for legislative review during the legislative rule acceptance period must be reviewed by the appropriate joint standing committee at a meeting called for that purpose in accordance with legislative rules. A committee may review more than one rule and the rules of more than one agency at a meeting. The committee shall notify the affected agency of the meeting on its proposed rules.

**Sec. 5. 5 MRSA §8072, sub-§5**, as enacted by PL 1995, c. 463, §2, is amended to read:

**5. Committee recommendation.** After reviewing ~~the~~ a rule referred to it by the Legislature, the committee shall recommend:

- A. That the Legislature authorize the final adoption of the rule;
- B. That the Legislature authorize the final adoption of a specified part of the rule;
- C. That the Legislature authorize the final adoption of the rule with certain specified amendments; or

D. That the final adoption of the rule be disapproved by the Legislature.

The committee shall notify the agency proposing the rule of its recommendation. When the committee makes a recommendation under paragraph B, C or D, the notice must contain a statement of the reasons for that recommendation.

**Sec. 6. 5 MRSA §8072, sub-§6**, as enacted by PL 1995, c. 463, §2, is repealed.

**Sec. 7. 5 MRSA §8072, sub-§7**, as amended by PL 2005, c. 586, §1, is further amended to read:

**7. Report to the Legislature.** ~~No~~ Unless otherwise provided by the Legislature, each joint standing committee of the Legislature that receives a rule submitted during the legislative rule acceptance period shall report to the Legislature its recommendations concerning final adoption of the rule no later than 30 days before statutory adjournment of the Legislature legislative review session as provided in Title 3, section 2 each joint standing committee of the Legislature shall submit to the Secretary of the Senate and the Clerk of the House of Representatives the committee's report on agency rules the committee has reviewed as provided in this section. The report must include a copy of the rule or rules reviewed, the committee's recommendation concerning final adoption of the rule or rules, a statement of the reasons for a recommendation to withdraw or modify the rule or rules and draft legislation for introduction in that session that is necessary to implement the committee's recommendation. A committee may decline to include in its report recommendations covering any rules submitted to it later than 5:00 p.m. on the 2nd Friday in January of the year in which the rules are to be considered by the committee. If, before adjournment of the session at which a rule is reviewed, the Legislature fails to act on all or part of any rule submitted to it for review in accordance with this section, an agency may proceed with final adoption and implementation of the rule or part of the rule that was not acted on.

**Sec. 8. 5 MRSA §8072, sub-§8**, as enacted by PL 1995, c. 463, §2, is amended to read:

**8. Final adoption; effective date.** Unless otherwise provided by law, final adoption of a rule or part of a rule by an agency must occur within 60 days of the effective date of the legislation approving that rule or part of that rule or of the adjournment of the session at which that rule is reviewed if no legislation is enacted in which the Legislature failed to act on the rule or part of the rule as specified in subsection 11. Finally adopted rules must be filed with the Secretary of State as provided in section 8056, subsection 1, paragraph B and notice must be published as provided in section 8056, subsection 1, paragraph D. An agency rule authorized by the Legislature becomes Except as otherwise specified by law, the rules become effective

30 days after filing with the Secretary of State or at a later date specified by the agency.

Sec. 9. 5 MRSA §8072, sub-§10 is enacted to read:

10. Rules submitted outside legislative rule acceptance period. The Legislature may act or decline to act upon any rules submitted outside the legislative rule acceptance period.

Sec. 10. 5 MRSA §8072, sub-§11 is enacted to read:

11. Prohibited final adoption. A provisionally adopted rule or part of a provisionally adopted rule may not be finally adopted by an agency unless:

A. Legislation authorizing adoption of the rule or part of the rule is enacted into law; or

B. The agency submits the rule or part of the rule in accordance with this section during the legislative rule acceptance period and the Legislature fails to act on the rule or part of the rule.

For purposes of this subsection, the Legislature fails to act on a rule or part of a rule if the Legislature fails to enact legislation authorizing adoption or disapproving adoption of the rule or part of the rule during the legislative review session or during any subsequent session to which a legislative instrument expressly providing for approval or disapproval of the rule or part of the rule is carried over. Nothing in this section requires the Legislature to use the legislative instrument produced pursuant to subsection 3 to approve or disapprove of a rule or part of a rule.

See title page for effective date.

**CHAPTER 245**

**S.P. 447 - L.D. 1460**

**An Act Concerning the Recording of Plans for Subdivisions**

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

Sec. 1. 30-A MRSA §4408 is enacted to read:  
**§4408. Recording upon approval**

Upon approval of a subdivision plan, plat or document under section 4403, subsection 5, a municipality may not require less than 90 days for the subdivision plan, plat or document to be recorded in the registry of deeds.

See title page for effective date.

**CHAPTER 246**

**H.P. 1123 - L.D. 1529**

**An Act Honoring Gold Star Families through Special Registration Plates**

**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 important to recognize that the families who have borne the solemn burden of losing a loved one in the cause of freedom rightfully hold a special place among us; and

**Whereas,** the gold star family registration plates established in this legislation will help to show the gratitude and sympathy of the people of the State of Maine as the families continue to live their lives in quiet dignity; and

**Whereas,** recognizing the service of men and women in defense of their nation is long overdue; 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. 29-A MRSA §524-B is enacted to read:

**§524-B. Gold star family registration plates**

1. Eligibility. Notwithstanding the requirements in section 468-A, the Secretary of State, upon application and upon evidence of payment of the excise tax required by Title 36, section 1482 and the annual motor vehicle registration fee required by section 501, shall issue a registration certificate and a set of gold star family registration plates, to be used in lieu of regular registration plates, to:

A. A person who is eligible to receive a gold star lapel button under 10 United States Code, Section 1126 (2010); and

B. A grandparent of a member of the United States Armed Forces, if that member dies after March 28, 1973 as a result of:

- (1) An international terrorist attack against the United States or a foreign nation friendly to the United States, recognized as such an attack by the United States Secretary of Defense; or