

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

Augusta, Maine
2011

~~9. Rules. Rules With the exception of minor clerical corrections and technical clarifications that do not alter the substance of requirements applying to projects, rules adopted pursuant to this section after January 1, 2010 and before January 1, 2012 are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A. Any rules adopted by the department pursuant to this section on or after January 1, 2012 are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A, except that those rules that qualify as state mandates pursuant to the Constitution of Maine, Article IX, Section 21 are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.~~

Sec. 3. 38 MRSA §484, sub-§3, ¶H is enacted to read:

H. In making a determination under this subsection regarding a development's effects on significant vernal pool habitat, the department shall apply the same standards applied to significant vernal pool habitat under rules adopted pursuant to the Natural Resources Protection Act. The department may not require a buffer strip adjacent to significant vernal pool habitat unless the buffer strip is established for another protected natural resource as defined in section 480-B, subsection 8.

Sec. 4. 38 MRSA §489-E, as enacted by PL 2009, c. 602, §3, is repealed and the following enacted in its place:

§489-E. Rulemaking

Rules adopted by the department pursuant to this article are routine technical rules except that rules adopted by the department after January 1, 2010 pursuant to section 484, subsections 1, 3, 4, 4-A, 5, 6 and 7 are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 5. High and moderate value waterfowl and wading bird habitat; rulemaking. The Department of Environmental Protection shall amend its rules concerning permit by rule under the Natural Resources Protection Act to allow an activity occurring in, on or over high and moderate value waterfowl and wading bird habitat to be eligible for permit by rule. Rules adopted pursuant to this section are major substantive rules as defined in the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A.

Sec. 6. High and moderate value waterfowl and wading bird habitat. The Joint Standing Committee on Environment and Natural Resources may report out a bill relating to high and moderate value waterfowl and wading bird habitat to the Second Regular Session of the 125th Legislature.

See title page for effective date.

**CHAPTER 360
S.P. 333 - L.D. 1100**

**An Act To Increase
Transparency in Funding of
Campaign Advertisements**

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

Sec. 1. 21-A MRSA §1014, sub-§2, as amended by PL 2003, c. 510, Pt. F, §1 and affected by c. 599, §15, is further amended to read:

2. Not authorized by candidate. If the communication described in subsection 1 is not authorized by a candidate, a candidate's authorized political committee or their agents, the communication must clearly and conspicuously state that the communication is not authorized by any candidate and state the name and address of the person who made or financed the expenditure for the communication. If the communication is in written form, the communication must contain at the bottom of the communication in print that is no smaller in size than ~~40-point~~ **12-point** bold print, Times New Roman font, the words "NOT PAID FOR OR AUTHORIZED BY ANY CANDIDATE."

See title page for effective date.

**CHAPTER 361
S.P. 389 - L.D. 1268**

**An Act To Allow the
Repayment of Improperly
Awarded Workers'
Compensation Benefits**

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

Sec. 1. 39-A MRSA §324, sub-§1, as amended by PL 2009, c. 129, §9 and affected by §13, is further amended to read:

1. Order or decision. The employer or insurance carrier shall make compensation payments within 10 days after the receipt of notice of an approved agreement for payment of compensation or within 10 days after any order or decision of the board awarding compensation. If the board enters a decision awarding compensation, and a motion for findings of fact and conclusions of law is filed with the hearing officer or an appeal is filed with the Law Court pursuant to section 322, payments may not be suspended while the motion for findings of fact and conclusions of law or appeal is pending. The employer or insurer may recover from an employee payments made pending a motion for findings of fact and conclusions of law or appeal to the Law Court if and to the extent that the

hearing officer or the Law Court has decided that the employee was not entitled to the compensation paid. The board has full jurisdiction to determine the amount of overpayment, if any, and the amount and schedule of repayment, if any. The board, in determining whether or not repayment should be made and the extent and schedule of repayment, shall consider the financial situation of the employee and the employee's family and may not order repayment that would work hardship or injustice. The board shall notify the Commissioner of Health and Human Services within 10 days after the receipt of notice of an approved agreement for payment of compensation or within 10 days after any order or decision of the board awarding compensation identifying the employee who is to receive the compensation. For purposes of this subsection, "employer or insurance carrier" includes the Maine Insurance Guaranty Association under Title 24-A, chapter 57, subchapter 3.

See title page for effective date.

CHAPTER 362

H.P. 765 - L.D. 1031

An Act To Amend the Laws Governing Significant Wildlife Habitat

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

Sec. 1. 38 MRSA §480-BB, sub-§2, as enacted by PL 2005, c. 116, §5, is repealed and the following enacted in its place:

2. Certain landowners not subject to regulation. Provide the following exemptions to regulation.

A. A landowner proposing to cause an impact on the buffer area defined for a significant vernal pool habitat is not subject to regulation pursuant to the rule if the significant vernal pool habitat depression is not on property owned or controlled by that landowner.

B. If a vernal pool depression is bisected by a property boundary and a landowner proposing to cause an impact does not have permission to enter the abutting property, only that portion of the vernal pool depression located on property owned or controlled by that landowner may be considered in determining whether the vernal pool is significant. A written department determination that a vernal pool is not significant pursuant to this paragraph remains valid regardless of timeframe;

Sec. 2. 38 MRSA §480-BB, sub-§4, as enacted by PL 2005, c. 116, §5, is amended to read:

4. Department of Environmental Protection may not assess fine in certain cases. Provide that the Department of Environmental Protection may not assess a fine against a landowner who acted in accordance with a written field determination if the fine would be based solely on information in the written field determination; ~~and~~

Sec. 3. 38 MRSA §480-BB, sub-§5, as enacted by PL 2005, c. 116, §5, is amended to read:

5. Process for voluntary identification. Include a process for a landowner to voluntarily identify the landowner's land as a significant vernal pool habitat and to provide the Department of Inland Fisheries and Wildlife the authority to map the significant vernal pool habitat; ~~and~~

Sec. 4. 38 MRSA §480-BB, sub-§6 is enacted to read:

6. Artificial vernal pool. Explicitly provide that an artificial vernal pool is exempt from regulation as long as the vernal pool was not created in connection with a compensation project pursuant to section 480-Z.

Sec. 5. PL 2007, c. 533, §3, sub-§1, ¶A is amended to read:

A. When a vernal pool habitat has not previously been determined to be significant and the Department of Environmental Protection or the Department of Inland Fisheries and Wildlife makes a determination concerning whether the vernal pool habitat is significant, either department may determine that the vernal pool habitat is not significant if:

(1) The vernal pool is located in southern Maine and dries out after ~~spring~~ filling and before July 15th ~~based on winter, spring and early summer precipitation;~~ or

(2) The vernal pool is located in northern Maine and dries out after ~~spring~~ filling and before July 31st ~~based on winter, spring and early summer precipitation.~~

Sec. 6. Routine technical rules. Notwithstanding the Maine Revised Statutes, Title 38, section 480-BB, rules adopted pursuant to this Act are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

See title page for effective date.
