

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE

FIRST SPECIAL SESSION
September 27, 2011

SECOND REGULAR SESSION
January 4, 2012 to May 31, 2012

THE EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
LAWS IS
SEPTEMBER 28, 2011

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
AUGUST 30, 2012

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

Augusta, Maine
2012

A. A municipal or regional association landfill that has accepted 12,000 tons or more of special waste, other than municipal solid waste ash, asbestos and oil-contaminated soil, gravel, brick, concrete and other aggregate, in calendar year 1998 shall continue to pay \$2 per ton to the department for those categories of waste accepted in that calendar year;

B. A municipal or regional association landfill shall continue to pay \$2 per ton to the department on all categories of special waste other than municipal solid waste ash, asbestos and oil-contaminated soil, gravel, brick, concrete and other aggregate that was generated by the municipality or regional association and accepted for disposal in its landfill in calendar year 1998; and

C. A municipal or regional association landfill that has accepted 550 tons or more of oil-contaminated soil, gravel, brick, concrete and other aggregate in calendar year 1998 shall pay \$5 per ton for that category of waste; and

D. A fee may not be imposed under this section on construction and demolition debris or residue from the processing of construction and demolition debris disposed of at a municipal or regional association landfill that is less than 6 acres in size and accepts only inert fill, construction and demolition debris, debris from land clearing and wood wastes.

See title page for effective date.

CHAPTER 545

H.P. 1260 - L.D. 1708

An Act To Prevent the Theft and Illegal Sale of Copper and Other Metals

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 theft of copper and other metals and their subsequent sale as scrap metal is a growing problem in Maine and the nation; and

Whereas, the theft of metal, such as catalytic converters, manhole covers and traffic signs, places members of the public in jeopardy; and

Whereas, without further restrictions on the sale of scrap metal, the theft of scrap metal will continue to grow, further endangering lives and the well-being of the public; 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. 30-A MRSA §3771, sub-§5, as enacted by PL 2007, c. 549, §1, is amended to read:

5. Scrap metal processor. "Scrap metal processor" means a person that, ~~from a fixed location,~~ purchases scrap metal for resale or recycling.

Sec. 2. 30-A MRSA §3772, sub-§1, as enacted by PL 2007, c. 549, §1, is amended to read:

1. Maintenance of records requirement. Except as provided in subsection 2, a scrap metal processor doing business in the State shall maintain an accurate and legible record of each scrap metal purchase transaction ~~that exceeds 100 pounds or \$50. A scrap metal processor shall provide payment to a seller only in the form of a check, and shall maintain a record of the payee, check number and name of the financial institution upon which the check is drawn.~~

Sec. 3. 30-A MRSA §3772, sub-§1-A is enacted to read:

1-A. Form and method of payment. A scrap metal processor shall provide payment to a seller only in the form of a check and shall maintain a record of the payee, check number and name of the financial institution upon which the check is drawn.

Sec. 4. 30-A MRSA §3772, sub-§3, ¶A, as enacted by PL 2007, c. 549, §1, is amended to read:

A. The name, address and gender of the seller. The scrap metal processor shall require the seller to provide proof of identification with a driver's license, military identification card, passport or other form of government-issued photo identification. The scrap metal processor shall photocopy the form of photo identification presented and record the distinct identifying number of that photo identification. If the proof of identification contains a photograph that is faded, out of date or otherwise indiscernible, the scrap metal processor shall photograph the seller. A scrap metal processor shall keep these proof of identification records in a secure, nonpublic location and, unless otherwise permitted by law, may not publish, reproduce, distribute or disclose these records for any other purpose than that described in section 3773, subsection 2. Information required under this paragraph may be maintained for repeat sellers in a relational database that allows the scrap metal processor to record the information one time and relate future purchase records to that information;

Sec. 5. 30-A MRSA §3772, sub-§3, ¶F, as enacted by PL 2007, c. 549, §1, is amended to read:

F. The consideration paid; ~~and~~

Sec. 6. 30-A MRSA §3772, sub-§3, ¶G, as enacted by PL 2007, c. 549, §1, is amended to read:

G. A signed statement that the seller is the owner or is otherwise authorized to sell the scrap metal on a form provided by the buyer that conspicuously bears the warning that making a false statement is a Class D crime under Title 17-A, section 453; and

Sec. 7. 30-A MRSA §3772, sub-§3, ¶H is enacted to read:

H. The make, model and number and state of issue of the license plate of the vehicle being used to deliver the scrap metal.

Sec. 8. 30-A MRSA §3775-A is enacted to read:

§3775-A. Holding period; inspection

1. Seven-day hold. If a law enforcement officer has a reasonable suspicion that scrap metal being held by a scrap metal processor is stolen or related to criminal activity, the officer may issue a written order to the scrap metal processor, specifying the scrap metal that must be retained and the length of time, which may not exceed 7 days, that the scrap metal processor must retain the identified scrap metal.

2. Additional 7-day hold. Prior to the expiration of the time period of the hold pursuant to subsection 1, a law enforcement officer may impose an additional hold period, which may not exceed 7 days. The law enforcement officer imposing the additional hold shall provide the scrap metal processor with a written description of the scrap metal to be retained and the length of time the scrap metal processor must retain the identified scrap metal.

Sec. 9. 30-A MRSA §3777, as enacted by PL 2007, c. 549, §1, is repealed.

Sec. 10. 30-A MRSA §3778 is enacted to read:

§3778. Violation; penalties

1. Violation. A person may not violate this subchapter.

2. Penalties. In addition to any other penalties provided by law, the following penalties apply to violations of this subchapter:

A. A person who violates this subchapter commits a civil violation for which a fine of \$1,000 must be adjudged;

B. A person who violates this subchapter after having previously been adjudicated of violating

this subchapter commits a civil violation for which a fine of \$3,000 must be adjudged; and

C. A person who violates this subchapter after having previously been adjudicated of violating this subchapter more than once commits a civil violation for which a fine of \$4,500 must be adjudged and is prohibited from acting as a scrap metal processor for 6 months.

Sec. 11. Department of Public Safety to review the proposed development of an integrated criminal alert network for scrap metal thefts. Beginning September 1, 2012, the Commissioner of Public Safety shall review the merits of using a statewide integrated criminal alert network to track scrap metal thefts across the State, as well as the costs associated with requiring scrap metal processors and local law enforcement agencies to access and use a database designed for the purpose of alerting participating members to scrap metal thefts. The commissioner shall report by January 15, 2013 to the joint standing committee of the Legislature having jurisdiction over labor, commerce, research and economic development matters regarding the merits and costs of using such a network. The joint standing committee may report out a bill implementing the recommendations in the report to the First Regular Session of the 126th Legislature.

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

Effective March 29, 2012.

CHAPTER 546

H.P. 1302 - L.D. 1768

An Act To Improve the Department of Environmental Protection's Annual Waste Discharge License Fee System

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

Whereas, this legislation revises the Department of Environmental Protection's annual waste discharge license fee system; and

Whereas, in order to maintain a consistent cash flow into the waste discharge license fee account at the Department of Environmental Protection, one-quarter of the regulated community is billed in each quarter of the year; and

Whereas, if the revised fee schedule does not become effective until 90 days after adjournment of