

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE

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

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

Augusta, Maine
2012

CHAPTER 561

H.P. 1310 - L.D. 1785

An Act To Repeal the Requirement That Canadian Big Game or Wild Turkey Hunters Be Accompanied by Guides Licensed in the State and To Clarify the Laws Concerning the Civil Violation of Trespass by Motor Vehicle

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

Sec. 1. 12 MRSA §11226-A, as enacted by PL 2009, c. 390, §2, is repealed.

Sec. 2. 17 MRSA §3853-C, as enacted by PL 1981, c. 251, is repealed and the following enacted in its place:

§3853-C. Trespass by motor vehicle; civil violation

1. Violation. A person may not park a motor vehicle or allow a motor vehicle under that person's control to remain parked:

A. In a private drive or private way in a manner that blocks or interferes with the free passage of other vehicles without the permission of the owner of that private drive or way; or

B. On a public highway in a manner that blocks the entrance to a private driveway, gate or barway.

2. Penalty. A person who violates subsection 1 commits a civil violation for which a fine of not less than \$500 must be adjudged.

3. Registered owner's liability for vehicle. There is a rebuttable presumption that a registered owner of a vehicle involved in a violation of subsection 1 has that vehicle under that person's control.

See title page for effective date.

CHAPTER 562

H.P. 1359 - L.D. 1837

An Act To Authorize the Establishment of Pilot Projects for Community Paramedicine

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

Sec. 1. 32 MRSA §84, sub-§4 is enacted to read:

4. Establishment of community paramedicine pilot projects. Using the same process established by the board in rule for using pilot projects to evaluate the

workability and appropriateness of incorporating a particular emergency medical treatment technique or a type of equipment into any licensure level, the board may establish up to 12 pilot projects for the purpose of developing and evaluating a community paramedicine program. A pilot project established pursuant to this subsection may not exceed 3 years in duration.

As used in this subsection, "community paramedicine" means the practice by an emergency medical services provider primarily in an out-of-hospital setting of providing episodic patient evaluation, advice and treatment directed at preventing or improving a particular medical condition, within the scope of practice of the emergency medical services provider as specifically requested or directed by a physician.

The board shall establish the requirements and application and approval process of pilot projects established pursuant to this subsection. At a minimum, an emergency medical services provider, including, but not limited to, an ambulance service or nontransporting emergency medical service, that conducts a pilot project shall work with an identified primary care medical director, have an emergency medical services medical director and collect and submit data and written reports to the board, in accordance with requirements established by the board.

On or before January 30th of each year, the board shall submit a written report to the joint standing committees of the Legislature having jurisdiction over criminal justice and public safety matters and labor, commerce, research and economic development matters that summarizes the work and progress during the previous calendar year of each pilot project authorized pursuant to this subsection.

See title page for effective date.

CHAPTER 563

H.P. 256 - L.D. 323

An Act To Implement a Coordinated Strategy To Attract New Businesses, Expand Existing Businesses and Develop a Consistent and Recognizable Maine Brand

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

Sec. 1. 5 MRSA §12004-I, sub-§87, as corrected by RR 1995, c. 2, §10, is repealed.

Sec. 2. 5 MRSA §13056-A, as enacted by PL 2007, c. 434, §1, is amended to read:

§13056-A. Comprehensive evaluation of state investments in economic development

By ~~November 1, 2007~~ February 1, 2013, the commissioner shall develop and submit to the Governor and the Legislature a plan for the comprehensive evaluation of state investments in economic development. Beginning February 1, ~~2009~~ 2014, the commissioner shall submit ~~an annual~~ a biennial comprehensive evaluation of state investments in economic development, not to include programs evaluated pursuant to section 13107 or those independent evaluations required by federal programs, to the Governor and the Legislature. The evaluation must:

1. Outcome measures. Establish and report on outcome measures considered appropriate by public and private practitioners inside and outside of this State in the field of economic development, including measures that assess the overall economic performance of the programs to be evaluated under subsection 1-A, as demonstrated by the number of jobs created and wages paid that are attributable to the program, and any state revenues that are attributable to the activities of the program;

1-A. Programs identified for evaluation. Include, but is not limited to, the review of the following programs: the Maine Employment Tax Increment Financing Program, pursuant to Title 36, chapter 917; the Governor's Training Initiative Program, pursuant to Title 26, section 2031; the Loring Development Authority of Maine, pursuant to Title 5, section 13080; the visual media production certification program, pursuant to Title 5, section 13090-L; the promotion and marketing of state products through the department, pursuant to Title 5, section 13062; the Maine International Trade Center, pursuant to Title 10, section 945; municipal tax increment financing, pursuant to Title 30-A, section 5227; and the pine tree development zone program, pursuant to Title 30-A, section 5250-J;

2. Reviewers. Use independent, nonpartisan reviewers to assess the effect of economic development activities on the competitiveness of industry sectors in this State; and

3. Recommendations. Include recommendations to the Legislature on existing and proposed state-supported economic development programs and activities to affect economic development in this State.

Sec. 3. 5 MRSA §13056-C, sub-§3, as amended by PL 2009, c. 337, §2, is further amended to read:

3. Payments to fund. Notwithstanding section 1585 or any other provision of law, the department shall assess agencies or private entities that receive General Fund appropriations or general obligation bonds for economic development an amount for contribution to the fund that is not to exceed ~~0.08%~~ 0.8%

of General Fund appropriations received by or general obligation bonds issued to an agency or entity for economic development efforts. Private entities that receive funds from general obligation bonds for economic development efforts shall pay to the Treasurer of State in the fiscal year in which the general obligation bond was issued an assessment amount determined by the department that is not to exceed ~~0.08%~~ 0.8% of the proceeds from the bond issue in any fiscal year, which payment must be made from available resources other than bond proceeds. Only those programs that receive \$250,000 or more in economic development appropriations in any fiscal year or those entities that receive funds from a general obligation bond issue of \$250,000 or more for economic development efforts in any fiscal year, as identified and certified by the department and the Office of Fiscal and Program Review, may be assessed pursuant to this subsection. The department shall provide to each agency or private entity an annual budget for the fund and a detailed account of each institution's required assessment. Total payments made pursuant to this section may not exceed \$200,000 in any fiscal year.

Sec. 4. 5 MRSA §13090-C, sub-§1, as amended by PL 2003, c. 198, §6, is further amended to read:

1. Tourism; establishment. The Office of Tourism shall administer a program to support and expand the tourism industry and promote the State as a tourist destination. The Director of the Office of Tourism shall administer the office in accordance with the policies of the commissioner and the provisions of this article. The office includes the ~~Maine Tourism Commission and the~~ Maine State Film Commission.

Sec. 5. 5 MRSA §13090-E, sub-§§1 and 2, as amended by PL 2003, c. 198, §9, are further amended to read:

1. Development. The Office of Tourism with input from the tourism industry shall develop a 5-year marketing and development strategy for state tourism growth that maximizes the effectiveness of state and private sector contributions in attracting visitors to the State and increasing tourism-based revenues. The strategy must incorporate components of direct marketing in maintenance and primary markets, matching grants programs, trade markets, regional development and research.

2. Administration. The Office of Tourism shall administer the components of the strategy after development. Administration includes development of new markets, creation of an image of the State to entice visitor inquiries and provision of appropriate technical assistance and response mechanisms. The Office of Tourism shall support staffing of the visitor information centers and fulfill tourism information requests and shall work in partnership with the tourism industry in the State in administering the strategy. The Office

of Tourism shall seek direct input and consultation from the tourism industry on the Office of Tourism's marketing and promotional plans and collaborate with tourism regions and industry sectors to accomplish the goals identified in the marketing and promotional plans and the marketing and development strategy required under subsection 1, including, but not limited to, the outdoor recreation industry, the lodging industry, the restaurant industry, representatives of large landowners, campground organizations, the transportation industry, the retail industry, cultural organizations, tourism destination marketing organizations, private businesses, statewide tourism associations and nonprofit organizations. The Office of Tourism shall seek tourism industry input in other areas the commissioner considers appropriate and necessary to ensure the successful implementation of this section. The Office of Tourism shall provide a quarterly presentation of its activities under this section beginning January 1, 2013 to tourism industry stakeholders and provide an annual report to the Governor and the Legislature summarizing the goals and achievements of the Office of Tourism.

Sec. 6. 5 MRSA §13090-F, as amended by PL 2009, c. 211, Pt. B, §2, is repealed.

Sec. 7. 5 MRSA §13090-G, sub-§4, as amended by PL 2003, c. 198, §12, is further amended to read:

4. Administration. The Office of Tourism in consultation with the tourism industry shall administer the Travel Promotion Matching Fund Program with such flexibility as to bring about the most effective and economical travel promotion program possible. Applications from all regions of the State must be equally considered. The Maine Tourism Commission Office of Tourism shall recommend consult with the tourism industry in the development of rules and procedures necessary and appropriate to the proper operation of the Travel Promotion Matching Fund Program. These rules must establish eligibility requirements, allocation formulas, application procedures and criteria subject to the final approval of the commissioner. The Maine Tourism Commission Office of Tourism, in consultation with the tourism industry, shall establish a schedule and process for review and approval of grant applications and make timely recommendations of grant awards to the Office of Tourism. Grants recommended by the Maine Tourism Commission to the Office of Tourism must be approved by the Director of the Office of Tourism prior to any disbursement of funds.

Sec. 8. 5 MRSA §13107, first ¶, as amended by PL 2007, c. 420, §4, is further amended to read:

The office shall develop and submit to the Governor and the Legislature by July 1, ~~2006~~ 2012 and on July 1st every ~~5~~ 6 years thereafter an evaluation of state investments in research and development, as well

as ~~an annual~~ a progress report from the office and the independent reviewers under subsection 2 beginning on February 1, ~~2008~~ 2014 and on February 1st every ~~even-numbered~~ year thereafter. The evaluation must:

Sec. 9. 5 MRSA §13107, last ¶, as enacted by PL 2007, c. 420, §4, is amended to read:

By February 1, ~~2008~~ 2014 and by February 1st every ~~even-numbered~~ year thereafter, the office and the independent reviewers under subsection 2 shall submit to the Governor and the Legislature a progress report related to the ~~5-year~~ 6-year evaluation required under this section. The independent reviewers must incorporate the goals and objectives described in the State's innovation economy action plan, as described in Title 10, chapter 107-D, in their analysis of the success of the State's investments in research and development.

Sec. 10. 5 MRSA §13120-A, first ¶, as amended by PL 2003, c. 281, §1, is further amended to read:

The Maine Rural Development Authority, as established by section 12004-F, subsection 18 and referred to in this subchapter as the "authority," is a body both corporate and politic and a public instrumentality of the State established for the purpose of providing loans to communities for the development of commercial facilities on a speculative basis and for serving as lender or investor in the acquisition, development, redevelopment and sale of commercial facilities in areas where economic needs are not supported by private investment. The authority may also provide loans to businesses that currently do not own real estate and that are not supported by private investment.

Sec. 11. 5 MRSA §13120-P, sub-§2, as amended by PL 2005, c. 425, §18, is further amended to read:

2. Redevelopment of property. Except as provided in section 13120-Q, the authority may undertake the redevelopment of property as an owner or lender for subsequent use and sale under the following conditions:

- A. The property has been previously and materially used as a commercial facility or the property is suitable for adaptive use as a commercial or industrial facility;
- B. The property is currently not in productive commercial use or is expected to be taken out of productive commercial use within the immediate future;
- C. The property has not been placed under a purchase option or contract;
- D. The authority, using due diligence, has determined that:

(1) There is a reasonable expectation that the property will become financially viable following its redevelopment; and

(2) The economic benefits, including the restoration of employment opportunities, expected to result from the redevelopment justify the risks associated with the authority's equity, security or other interest in the property; and

E. The municipality, local development corporation or another entity will provide funding for the project equal to 25% of the funding that the authority provides to the project.

The authority may finance undeveloped land or personal property only if the undeveloped land or personal property is part of the overall redevelopment project. The authority may take custody of any machinery and equipment held as collateral for a loan issued to the commercial facility being redeveloped.

Sec. 12. 5 MRSA §13120-P, sub-§3, as amended by PL 2005, c. 425, §18, is further amended to read:

3. Development of property. Except as provided in section 13120-Q, the authority may undertake the development of property as an owner or lender for subsequent use and sale under the following conditions:

A. The property consists of real estate that is zoned, sited or otherwise suitable for development as a commercial facility;

B. The property is currently not in productive commercial use;

C. The property has not been placed under a purchase option or contract;

D. The authority, using due diligence, has determined that:

(1) There is a reasonable expectation that the property will become financially viable following its development;

(2) The development of the property will create employment opportunities and other economic benefits within the region; and

(3) The economic benefits expected to result from the development justify the risks associated with the authority's equity, loan or other interest in the property; and

E. The municipality, local development corporation or another entity will provide funding for the project equal to 25% of the funding that the authority provides to the project.

The authority may finance undeveloped land or personal property only if the undeveloped land or per-

sonal property is part of the overall development project. The authority may take custody of any machinery and equipment held as collateral for a loan issued to the commercial facility being redeveloped.

Sec. 13. 36 MRSA §5219-GG, sub-§1, ¶G, as enacted by PL 2011, c. 380, Pt. Q, §6 and affected by §7, is amended to read:

G. "Qualified active low-income community business" has the same meaning as in the Code, Section 45D; and includes any entity making an investment under this section if, for the most recent calendar year ending prior to the date of the investment:

(1) At least 50% of the total gross income of the entity was derived from the active conduct of business activity of the entity within any municipality where the average annual unemployment rate for that year was higher than the state average unemployment rate;

(2) A substantial portion of the use of the tangible property of the entity was within any location of the State where the average annual unemployment rate for that year was higher than the state average unemployment rate; or

(3) A substantial portion of the services performed by the entity by its employees was performed in a municipality where the average annual unemployment rate for that year was higher than the state average unemployment rate.

Sec. 14. Commissioner of Economic and Community Development to convene meetings to streamline marketing efforts.

Beginning August 1, 2012, the Commissioner of Economic and Community Development shall convene at least 5 meetings by December 15, 2012 with marketing personnel from the following state agencies: the Department of Agriculture, Food and Rural Resources; the Department of Labor; the Department of Environmental Protection; the Department of Education; the Department of Conservation; the Department of Inland Fisheries and Wildlife; the Department of Marine Resources; and the Department of Transportation. The Commissioner of Economic and Community Development shall gather information at the meetings regarding the marketing efforts, budgets and strategies used by these agencies in order to determine if the State can market its products and services more efficiently. The Commissioner of Economic and Community Development shall provide a report with recommendations for streamlining the State's marketing efforts to the joint standing committee of the Legislature having jurisdiction over labor, commerce, research and economic development matters no later than February 1, 2013. The joint standing committee of the Legislature having jurisdiction over labor,

commerce, research and economic development matters is authorized to report out a bill to implement the recommendations to the First Regular Session of the 126th Legislature.

See title page for effective date.

CHAPTER 564

H.P. 1016 - L.D. 1377

**An Act To Adopt the Uniform
Adult Guardianship and
Protective Proceedings
Jurisdiction Act**

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

Sec. 1. 18-A MRSA Art. 5, Pt. 5-A is enacted to read:

PART 5-A

**UNIFORM ADULT GUARDIANSHIP
AND PROTECTIVE PROCEEDINGS
JURISDICTION ACT**

SUBPART 1

GENERAL PROVISIONS

§5-511. Short title

This Part may be known and cited as "the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act."

§5-512. Definitions

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

(a). "Adult" means an individual who has attained 18 years of age.

(b). "Conservator" means a person appointed by the court to administer the property of an adult, including a person appointed under Part 4.

(c). "Guardian" means a person appointed by the court to make decisions regarding the person of an adult, including a person appointed under Part 3.

(d). "Guardianship order" means an order appointing a guardian.

(e). "Guardianship proceeding" means a judicial proceeding in which an order for the appointment of a guardian is sought or has been issued.

(f). "Incapacitated person" means an adult for whom a guardian has been appointed or an adult who is an incapacitated person within the meaning of section 5-101, subsection (1).

(g). "Party" means an interested person within the meaning of section 1-201, subsection (20), including the respondent, petitioner, guardian, conservator or any other person allowed by the court to participate in a guardianship or protective proceeding.

(h). "Person," except in the term "incapacitated person" or "protected person," means: an individual; corporation; business trust; estate; trust; partnership; limited liability company; association; joint venture; public corporation; government or governmental subdivision, agency or instrumentality; or any other legal or commercial entity.

(i). "Protected person" means an adult for whom a protective order has been issued.

(j). "Protective order" means an order appointing a conservator or other order related to management or disposition of an adult's property.

(k). "Protective proceeding" means a judicial proceeding in which a protective order is sought or has been issued.

(l). "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(m). "Respondent" means an adult for whom a protective order or the appointment of a guardian is sought.

(n). "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands or any territory or insular possession subject to the jurisdiction of the United States.

§5-513. International application of Part

A court of this State may treat a foreign country as if it were a state for the purpose of applying this subpart and subparts 2, 3 and 5.

§5-514. Communication between courts

(a). A court of this State may communicate with a court in another state concerning a proceeding arising under this Part. The court may allow the parties to participate in the communication. Except as otherwise provided in subsection (b), the court shall make a record of the communication. The record may be limited to the fact that the communication occurred.

(b). Courts may communicate concerning schedules, calendars, court records and other administrative matters without making a record.

§5-515. Cooperation between courts

(a). In a guardianship or protective proceeding in this State, a court of this State may request the appropriate court of another state to do any of the following:

(1). Hold an evidentiary hearing;