

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

Augusta, Maine
2011

Commission, the Executive Director of the Legislative Council and the Director of the Bureau of General Services within the Department of Administrative and Financial Services in order to ensure that the energy audit produces cost-effective energy efficiency recommendations that are consistent with the National Register of Historic Places designation of the State House; and be it further

Sec. 3. Report and implementation. Resolved: That the Efficiency Maine Trust shall report the results and recommendations from the energy audit under section 1 to the Director of the Bureau of General Services within the Department of Administrative and Financial Services and the Executive Director of the Legislative Council no later than December 7, 2011. The energy audit must rank the recommendations according to their cost-effectiveness. At the joint request of the Executive Director of the Legislative Council and the Director of the Bureau of General Services, the Efficiency Maine Trust shall provide available funds allocated pursuant to section 1 that were not used for the cost of the energy audit to implement cost-effective energy efficiency measures recommended in the energy audit.

See title page for effective date.

**CHAPTER 41
H.P. 397 - L.D. 504**

Resolve, Directing the Department of Public Safety, Division of Liquor Licensing and Compliance To Amend Its Rules Governing the Return of Spirits by Consumers

Sec. 1. Department of Public Safety's division of liquor licensing and compliance to amend rules. Resolved: That, no later than January 1, 2012, the Department of Public Safety's division of liquor licensing and compliance shall amend its rules regarding the return of spirits by a consumer. The rules must provide that an agency liquor store may permit the return of a bottle of spirits from a consumer if the bottle has not been opened or tampered with and is accompanied by a sales receipt that shows the bottle of spirits was purchased within the last 10 days from that agency liquor store. Rules adopted pursuant to this resolve are routine technical rules as defined in the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A.

See title page for effective date.

**CHAPTER 42
H.P. 708 - L.D. 964**

Resolve, Requiring the Department of Education To Amend Its Rules To Prohibit School Administrative Units from Imposing Unreasonable Restrictions That Impede the Ability of Parents and Evaluators To Observe Students

Sec. 1. Unrestricted educational observations by qualified examiners; rules. Resolved: That the Department of Education shall amend its rules in Chapter 101: Maine Unified Special Education Regulation Birth to Age Twenty to permit a qualified examiner to observe a child at school or at a potential educational placement when the qualified examiner is not employed by the school and is conducting an independent educational evaluation at the request of the parent, at times and durations as the school would permit a qualified examiner that is employed by the school; and be it further

Sec. 2. Provisional adoption of rules. Resolved: That the Department of Education shall provisionally adopt the amendments required under section 1 no later than December 1, 2011.

See title page for effective date.

**CHAPTER 43
H.P. 157 - L.D. 180**

Resolve, To Change Rules Concerning Landfill Gas and Odor Management from Routine Technical Rules to Major Substantive Rules

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

Whereas, rulemaking relating to the management of landfill gas and odor at solid waste facilities is currently in progress and could be complete before this legislation goes into effect unless this legislation is enacted as an emergency; and

Whereas, the scope of those rules is greater than expected when the effort was initiated in 2008, particularly with respect to the management of odors and landfill gas; and

Whereas, the increased scope of the rulemaking will cause a significant financial impact to publicly and privately owned solid waste incinerators, landfills, transfer stations, composting facilities and processing facilities, as well as the industries, businesses and municipalities directly reliant on such solid waste facilities; 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

Sec. 1. Resolve 2007, c. 170, §1, amended. Resolved: That Resolve 2007, c. 170, §1 is amended to read:

Sec. 1. Landfill gas and odor management rules. Resolved: That the Department of Environmental Protection, Board of Environmental Protection shall adopt rules concerning landfill gas and odor management that incorporate quantitative standards that can be used to measure compliance. Rules adopted pursuant to this section are ~~routine technical~~ major substantive rules as defined in the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A. By ~~January~~ March 15, 2009 2012, the Department of Environmental Protection shall submit a report on the status of the rules to the joint standing committee of the Legislature having jurisdiction over natural resources matters.

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

Effective May 23, 2011.

CHAPTER 44

H.P. 266 - L.D. 333

Resolve, Directing the Department of Environmental Protection To Evaluate and Amend Its Rules Regarding Snow Dumps

Sec. 1. Snow dumps rules. Resolved: That the Department of Environmental Protection shall review its rules established pursuant to the Maine Revised Statutes, Title 38, section 413, subsection 2-B regarding snow dumps. In its review, the department shall evaluate:

1. Provisions in the rules that require certain municipalities to obtain a waste discharge license for off-site storage or disposal of snow;

2. The State's obligations under the Federal Water Pollution Control Act and the State's interest in retaining its delegated authority to grant permits under the Federal Water Pollution Control Act;

3. How the rules may be amended to expedite the licensing process for municipalities that cannot be exempted from the waste discharge licensing requirement. The department shall consider establishing a general permit process or a permit by rule process for snow dumps; and

4. Licensing fees for municipalities; and be it further

Sec. 2. Amend rules. Resolved: That, after the review undertaken pursuant to section 1 of this resolve, the Department of Environmental Protection shall amend its rules regarding snow dumps so the rules do not conflict with the Federal Water Pollution Control Act. Rules adopted pursuant to this resolve are routine technical rules as defined in the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A.

See title page for effective date.

CHAPTER 45

H.P. 301 - L.D. 375

Resolve, Directing the Commissioner of Professional and Financial Regulation To Convene a Working Group To Review the Laws and Rules Governing Boilers

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 laws and rules governing the periodic inspections of boilers are critical to protecting Maine citizens from the danger of boilers failing and exploding; and

Whereas, the lack of uniformity in the State's regulation and inspection of boilers within public places should be reviewed to determine how to improve safety standards and the overall process for inspection of boilers throughout the State; and

Whereas, this resolve requires that a working group be convened in time for a report to be submitted to the Second Regular Session of the 125th Legislature; 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 preserva-