

# 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.**

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**Augusta, Maine**  
**2012**

**Sec. 1. Adoption. Resolved:** That final adoption of portions of Chapter 316: Long-Term Contracting and Resource Adequacy, a provisionally adopted major substantive rule of the Public Utilities Commission that has been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A, is authorized only if the commission:

1. Incorporates the changes made by Public Law 2011, chapter 413, sections 2 and 3 to the section of the rule related to energy efficiency long-term contracts.

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

Effective March 29, 2012.

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### CHAPTER 139

H.P. 1320 - L.D. 1794

**Resolve, Regarding Legislative Review of Portions of Chapter 378: Variance Criteria for the Excavation of Rock, Borrow, Topsoil, Clay or Silt and Performance Standards for the Storage of Petroleum Products, a Major Substantive Rule of the Department of Environmental Protection**

**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 Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A requires legislative authorization before major substantive agency rules may be finally adopted by the agency; and

**Whereas,** the above-named major substantive rule has been submitted to the Legislature for review; and

**Whereas,** immediate enactment of this resolve is necessary to record the Legislature's position on final adoption of the rule; 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. Adoption. Resolved:** That final adoption of portions of Chapter 378: Variance Criteria for the Excavation of Rock, Borrow, Topsoil, Clay or Silt and Performance Standards for the Storage of Petroleum Products, a provisionally adopted major substantive rule of the Department of Environmental Protection that has been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A, is authorized.

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

Effective March 29, 2012.

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### CHAPTER 140

H.P. 1323 - L.D. 1797

**Resolve, Regarding Legislative Review of Portions of Chapter 305: Permit by Rule, a Major Substantive Rule of the Department of Environmental Protection**

**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 Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A requires legislative authorization before major substantive agency rules may be finally adopted by the agency; and

**Whereas,** the above-named major substantive rule has been submitted to the Legislature for review; and

**Whereas,** immediate enactment of this resolve is necessary to record the Legislature's position on final adoption of the rule; 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. Adoption. Resolved:** That final adoption of portions of Chapter 305: Permit by Rule, a provisionally adopted major substantive rule of the Department of Environmental Protection that has been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A, is authorized.

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

Effective March 29, 2012.

**CHAPTER 141**

**H.P. 1340 - L.D. 1817**

**Resolve, Regarding Access to Eastern Road in Scarborough**

**Preamble.** The Constitution of Maine, Article IX, Section 23 requires that real estate held by the State for conservation or recreation purposes may not be reduced or its uses substantially altered except on the vote of 2/3 of all members elected to each House.

**Whereas,** certain real estate authorized for conveyance by this resolve is under the designations described in the Maine Revised Statutes, Title 12, section 598-A; now, therefore, be it

**Sec. 1. Acquisition of easement for access to Eastern Road in the Town of Scarborough.**

**Resolved:** That the Department of Inland Fisheries and Wildlife, referred to in this resolve as "the department," shall convey a nonexclusive easement for farm, conservation and residential use to Anthony Attardo and Anthony Attardo, Jr., referred to in this resolve as "the Attardos," through and across Eastern Road in the Town of Scarborough, running westerly from the intersection of Eastern Road with the westerly side of Black Point Road to the westerly sideline of Anthony Attardo, Jr.'s lot as the westerly terminus; which non-exclusive easement does not significantly or unreasonably interfere with any use contemplated for Eastern Road or the Scarborough Marsh Wildlife Management Area; and be it further

**Sec. 2. Consideration for easement.**

**Resolved:** That the Attardos shall grant to the department an easement in a mutually acceptable location for maintenance, running from Eastern Road southerly across the land of the Attardos situated on the easterly side of Black Point Road, for the purpose of maintaining undeveloped lands owned or controlled by the department, which easement benefits the department and the people of the State by providing an access near the Scarborough Marsh Wildlife Management Area that will allow the department to better manage the area, and this benefit exceeds any loss of value due to the nonexclusive easement conveyed in section 1. The Attardos shall reimburse the department for the department's legal expenses up to \$2,800. The granting of the easement to the department and the paying of the department's legal fees are the only considerations that are required of the Attardos in return for the non-exclusive easement conveyed under section 1; and be it further

**Sec. 3. Transfer. Resolved:** That, no later than 14 calendar days after the effective date of this resolve, the department shall submit any required application and related documents to the United States Department of the Interior, United States Fish and Wildlife Service to obtain the approval of the service to grant the easement in section 1 and the department shall deliver the deeds conveying the easement under section 1 to the Attardos no later than 60 days after all necessary permits and approvals have been received from the service; and be it further

**Sec. 4. Resolve 2011, c. 57, repealed. Resolved:** That Resolve 2011, c. 57 is repealed.

See title page for effective date.

**CHAPTER 142**

**H.P. 1246 - L.D. 1694**

**Resolve, Directing the Department of Health and Human Services To Review Rules Governing Reimbursement to MaineCare Recipients for Transportation to and from MaineCare Services**

**Sec. 1. Review; rules. Resolved:** That the Department of Health and Human Services shall review reimbursement under the MaineCare program for transportation of MaineCare members to and from MaineCare services, including but not limited to methadone treatment services at freestanding methadone clinics, in order to improve consistency across the State, to prevent and detect fraud and to decrease costs to the MaineCare program. The department shall report to the joint standing committee of the Legislature having jurisdiction over health and human services matters by December 15, 2012 the results of its review, including recommendations for action by the department and the Legislature.

In conducting the review required by this resolve, the department shall:

1. Solicit input from health care providers, the MaineCare advisory committee within the Department of Health and Human Services, regional transportation providers and freestanding methadone clinics throughout the State regarding potential use of transportation brokers across the State, protocols used to confirm member eligibility for transportation services, methods for arranging, scheduling and verifying the use of transportation services, methods to obtain patient consent and methods for sharing information among the patient, the health care provider or the freestanding methadone clinic, the transportation provider and the