

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-SIXTH LEGISLATURE

FIRST REGULAR SESSION
December 5, 2012 to July 10, 2013

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
OCTOBER 9, 2013

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

Augusta, Maine
2013

for erosion and sedimentation control are used; and

C. Municipal, state and federal employees engaged in projects associated with that employment.

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

Effective June 12, 2013.

**CHAPTER 243
S.P. 243 - L.D. 694**

An Act To Clarify Solid Waste Policy Relating to State-owned Disposal Facilities

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

Sec. 1. 38 MRSA §1310-N, sub-§1, ¶B, as amended by PL 2007, c. 414, §2, is further amended to read:

B. In the case of a disposal facility, the facility provides a substantial public benefit, determined in accordance with subsection 3-A, ~~except that this paragraph does not apply to a facility owned by the State and in operation prior to June 1, 2007 or to an expansion of that facility;~~ and

Sec. 2. 38 MRSA §1310-AA, sub-§1-B is enacted to read:

1-B. State-owned solid waste disposal facilities. This subsection applies to public benefit determinations for solid waste disposal facilities owned by the State.

A. The department may not process or act upon any application for a new, modified or amended solid waste license for a solid waste disposal facility acquired by the State after January 1, 2007, including an application to expand, until the facility has applied for and received a public benefit determination.

B. A solid waste disposal facility owned by the State before January 1, 2007 is deemed to hold a public benefit determination for the licensed disposal capacity at the facility on the effective date of this subsection. The department may require the holder of a public benefit determination under this paragraph to submit an application for a modified public benefit determination if the department finds that a material change in the underlying facts or circumstances has occurred or is proposed, including, but not limited to, a change in the disposal capacity or a change of the owner

or operator of the facility. The department may not process or act upon any application to expand a solid waste disposal facility owned by the State before January 1, 2007 until the facility has applied for and received a public benefit determination.

Sec. 3. 38 MRSA §1310-AA, sub-§6, as enacted by PL 2009, c. 348, §2 and affected by §3, is repealed.

Sec. 4. Application. The provisions of this Act do not apply to an application for a license pending on the effective date of this Act.

See title page for effective date.

**CHAPTER 244
H.P. 594 - L.D. 843**

An Act To Promote the Financial Literacy of High School Students

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

Sec. 1. 20-A MRSA §4722, sub-§2, ¶B, as amended by PL 2011, c. 294, §1, is further amended to read:

B. Social studies and history, including American history, government ~~and civics--2,~~ civics and personal finance--2 years;

Sec. 2. 20-A MRSA §6209, sub-§4, as amended by PL 2007, c. 259, §5, is further amended to read:

4. Review cycle. The commissioner shall conduct a review of the content standards and performance indicators by content area on a 5-year cycle beginning in the 2015-2016 school year. The review of the content standards and performance indicators for the content area of social studies, including student achievement of proficiency in personal finance, must be included in the commissioner's review during the 2015-2016 school year. Any changes that are recommended must be approved through the same process used for establishment of the system of learning results.

See title page for effective date.

**CHAPTER 245
S.P. 114 - L.D. 281**

An Act To Reform Maine's Whitewater Rafting Laws

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

Sec. 1. 12 MRSA §12901, sub-§1, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is repealed.

Sec. 2. 12 MRSA §12901, sub-§2, as affected by PL 2003, c. 614, §9 and amended by c. 655, Pt. B, §320 and affected by §422, is repealed.

Sec. 3. 12 MRSA §12907, sub-§2-A is enacted to read:

2-A. Number of licenses. A commercial whitewater outfitter is allowed to possess up to 3 commercial whitewater outfitter's licenses on allocated rivers.

Sec. 4. 12 MRSA §12907, sub-§8, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is repealed.

Sec. 5. 12 MRSA §12912, sub-§3, ¶A, as enacted by PL 2003, c. 655, Pt. B, §336 and affected by §422, is amended to read:

A. Except as provided in this subsection, an outfitter may not carry:

(1) On any unallocated rapidly flowing river more than ~~92~~ 120 passengers per day; or

(2) On any allocated rapidly flowing river more than ~~92~~ 120 passengers per day ~~or more than the allocations for that outfitter's largest single day on that river, whichever number is greater~~ except on allocated days when a licensed outfitter may carry only up to the number of allocations the outfitter has been allocated. On allocated days, that limit may be exceeded only as provided in section 12913, subsection 2, paragraph A, subparagraph 4. On unallocated days, an outfitter may occasionally carry up to 4 additional passengers to accommodate problems in booking. Abuse of the privilege to carry 4 additional passengers results in its loss for a period to be determined by the commissioner.

Sec. 6. 12 MRSA §12913, sub-§2, as amended by PL 2011, c. 68, §1, is further amended to read:

2. Allocation required. This subsection governs commercial whitewater trips on rivers subject to allocation requirements.

A. Except as provided in this paragraph, a person may not operate a commercial whitewater trip on the Kennebec River between Harris Station and West Forks or on the West Branch Penobscot River between McKay Station and Pockwockamus Falls without an allocation or in excess of an allocation on any day for which allocations are es-

tablished under this subsection or by the department by rule.

(1) Allocations are not established and are not required for other rivers or for other stretches of the Kennebec River or the West Branch Penobscot River.

(2) Allocations are required for Saturdays on the Kennebec River between Harris Station and West Forks for the period of July 1st to August 31st. Allocations are required for Saturdays on the West Branch Penobscot River between McKay Station and Pockwockamus Falls for the period of July 1st to August 31st. The commissioner may adopt rules establishing allocations for Sundays for the period of July 1st to August 31st. If the department determines that the recreational use limit will be reached on other days, the department shall provide by rule for allocations. Rules adopted under this subparagraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

(3-A) Under extenuating circumstances as determined by the commissioner, the commissioner may allow the emergency transfer of a commercial whitewater rafting trip from a rapidly flowing river to another rapidly flowing river as long as sufficient water is available in the river to which the commercial whitewater rafting trip is to be transferred. Notwithstanding subsection 3, the commissioner may allow the recreational use limits to be exceeded pursuant to this subparagraph. Under no circumstances is a transfer of a whitewater rafting trip allowed to the West Branch Penobscot River. The department shall report annually to the joint standing committee of the Legislature having jurisdiction over inland fisheries and wildlife matters regarding the implementation of this subparagraph. A transfer authorized under this subparagraph is not restricted to an outfitter holding an allocation.

(4) An outfitter may occasionally exceed the allocation by 2 passengers on a trip of up to 40 passengers, or 4 passengers on a trip of more than 40 passengers, to accommodate problems in booking, as long as the average of the number of passengers carried on an outfitter's 10 best allocated days for each river and for each allocated day of the week does not exceed the outfitter's allocation for that river and day. Abuse by an outfitter of the privilege to carry additional passengers results in the loss of the privilege for a period to be determined by the commissioner.

(6) The following penalties apply to violations of this paragraph.

(a) A person who violates this paragraph commits a civil violation for which a fine of not less than \$100 nor more than \$500 may be adjudged.

(b) A person who violates this paragraph after having been adjudicated as having committed 3 or more civil violations under this Part within the previous 5-year period commits a Class E crime.

~~B. Not more than one member of an affiliated group may conduct whitewater trips on any river or stretch of river for which a specific allocation is required, including on days for which an allocation is not required. The following penalties apply to violations of this paragraph.~~

~~(1) A person who violates this paragraph commits a civil violation for which a fine of not less than \$100 nor more than \$500 may be adjudged.~~

~~(2) A person who violates this paragraph after having been adjudicated as having committed 3 or more civil violations under this Part within the previous 5 year period commits a Class E crime.~~

~~C. Three or more years after the period of affiliation, the department may, in its discretion, consider requests by any former member of an affiliated group to run passengers on allocated rivers. The burden rests on the former member of an affiliated group to demonstrate that the reasons for any finding of affiliation have so diminished in effect that the public interest will be served by considering the former member's request to run passengers on an allocated river.~~

See title page for effective date.

**CHAPTER 246
S.P. 73 - L.D. 237**

**An Act To Establish Uniform
Quorum, Meeting and Chair
Requirements for Professional
and Occupational Licensing
Boards**

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

PART A

Sec. A-1. 10 MRSA §8010 is enacted to read:

§8010. Quorum; chair

Notwithstanding any provision of law to the contrary, a majority of the members serving on a board or commission under section 8001, subsection 38 constitutes a quorum. The board or commission shall elect its chair.

PART B

Sec. B-1. 10 MRSA §9003, sub-§7, as amended by PL 2007, c. 402, Pt. D, §1, is further amended to read:

7. Meetings; chair. The board shall meet at least once a year to conduct its business and to elect a chair. Additional meetings must be held as necessary to conduct the business of the board and may be convened at the call of the chair or a majority of the board members. ~~Five members of the board constitute a quorum.~~

Sec. B-2. 32 MRSA §63-A, sub-§3, as amended by PL 2007, c. 402, Pt. E, §1, is further amended to read:

3. Meetings; chair. The board shall meet at least once a year to conduct its business and to elect a chair. Additional meetings must be held as necessary to conduct the business of the board and may be convened at the call of the chair or a majority of the board members. ~~Four members of the board constitute a quorum for all purposes.~~

Sec. B-3. 32 MRSA §213, as amended by PL 2007, c. 402, Pt. F, §4, is further amended to read:

§213. Meetings; chair

The board shall meet at least once a year to conduct its business and to elect a chair. Additional meetings must be held as necessary to conduct the business of the board and may be convened at the call of the chair or a majority of the board members. ~~Five members of the board constitute a quorum.~~

Sec. B-4. 32 MRSA §288, sub-§4, as amended by PL 2007, c. 402, Pt. G, §2, is further amended to read:

4. Meetings. The board shall meet at least once a year and at such other times as the board determines necessary. ~~Three members of the board constitute a quorum for the transaction of business under this chapter.~~

Sec. B-5. 32 MRSA §502, as repealed and replaced by PL 2007, c. 402, Pt. H, §4, is amended to read:

§502. Meetings; chair; powers and duties

The board shall meet at least once a year to conduct its business and to elect a chair. Additional meetings must be held as necessary to conduct the business of the board and may be convened at the call of the chair or a majority of the board members. ~~Four mem-~~