

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-SEVENTH LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 3, 2014 to July 16, 2015**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**OCTOBER 15, 2015**

**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**  
**2015**

C. ~~Use~~ Except as allowed under section 11161, use for hunting or possess for hunting any firearm fitted or contrived with a device for deadening the sound of explosion. This paragraph does not apply to:

- (1) Military organizations authorized by law to bear arms or to the National Guard in the performance of its duty;

**Sec. 3. 25 MRSA §2013** is enacted to read:

**§2013. Chief law enforcement officer's certification; certain firearms**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Certification" means the participation and assent of a chief law enforcement officer necessary under federal law for the approval of an application to transfer or make a firearm.

B. "Chief law enforcement officer" means an official or the official's designee who the United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives or successor agency identifies as eligible to provide certification.

C. "Firearm" has the same meaning as in the National Firearms Act, 26 United States Code, Section 5845(a).

**2. Chief law enforcement officer's certification.** Within 15 days of receipt of an application for certification, the chief law enforcement officer shall provide the certification unless the chief law enforcement officer has information that prevents the chief law enforcement officer from providing the certification.

A. If the chief law enforcement officer denies an application for certification under this section, the chief law enforcement officer shall provide the applicant with a written notification of the denial and the reason for the denial, which may not be based upon a generalized objection to a private person's possessing, making or transferring a firearm or to a certain type of firearm that is otherwise lawful.

B. The denial of an application for certification or a failure or refusal to provide a certification in accordance with this section by a chief law enforcement officer may be appealed by an applicant in the following manner:

- (1) If the chief law enforcement officer is employed by a state agency, the denial may be appealed pursuant to Title 5, section 11001 and the Maine Rules of Civil Procedure, Rule 80C; and

(2) If the chief law enforcement officer is not employed by a state agency, the denial may be appealed pursuant to the Maine Rules of Civil Procedure, Rule 80B.

**3. Criminal history record check; search of premises.** In making a certification required by subsection 2, a chief law enforcement officer may require the applicant to provide only such information as required by federal or state law to identify the applicant and conduct a criminal history record check or to determine the disposition of an arrest or proceeding relevant to the applicant's eligibility to lawfully possess or receive a firearm. A chief law enforcement officer may not require access to or consent for an inspection of any private premises as a condition of making a certification under this section.

See title page for effective date.

**CHAPTER 263**

**S.P. 415 - L.D. 1168**

**An Act To Prohibit the Use of Eminent Domain in Certain Public-private Partnerships and To Prohibit the Use of Eminent Domain by a Private Business Entity in a Public-private Partnership**

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

**Sec. 1. 23 MRSA §4251, sub-§3,** as enacted by PL 2009, c. 648, Pt. A, §1, is amended to read:

**3. Authorization.** Notwithstanding any other provision of law, the department is authorized to receive or solicit proposals to form a public-private partnership with respect to a transportation facility. Proposals must be reviewed in accordance with this subchapter. Upon approval of the Legislature as provided in this subchapter, the department may enter into an agreement. All proposals must comply with section 73.

**Sec. 2. 23 MRSA §4251, sub-§§7 and 9,** as enacted by PL 2009, c. 648, Pt. A, §1, are amended to read:

**7. Exercise of powers.** If the department exercises its power of eminent domain for the development and construction of a transportation facility pursuant to this subchapter and section 73, the department must retain ownership rights and interests taken. The department's power of eminent domain may not be conferred on a private entity. The State may provide maintenance, law enforcement and other services with respect to a transportation facility owned by a private

entity when the agreement provides for reasonable reimbursement for such services.

**9. Legislative approval.** If the department determines that a public-private partnership proposal and draft agreement meets the standards of this subchapter, the department shall submit to the Legislature a bill that authorizes the agreement. The bill must include a statement that the proposal meets the standards in subsection 4, a summary of the substance of the draft agreement and a description of the nature and amount of state investment, if any, including effects on programmed capital work. If legislative approval is granted, the department shall report to the joint standing committee of the Legislature having jurisdiction over transportation matters by February 1st of each year as to the status of the project and any substantive changes to the public-private partnership proposal.

See title page for effective date.

**CHAPTER 264  
S.P. 449 - L.D. 1244**

**An Act To Amend  
Environmental Permitting  
Standards**

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

**Sec. 1. 38 MRSA §344, sub-§2-A, ¶D,** as enacted by PL 2013, c. 325, §4, is repealed and the following enacted in its place:

D. For an application for a permit for a grid-scale wind energy development, as defined in Title 35-A, section 3451, subsection 6, the following procedures apply.

(1) The commissioner shall accept public comment on an application during the course of processing the application. The commissioner shall set a deadline for receiving public comments.

(2) The commissioner may not issue the final decision until 10 business days after the close of the public comment period. The commissioner's final decision must include responses to the public comments.

**Sec. 2. 38 MRSA §480-C, sub-§5** is enacted to read:

**5. Small-scale wind energy development.** A person may not construct or cause to be constructed a wind energy development requiring certification under Title 35-A, section 3456 without first obtaining a permit from the department under section 480-II.

**Sec. 3. 38 MRSA §480-II** is enacted to read:

**§480-II. Small-scale wind energy development; permit requirements**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Decommissioning" means the physical removal of all components of a small-scale wind energy development, including, but not limited to, wind turbines and associated foundations to a depth of at least 24 inches; structures, roads, cabling, electrical components and any other associated facilities and foundations to a depth of at least 24 inches to the extent they are not otherwise in or proposed to be placed into productive use; the grading and reseeded of all earth disturbed during construction and decommissioning; and restoration of any disturbed wetlands or critical wildlife habitat.

B. "Small-scale wind energy development" means any wind energy development that is not a grid-scale wind energy development as defined in Title 35-A, section 3451, subsection 6, and that has a total generating capacity of at least 100 kilowatts.

**2. Permit requirements.** An applicant for a permit to construct a small-scale wind energy development shall demonstrate that the proposed project:

A. Will be constructed with setbacks and other considerations adequate to protect public safety, including, but not limited to, a fire protection plan. In making a finding pursuant to this paragraph, the department shall consider the recommendation of a professional licensed civil engineer as well as any applicable setback recommended by a manufacturer of any equipment to be installed on or in support of the small-scale wind energy development;

B. Will be constructed using the best practical mitigation techniques for mitigating impacts to endangered and threatened species, essential wildlife habitat and other protected resources from all aspects of construction and operation, in accordance with rules adopted under Title 35-A, section 3459; and

C. Will not significantly compromise views from a scenic resource of state or national significance, as considered under the criteria and methodologies set forth in Title 35-A, section 3452.

A person proposing to construct a small-scale wind energy development must demonstrate adequate financial capacity to decommission the development at any time during construction or operation of the development, or upon termination of development operations for any reason. The obligation to decommission the development must be transferred to any future owner