

# MAINE STATE LEGISLATURE

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

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-EIGHTH LEGISLATURE**

**FIRST SPECIAL SESSION**  
**October 23, 2017 to November 6, 2017**

**SECOND REGULAR SESSION**  
**January 3, 2018 to May 2, 2018**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST SPECIAL SESSION**  
**NON-EMERGENCY LAWS IS**  
**FEBRUARY 5, 2018**

**THE GENERAL EFFECTIVE DATE FOR**  
**SECOND REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**AUGUST 1, 2018**

**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**  
**2018**

**CHAPTER 376  
H.P. 1254 - L.D. 1808**

**An Act To Implement  
Recommendations Resulting  
from a State Government  
Evaluation Act Review of the  
Department of Environmental  
Protection by the Joint  
Standing Committee on  
Environment and Natural  
Resources**

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

**Sec. 1. 38 MRSA §349, sub-§2-A**, as enacted  
by PL 1997, c. 570, §1, is amended to read:

**2-A. Supplemental environmental projects.** In  
settling a civil enforcement action for any violation of  
any of the provisions of the laws administered by the  
department, including, without limitation, a violation  
of the terms or conditions of any order, rule, license,  
permit, approval or decision of the board or commis-  
sioner, the parties may agree to a supplemental envi-  
ronmental project that mitigates ~~not more than 80% up~~  
to 100% of the assessed penalty. "Supplemental envi-  
ronmental project" means an environmentally benefi-  
cial project primarily benefiting public health or the  
environment that a violator is not otherwise required  
or likely to perform.

A. An eligible supplemental environmental proj-  
ect is limited to the following categories:

- (1) Pollution prevention projects that elimi-  
nate all or a significant portion of pollutants  
at the point of generation;
- (2) Pollution reduction projects that signifi-  
cantly decrease the release of pollutants into a  
waste stream at the point of discharge to a  
point significantly beyond levels required for  
compliance;
- (3) Environmental enhancement projects in  
the same ecosystem or geographic area of the  
violation that significantly improve an area  
beyond what is required to remediate any  
damage caused by the violation that is the  
subject of the enforcement action;
- (4) Environmental awareness projects sub-  
stantially related to the violation that provide  
training, publications or technical support to  
members of the public regulated by the de-  
partment;
- (5) Scientific research and data collection  
projects that advance the scientific basis on  
which regulatory decisions are made;

(6) Emergency planning and preparedness  
projects that assist state or local emergency  
response and planning entities in preparing or  
responding to emergencies; and

(7) Public health projects that provide a di-  
rect and measurable benefit to public health.

B. Supplemental environmental projects may not  
be used for the following situations:

~~(1) Repeat violations of the same or a sub-  
stantially similar law administered by the de-  
partment by the same person;~~

(2) When a project is required by law;

(3) If the violator had previously planned and  
budgeted for the project;

(4) To offset any calculable economic benefit  
of noncompliance;

(5) If the violation is the result of reckless or  
intentional conduct; or

(6) If the project primarily benefits the viola-  
tor.

Any settlement that includes a supplemental envi-  
ronmental project must provide that expenditures  
are not tax deductible and are ineligible for certi-  
fication as tax exempt pollution control facilities  
pursuant to Title 36, chapters 105 and 211.

**Sec. 2. 38 MRSA §2124-A, first ¶**, as  
amended by PL 2011, c. 655, Pt. GG, §31 and affected  
by §70, is further amended to read:

By January 1, ~~2013~~ 2020 and ~~annually~~ biennially  
thereafter, the department shall submit a report to the  
joint standing committee of the Legislature having  
jurisdiction over environmental and natural resources  
matters and the Governor setting forth information on  
statewide generation of solid waste, statewide recy-  
cling rates and available disposal capacity for solid  
waste.

See title page for effective date.

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**CHAPTER 377  
H.P. 1239 - L.D. 1795**

**An Act To Amend the Maine  
Criminal Code and Related  
Statutes as Recommended by  
the Criminal Law Advisory  
Commission**

**Emergency preamble.** Whereas, acts and re-  
solves of the Legislature do not become effective until  
90 days after adjournment unless enacted as emergen-  
cies; and