

# **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  
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**THE GENERAL EFFECTIVE DATE FOR  
SECOND REGULAR SESSION  
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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.**

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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 commissioner, the parties may agree to a supplemental environmental project that mitigates ~~not more than 80% up to 100%~~ of the assessed penalty. "Supplemental environmental project" means an environmentally beneficial project primarily benefiting public health or the environment that a violator is not otherwise required or likely to perform.

A. An eligible supplemental environmental project is limited to the following categories:

- (1) Pollution prevention projects that eliminate all or a significant portion of pollutants at the point of generation;
- (2) Pollution reduction projects that significantly 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 substantially related to the violation that provide training, publications or technical support to members of the public regulated by the department;
- (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 direct 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 substantially similar law administered by the department 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 violator.

Any settlement that includes a supplemental environmental project must provide that expenditures are not tax deductible and are ineligible for certification 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 recycling rates and available disposal capacity for solid waste.

See title page for effective date.

**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 resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

**Whereas**, laws were enacted by the 128th Legislature that inadvertently omitted a cross-reference to the Maine Rules of Evidence in the law on service of process on foreign entities that are providers of electronic communication service and providers of remote computing service; repealed the option of prosecuting possession of up to 2 1/2 ounces of marijuana by persons under 18 years of age as a civil violation; and neglected to amend the Sex Offender Registration and Notification Act of 2013 to include a registration obligation for the new crime of gross sexual assault based on lack of acquiescence; and

**Whereas**, timely correction of these errors and omissions is necessary to the proper administration of the criminal laws; 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 enacted by the People of the State of Maine as follows:**

**Sec. 1. 15 MRSA §56, sub-§2, ¶C**, as enacted by PL 2017, c. 144, §3, is amended to read:

C. A foreign entity provider shall verify the authenticity of records that it produces by providing an affidavit that complies with the requirements set forth in the Maine Rules of Evidence, Rule 902(11) if the foreign entity that is the provider of services is governed by the laws of another state and that complies with the requirements set forth in the Maine Rules of Evidence, Rule 902(12) if the foreign entity that is the provider of services is governed by the laws of a foreign country. Admissibility of these records in a court in this State is governed by the Maine Rules of Evidence, Rule 803(6).

**Sec. 2. 15 MRSA §3314, sub-§1, ¶G**, as amended by PL 2009, c. 93, §12, is further amended to read:

G. Except for a violation of section 3103, subsection 1, paragraph H, the court may impose a fine, subject to Title 17-A, sections 1301 to 1304, except that there is no mandatory minimum fine amount. For the purpose of this section, juvenile offenses defined in section 3103, subsection 1, paragraphs B and C are deemed Class E crimes subject to a fine of up to \$1,000.

**Sec. 3. 22 MRSA §2383, sub-§1-A**, as enacted by PL 2017, c. 1, §20, is amended to read:

**1-A. Marijuana possession by a person under 21 years of age.** Except for possession of marijuana for medical use pursuant to chapter 558-C, a person who is under 21 years of age may not possess mari-

juana. A person who is 48, 19 or 20 under 21 years of age who possesses a usable amount of marijuana commits a civil violation for which a fine of not less than \$350 and not more than \$600 must be adjudged for possession of up to 1 1/4 ounces of marijuana and a fine of not less than \$700 and not more than \$1,000 must be adjudged for possession of over 1 1/4 ounces to 2 1/2 ounces of marijuana, none of which may be suspended. For the purposes of this section, marijuana has the same meaning as in Title 17-A, section 1101, subsection 1.

**Sec. 4. 34-A MRSA §11273, sub-§15, ¶A**, as amended by PL 2017, c. 65, §2, is further amended to read:

A. Title 17-A, chapter 11 including the following:

- (1) Title 17-A, section 253, subsection 2, paragraph J, regardless of the age of the victim;
- (1-A) Title 17-A, section 253, subsection 2, paragraph F, regardless of the age of the victim if the crime is committed on or after October 1, 2017;
- (2) Title 17-A, section 253, subsection 2, paragraph K, regardless of the age of the victim;
- (3) Title 17-A, section 253, subsection 2, paragraph L, regardless of the age of the victim;
- (3-A) Title 17-A, section 253, subsection 2, paragraph M, regardless of the age of the victim, if the crime is committed on or after the effective date of this subparagraph;
- (4) Title 17-A, section 255-A, subsection 1, paragraph J, regardless of the age of the victim;
- (4-A) Title 17-A, section 255-A, subsection 1, paragraph L, regardless of the age of the victim if the crime is committed on or after October 1, 2017;
- (5) Title 17-A, section 255-A, subsection 1, paragraph R-1, regardless of the age of the victim;
- (6) Title 17-A, section 255-A, subsection 1, paragraph R-2, regardless of the age of the victim; and
- (7) Title 17-A, section 258, subsection 1-A, if the victim had not attained 12 years of age;

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

Effective April 11, 2018.

## CHAPTER 378 H.P. 132 - L.D. 176

### An Act To Authorize the Maine Public Employees Retirement System To Procure and Offer Long-term Disability Insurance

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

**Sec. 1.** 5 MRSA c. 423, sub-c. 7 is enacted to read:

#### SUBCHAPTER 7

#### LONG-TERM DISABILITY INSURANCE

##### §18101. Long-term disability insurance coverage authorized

The board may offer long-term disability insurance coverage to members through their employer and may contract with one or more insurance companies to provide this coverage.

**1. Premiums.** All premiums and any other amounts due to an insurance company or other 3rd party in connection with coverage under this subchapter must be borne by the covered person, the covered person's employer or both the covered person and the covered person's employer.

**2. Rules.** The board may adopt rules to implement this subchapter. Rules adopted pursuant to this subsection are routine technical rules pursuant to chapter 375, subchapter 2-A.

**Sec. 2.** 5 MRSA c. 425, sub-c. 7 is enacted to read:

#### SUBCHAPTER 7

#### LONG-TERM DISABILITY INSURANCE

##### §18701. Long-term disability insurance coverage authorized

The board may offer long-term disability insurance coverage to members and employees who choose not to become members but participate in the defined contribution plan pursuant to section 18801, subsection 1 through their employer and may contract with one or more insurance companies to provide this coverage.

**1. Premiums.** All premiums and any other amounts due to an insurance company or other 3rd

party in connection with coverage under this subchapter must be borne by the covered person, the covered person's employer or both the covered person and the covered person's employer.

**2. Rules.** The board may adopt rules to implement this subchapter. Rules adopted pursuant to this subsection are routine technical rules pursuant to chapter 375, subchapter 2-A.

**Sec. 3. Report.** The Maine Public Employees Retirement System shall report twice to the joint standing committee of the Legislature having jurisdiction over retirement matters, no later than January 31, 2019 and January 31, 2020, on the use of the authority granted to the Board of Trustees of the Maine Public Employees Retirement System pursuant to the Maine Revised Statutes, Title 5, chapter 423, subchapter 7 and Title 5, chapter 425, subchapter 7, including the results of any offering of long-term disability insurance by the board.

See title page for effective date.

## CHAPTER 379 H.P. 446 - L.D. 630

### An Act To Prohibit Third Parties from Facilitating Transfers of Moose Permits for Consideration

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

**Sec. 1.** 12 MRSA §11110, as repealed and replaced by PL 2015, c. 301, §14, is amended to read:

##### §11110. Transfer of hunting areas or zones

**1. Transfer permitted.** A person who has been assigned a designated hunting area, zone or season by the department for purposes of hunting a game animal may exchange that designated zone, area or season with another person assigned a different hunting zone, area or season for the same game animal for purposes of hunting that same game animal. The department may assist in the exchange to ensure that the permit holders meet the requirements of section 10756, but the State bears no responsibility for enforcing the terms of the exchange between the permit holders. The commissioner may adopt rules to implement this section. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**2. Transfer of moose permit for consideration prohibited.** Notwithstanding subsection 1, the holder of a moose permit who has been assigned a designated hunting area, zone or season by the department may not exchange that designated zone, area or season with