

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-EIGHTH LEGISLATURE

SECOND SPECIAL SESSION
June 19, 2018 to September 13, 2018

THE GENERAL EFFECTIVE DATE FOR
SECOND SPECIAL SESSION
NON-EMERGENCY LAWS IS
DECEMBER 13, 2018

ONE HUNDRED AND TWENTY-NINTH LEGISLATURE

FIRST REGULAR SESSION
December 5, 2018 to June 20, 2019

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 19, 2019

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

Augusta, Maine
2019

State, the superintendent may grant an exemption from the requirements of this section, but only to the minimum extent necessary to ensure the continued receipt of federal funds.

Sec. 6. Rules. The Department of Health and Human Services shall adopt the rules required by the Maine Revised Statutes, Title 22, section 3196 by March 1, 2020.

Sec. 7. Emergency rules. The Department of Health and Human Services may adopt emergency rules under the Maine Revised Statutes, Title 5, section 8054 as necessary to implement Title 22, section 3196 without the necessity of demonstrating that immediate adoption is necessary to avoid a threat to public health, safety or general welfare.

Sec. 8. Exemption from review. Notwithstanding the Maine Revised Statutes, Title 24-A, section 2752, that section of this Act that enacts Title 24-A, section 4320-M is enacted without review and evaluation by the Department of Professional and Financial Regulation, Bureau of Insurance.

Sec. 9. Application. That section of this Act that enacts the Maine Revised Statutes, Title 24-A, section 4320-M applies to all policies, contracts and certificates executed, delivered, issued for delivery, continued or renewed in this State on or after January 1, 2020. For purposes of this Act, all contracts are deemed to be renewed no later than the next yearly anniversary of the contract date.

Sec. 10. Appropriations and allocations. The following appropriations and allocations are made.

**HEALTH AND HUMAN SERVICES,
DEPARTMENT OF**

Medical Care - Payments to Providers 0147

Initiative: Appropriates funds to provide coverage to MaineCare members for legal abortion services.

| GENERAL FUND | 2019-20 | 2020-21 |
|---------------------------|------------------|------------------|
| All Other | \$125,281 | \$375,843 |
| GENERAL FUND TOTAL | \$125,281 | \$375,843 |

Office of MaineCare Services 0129

Initiative: Appropriates one-time funds for oversight, development and testing of technology changes.

| GENERAL FUND | 2019-20 | 2020-21 |
|---------------------------|------------------|------------|
| All Other | \$102,265 | \$0 |
| GENERAL FUND TOTAL | \$102,265 | \$0 |

**HEALTH AND HUMAN
SERVICES,
DEPARTMENT OF**

| DEPARTMENT TOTALS | 2019-20 | 2020-21 |
|---|------------------|------------------|
| GENERAL FUND | \$227,546 | \$375,843 |
| DEPARTMENT TOTAL - ALL FUNDS | \$227,546 | \$375,843 |

See title page for effective date.

CHAPTER 275

H.P. 940 - L.D. 1297

**An Act To Reduce Youth
Cancer Risk**

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

Sec. 1. 22 MRSA §689-A is enacted to read:

§689-A. Tanning facilities; minors

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

A. "Operator" means a person designated by the owner of a tanning facility or the lessee of a tanning device to operate, or to assist and instruct in the operation and use of, a tanning facility or tanning device.

B. "Phototherapy device" means equipment that emits ultraviolet radiation and is used in the diagnosis or treatment of disease or injury.

C. "Tanning device" means equipment that emits electromagnetic radiation having wavelengths in air between 200 and 400 nanometers that is used for the tanning of human skin and any equipment used with that equipment, including but not limited to protective eyewear, timers and handrails. "Tanning device" includes a sunlamp, tanning booth or tanning bed but does not include a phototherapy device used or prescribed for use by a physician.

D. "Tanning facility" means a location, place, area, structure or business that provides persons access to a tanning device, including tanning salons, health clubs, apartments and condominiums, regardless of whether a fee is charged for access to the tanning device.

2. Prohibition. An owner of a tanning facility, a lessee of a tanning device or an operator may not allow an individual under 18 years of age to use a tan-

ning device. Proof of age may be satisfied with a driver's license or other government-issued identification containing the date of birth and a photograph of the individual.

3. Notice. An owner of a tanning facility or a lessee of a tanning device shall post in a conspicuous place in the tanning facility notice, in a form developed by the department:

A. That it is unlawful for a tanning facility, a lessee of a tanning device or an operator to allow an individual under 18 years of age to use a tanning device;

B. That a tanning facility, a lessee of a tanning device or an operator that violates the provisions of this section is subject to penalties;

C. That an individual may report a violation of this section to the local law enforcement agency or radiation control program of the Maine Center for Disease Control and Prevention; and

D. That the health risks associated with tanning include but are not limited to skin cancer, premature aging of the skin, burns to the skin and adverse reactions to certain medications, foods and cosmetics.

Failure to post a notice in accordance with this subsection is a violation of this section.

4. Written statement. An owner of a tanning facility, a lessee of a tanning device or an operator shall provide to every customer prior to that customer's first use in that calendar year of that particular tanning device a written statement that must be signed by the customer prior to use of the tanning device. The statement must be developed by the department and must include:

A. The information required in the notice set forth in subsection 3;

B. An acknowledgment signed by the customer indicating that the customer understands the notice posted in accordance with subsection 3 and the information set forth pursuant to paragraph A; and

C. An agreement that the customer will use protective eyewear.

Failure to provide a written statement in accordance with this subsection is a violation of this section.

5. Duties of owner. An owner of a tanning facility, a lessee of a tanning device or an operator shall ensure that:

A. An individual under 18 years of age is not permitted to use the tanning facility;

B. There is present at the tanning facility during its hours of operation an operator who is able to

inform customers about, and assist customers in, the proper use of tanning devices;

C. Each tanning device is properly sanitized after each use;

D. Before a customer uses a tanning device, the customer is provided, at no cost, with properly sanitized and securely fitting protective eyewear that protects the customer's eyes from ultraviolet radiation and allows enough vision to maintain balance;

E. A customer is not allowed to use a tanning device unless the customer uses protective eyewear;

F. A customer is shown how to use physical aids including handrails and markings on the floor to maintain a proper exposure distance from the tanning device as recommended by the manufacturer;

G. A timing device that is accurate within 10% of any selected timer interval is used and is remotely located so customers cannot set their own exposure time;

H. Each tanning device is equipped with a mechanism that allows the customer to turn the tanning device off;

I. A customer is limited to the maximum exposure time recommended by the manufacturer for that customer's skin type;

J. A customer is not allowed to use a tanning device more than once every 24 hours;

K. The interior temperature of the tanning facility does not exceed 100 degrees Fahrenheit; and

L. The following records are maintained: copies of all consent forms signed by customers; a record of a customer's total number of uses of a tanning device at the facility; the dates and durations of uses of a tanning device; and any injury reports for a period of 3 years after tanning device use for each customer.

Failure to act in accordance with this subsection is a violation of this section.

6. Duties of customer. A customer may not use a tanning device of a tanning facility unless the customer:

A. Immediately before the customer's first use of a unique tanning facility in a year, signs a statement acknowledging that the customer has read and understands the notice and the information required under this section and specifying that the customer agrees to use protective eyewear; and

B. Uses protective eyewear at all times while using a tanning device.

7. Certificate of registration. A person may not operate a tanning facility without first obtaining from

the department a certificate of registration. The registrant shall display the certificate of registration in a conspicuous place at the tanning facility. A certification of registration issued under this subsection expires annually.

8. Violation; penalty. Notwithstanding section 690, subsection 1, a person who violates this section is not subject to the criminal penalties under section 690, subsection 1 but is subject to civil penalties in accordance with section 690, subsection 2. Violation may also result in suspension or revocation of a registration issued in accordance with subsection 7.

9. Local ordinance. This section does not preempt local ordinances that provide for more restrictive regulation of tanning facilities than required in this section or rules adopted pursuant to subsection 10.

10. Rulemaking. The department shall adopt rules to implement this section and otherwise regulate tanning facilities. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 2. Department of Health and Human Services to amend rules. No later than February 1, 2020, the Department of Health and Human Services shall amend its rules in 10-144 C.M.R. Chapter 223 to be consistent with the Maine Revised Statutes, Title 22, section 689-A.

See title page for effective date.

**CHAPTER 276
S.P. 420 - L.D. 1352**

**An Act To Provide for
Consistency Regarding Persons
Authorized To Conduct
Examinations for Involuntary
Hospitalization and
Guardianship**

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

Sec. 1. 18-C MRSA §5-306, sub-§1, as enacted by PL 2017, c. 402, Pt. A, §2 and affected by Pt. F, §1, is amended to read:

1. Evaluation; report. In every adult guardianship matter, the respondent must be examined by a ~~licensed physician or psychologist~~ medical practitioner who is acceptable to the court and who is qualified to evaluate the respondent's alleged cognitive and functional abilities. The individual conducting the evaluation shall file a report in a record with the court at least 10 days before any hearing on the petition. Unless otherwise directed by the court, the report must contain:

- A. A description of the nature, type and extent of the respondent's cognitive and functional abilities and limitations;
- B. An evaluation of the respondent's mental and physical condition and, if appropriate, educational potential, adaptive behavior and social skills;
- C. A prognosis for improvement and recommendation for the appropriate treatment, support or habilitation plan; and
- D. The date of the examination on which the report is based.

As used in this subsection, "medical practitioner" means a licensed physician, a registered physician assistant, a certified psychiatric clinical nurse specialist, a certified nurse practitioner or a licensed clinical psychologist.

See title page for effective date.

**CHAPTER 277
H.P. 1043 - L.D. 1433**

**An Act To Protect the
Environment and Public
Health by Further Reducing
Toxic Chemicals in Packaging**

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

Sec. 1. 32 MRSA §1731, as enacted by PL 1989, c. 849, §1, is amended to read:

§1731. Purpose

The purpose of this chapter is to reduce the toxicity of ~~packaging and~~ packaging waste without impeding or discouraging the expanded use of post-consumer materials in the production of packaging and its components. Under this chapter, reduction of the toxicity in packaging and packaging waste is accomplished by prohibiting the unnecessary addition of ~~heavy metals~~ certain chemicals, such as lead, mercury, cadmium ~~and~~, hexavalent chromium, PFAS and phthalates, in packaging and packaging components.

Sec. 2. 32 MRSA §1732, as amended by PL 1995, c. 656, Pt. A, §§7 and 8, is further amended to read:

§1732. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1-A. Department. "Department" means the Department of Environmental Protection.