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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.

1-B. Alternative. "Alternative" means a substitute process, product, material, chemical, strategy or combination of these that serves a functionally equivalent purpose to a chemical in a package or packaging component.

1-C. Chemical. "Chemical" means a substance with a distinct molecular composition or a group of structurally related substances and includes the breakdown products of the substance or substances that form through decomposition, degradation or metabolism.

2. Distributor. "Distributor" means any person, firm or corporation that sells a packaged product to a retailer in this State or any person, firm or corporation that receives a shipment or consignment of, or in any other manner acquires, packaged products outside the State for sale to consumers in the State.

2-A. Incidental presence. "Incidental presence" means the presence of a regulated metal or other regulated chemical as an unintended or undesired ingredient of a package or packaging component.

2-B. Intentional introduction. "Intentional introduction" means the act of deliberately using a regulated metal or other regulated chemical in the formation of a package or packaging component when its continued presence is desired in the final package or packaging component to provide a specific characteristic, appearance or quality.

The use of a regulated metal or other regulated chemical as a processing agent or intermediate to impart certain chemical or physical changes during manufacturing, when the incidental retention of a residue of the metal or chemical in the final package or packaging component is neither desired nor deliberate, is not considered intentional introduction for the purposes of this chapter.

The use of recycled materials as feedstock for the manufacture of new packaging materials, when a portion of the recycled materials may contain amounts of the regulated metals or other regulated chemicals, is not considered intentional introduction for the purposes of this chapter when the new package or packaging component is in compliance with section 1733.

2-C. Food package. "Food package" means a package that is designed for direct food contact. "Food package" includes, but is not limited to, a food or beverage product that is contained in a food package or to which a food package is applied, a packaging component of a food package and plastic disposable gloves used in commercial or institutional food service.

3. Manufacturer. "Manufacturer" means any person ~~who~~ that manufactures a package or packaging component.

4. Package. "Package" means a container used in marketing, protecting or handling a product ~~and~~. "Package" includes a unit package and a shipping container defined by the American Society for Testing and Materials in its annual book of standards as ASTM, D996~~. "Package" also includes such~~; a food package; and unsealed receptacles such as carrying cases, crates, cups, pails, rigid foil and other trays, wrappers and wrapping films, bags and tubs.

5. Packaging component. "Packaging component" means any individual assembled part of a package such as, but not limited to, any interior or exterior blocking, bracing, cushioning, weatherproofing, exterior strapping, coatings, closures, inks and labels. Tin-plated steel that meets the American Society for Testing and Materials specification A-623 must be considered as a single package component. Electrogalvanized coated steel and hot-dipped coated galvanized steel that meets the American Society for Testing and Materials specifications A-525 and A-879 must be treated in the same manner as tin-plated steel.

5-A. Perfluoroalkyl and polyfluoroalkyl substances; PFAS. "Perfluoroalkyl and polyfluoroalkyl substances" or "PFAS" means any member of the class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom.

5-B. Phthalates. "Phthalates" means any member of the class of organic chemicals that are esters of phthalic acid and that contain 2 carbon chains located in the ortho position.

5-C. Safer alternative. "Safer alternative" means an alternative that, when compared to a chemical that it could replace, would reduce the potential for harm to human health or the environment or that has not been shown to pose the same or greater potential for harm to human health or the environment as that chemical.

6. Supplier. "Supplier" means any person, firm or corporation that sells packages or packaging components to a distributor.

Sec. 3. 32 MRSA §1733, as enacted by PL 1989, c. 849, §1, is amended to read:

§1733. Prohibitions; substitute materials

1. Prohibition of sale of packaging containing certain heavy metals. A manufacturer, supplier or distributor may not offer for sale or for promotional purposes in the State a package or packaging component that includes inks, dyes, pigments, adhesives, stabilizers, coatings or any other additives to which any lead, cadmium, mercury or hexavalent chromium has been intentionally introduced during manufacturing or distribution. This prohibition does not apply to the incidental presence of any of these elements.

2. Prohibition of sale of product in packaging containing certain heavy metals. A manufacturer or

distributor may not offer for sale or for promotional purposes in the State any product in a package that includes, in the package itself or any packaging components, inks, dyes, pigments, adhesives, stabilizers, coatings or any other additives to which any lead, cadmium, mercury or hexavalent chromium has been intentionally introduced during manufacturing or distribution. This prohibition does not apply to the incidental presence of any of these elements.

3. Concentration levels of certain heavy metals. ~~The~~ For the purposes of subsections 1 and 2, the sum of the concentration levels of lead, cadmium, mercury and hexavalent chromium present in any package or packaging component may not exceed:

A. Effective April 1, 1992, 600 parts per million by weight, or 0.06%;

B. Effective April 1, 1993, 250 parts per million by weight, or 0.025%; and

C. Effective April 1, 1994, 100 parts per million by weight, or 0.01%.

3-A. Prohibition of sale of food package containing phthalates. Beginning January 1, 2022, a manufacturer, supplier or distributor may not offer for sale or for promotional purposes in the State a food package that includes inks, dyes, pigments, adhesives, stabilizers, coatings, plasticizers or any other additives to which phthalates have been intentionally introduced in any amount greater than an incidental presence.

The prohibition in this subsection does not prevent a manufacturer that is located in the State from offering for sale or for promotional purposes outside the State a food package to which phthalates have been intentionally introduced in any amount greater than an incidental presence.

3-B. Prohibition of sale of food package containing PFAS. In accordance with the requirements of this subsection, the department may by rule prohibit a manufacturer, supplier or distributor from offering for sale or for promotional purposes in the State a food package to which PFAS have been intentionally introduced in any amount greater than an incidental presence.

A. The department may not by rule prohibit the sale of a food package to which PFAS have been intentionally introduced in any amount greater than an incidental presence under this subsection unless the department has determined that a safer alternative to the use of PFAS in a specific application of PFAS to a food package is available. To determine that a safer alternative is available, the department must find that a safer alternative is readily available in sufficient quantity and at a comparable cost and that the safer alternative performs as well as or better than PFAS in a specific application of PFAS to a food package.

B. If the department determines pursuant to paragraph A that a safer alternative to the use of PFAS in a specific application of PFAS to a food package is available, the department shall by rule prohibit the sale of a food package to which PFAS have been intentionally introduced in any amount greater than an incidental presence under this subsection, except that such a prohibition may not take effect until January 1, 2022 or 2 years following the date on which the department determines that a safer alternative is available, whichever is later.

The prohibition in this subsection does not prevent a manufacturer that is located in the State from offering for sale or for promotional purposes outside the State a food package to which PFAS have been intentionally introduced in any amount greater than an incidental presence.

Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

3-C. Exemption to prohibition of sale of food package. The prohibitions in subsections 3-A and 3-B do not apply to a manufacturer of a food or beverage product that is contained in a food package or to which a food package is applied as long as that manufacturer has less than $1,000,000,000 of total annual national sales of food and beverage products.

4. Substitute materials. No material used to replace lead, cadmium, mercury ~~or,~~ hexavalent chromium, phthalates or PFAS in a package or packaging component may be used in a quantity or manner that creates a hazard as great as or greater than the hazard created by the ~~lead, cadmium, mercury or hexavalent chromium~~ prohibited heavy metal or chemical.

Sec. 4. 32 MRSA §1734, as amended by PL 1995, c. 656, Pt. A, §9, is further amended to read:

§1734. Exemptions

All packages and packaging components are subject to the provisions of section 1733 unless:

1. Manufactured prior to April 1, 1992. The package or packaging component has a code indicating a date of manufacture prior to ~~the effective date of this section~~ April 1, 1992;

2. Health and safety requirements; feasibility; post-consumer materials. The manufacturer, supplier or distributor petitions the department for an exemption for a particular package or packaging component and the department grants an exemption for one or more of the following reasons.

A. The package or packaging component contains lead, cadmium, mercury or hexavalent chromium added in the manufacturing, forming, printing or distribution process in order to comply

with health or safety requirements of state or federal law.

B. There is no feasible alternative to the use of lead, cadmium, mercury or hexavalent chromium in the package or packaging component. For the purposes of this section, "no feasible alternative" means a use in which the regulated substance is essential to the protection, safe handling or function of the package's contents.

C. The addition of post-consumer materials causes the package or packaging component to exceed the maximum concentration levels set forth in section 1733, subsection 3.

For packages or packaging components exempted under paragraph A or B, a 2-year exemption may be granted and that exemption may be renewed for an additional 2 years. An exemption granted under paragraph C is valid for 6 years; or

3. Alcoholic beverages bottled prior to April 1, 1992. The package or packaging component contains an alcoholic beverage bottled prior to April 1, 1992~~;~~ ~~or~~.

Sec. 5. 32 MRSA §1735, sub-§3 is enacted to read:

3. Food package; limitation of scope of certificate. A manufacturer subject to the prohibitions under section 1733, subsection 3-A or 3-B shall develop a certificate of compliance under this section, except that the manufacturer may limit the scope of the certificate to the prohibitions in section 1733, subsection 3-A or 3-B. A manufacturer that is exempt under section 1733, subsection 3-C is also exempt from the requirements of this subsection.

Sec. 6. 32 MRSA §1737, as amended by PL 1995, c. 656, Pt. A, §12 and PL 2011, c. 657, Pt. W, §5, is repealed and the following enacted in its place:

§1737. Rules

The department shall adopt rules necessary for the implementation, administration and enforcement of this chapter. Except as otherwise provided in this chapter, rules adopted pursuant to this chapter are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 7. 32 MRSA §1739, as enacted by PL 1989, c. 849, §1, is repealed.

Sec. 8. 32 MRSA c. 26-B is enacted to read:

CHAPTER 26-B

TOXIC CHEMICALS IN FOOD PACKAGING

§1741. Definitions

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

1. Alternative. "Alternative" has the same meaning as in section 1732, subsection 1-B.

2. Board. "Board" means the Board of Environmental Protection.

3. Chemical. "Chemical" has the same meaning as in section 1732, subsection 1-C.

4. Commissioner. "Commissioner" means the Commissioner of Environmental Protection.

5. Credible scientific evidence. "Credible scientific evidence" means the results of a study, the experimental design and conduct of which have undergone independent scientific peer review, that are published in a peer-reviewed journal or in a publication of an authoritative federal or international governmental agency, including but not limited to the United States Department of Health and Human Services, National Toxicology Program, Food and Drug Administration and Centers for Disease Control and Prevention; the United States Environmental Protection Agency; the World Health Organization; and the European Union, European Chemicals Agency.

6. De minimis level. "De minimis level" means:

A. For a food contact chemical of high concern or priority food contact chemical that is an intentionally added chemical in a food package, the practical quantification limit; or

B. For a food contact chemical of high concern or priority food contact chemical that is a contaminant present in a food package, a concentration of 100 parts per million.

7. Department. "Department" means the Department of Environmental Protection.

8. Distributor. "Distributor" has the same meaning as in section 1732, subsection 2.

9. Food contact chemical of high concern. "Food contact chemical of high concern" means a chemical identified by the department pursuant to section 1742.

10. Food package. "Food package" has the same meaning as in section 1732, subsection 2-C.

11. Intentionally added chemical. "Intentionally added chemical" means a chemical that was added during the manufacture of a product or product component to provide a specific characteristic, appearance or quality or to perform a specific function.

12. Manufacturer. "Manufacturer" means any person who manufactured a food package or whose brand name is affixed to a food package. In the case of a food package that was imported into the United States, "manufacturer" includes the importer or first domestic distributor of the food package if the person who manufactured or assembled the food package or

whose brand name is affixed to the food package does not have a presence in the United States.

13. Practical quantification limit. "Practical quantification limit" means the lowest concentration of a chemical that can be reliably measured within specified limits of precision, accuracy, representativeness, completeness and comparability during routine laboratory operating conditions. The practical quantification limit is based on scientifically defensible, standard analytical methods. The practical quantification limit for a given chemical may be different depending on the matrix and the analytical method used.

14. Priority food contact chemical. "Priority food contact chemical" means a chemical designated by the commissioner pursuant to section 1743.

15. Safer alternative. "Safer alternative" has the same meaning as in section 1732, subsection 5-C.

§1742. Identification of food contact chemicals of high concern

In accordance with the requirements of this section, the department shall publish and may revise a list of no more than 10 food contact chemicals of high concern.

1. Criteria. A chemical may be included on the list under this section only if:

A. The chemical is included on the list of chemicals of concern published by the department in accordance with Title 38, section 1693 or the chemical has been identified by an authoritative governmental entity on the basis of credible scientific evidence as being:

(1) A carcinogen, a reproductive or developmental toxicant or an endocrine disruptor;

(2) Persistent, bioaccumulative and toxic; or

(3) Very persistent and very bioaccumulative;

B. The department determines that there is strong credible scientific evidence that the chemical is a reproductive or developmental toxicant, endocrine disruptor or human carcinogen; and

C. The department determines that there is strong credible scientific evidence that the chemical meets one or more of the following additional criteria:

(1) The chemical has been found through biomonitoring studies to be present in human blood, human breast milk, human urine or other human bodily tissues or fluids;

(2) The chemical has been found through sampling and analysis to be present in a food or beverage product; or

(3) The chemical has been added to or is present in a food package.

2. Revisions. The commissioner shall review the list published pursuant to this section at least every 3 years and shall remove from the list any food contact chemical of high concern that has been designated as a priority food contact chemical pursuant to section 1743 or that no longer meets the criteria of subsection 1. The commissioner may add to the list additional food contact chemicals of high concern that meet the criteria of subsection 1, except that the list under this section may not at any one time include more than 10 food contact chemicals of high concern.

§1743. Designation of priority food contact chemicals

The commissioner may designate a food contact chemical of high concern as a priority food contact chemical if:

1. Chemical included on list of food contact chemicals of high concern. The food contact chemical of high concern is included on the list of food contact chemicals of high concern published by the department in accordance with section 1742; and

2. Additional criteria. The commissioner finds that the food contact chemical of high concern:

A. Has been found through biomonitoring to be present in human blood, including umbilical cord blood, breast milk, urine or other human bodily tissues or fluids;

B. Has been found through sampling and analysis to be present in a food or beverage product; or

C. Is present in a food package.

§1744. Disclosure of information on priority food contact chemicals

1. Reporting of chemical use. A person who is a manufacturer or distributor of a food package for sale in the State that contains a priority food contact chemical in any amount greater than a de minimis level shall notify the department in writing unless waived by the commissioner pursuant to this section. This written notice must be made within 180 days after a priority food contact chemical is designated. If the sale in the State of a food package by a manufacturer or distributor does not commence until after the 180-day reporting period ends, this written notice must be made within 30 days of sale of the food package in the State. This written notice must identify the food package, the number of units sold or distributed for sale in the State or nationally, the priority food contact chemical or chemicals contained in the food package, the amount of such chemicals in each unit of the food package and the intended purpose of the chemicals in the food package.

2. Supplemental information. The manufacturer or distributor of a food package that contains a priority food contact chemical shall provide the following additional information if requested by the department:

A. Information on the likelihood that the priority food contact chemical will be released from the food package to the environment during the food package's life cycle and the extent to which users of the food package are likely to be exposed to the chemical;

B. Information on the extent to which the priority food contact chemical is present in the environment or human body; and

C. An assessment of the availability, cost, feasibility and performance, including potential for harm to human health and the environment, of alternatives to the priority food contact chemical and the reason the chemical is used in the manufacture of the food package in lieu of identified alternatives. If an assessment acceptable to the department is not timely submitted, the department may assess a fee on the manufacturer or distributor to cover the costs to prepare an independent report on the availability of safer alternatives by a contractor of the department's choice.

The manufacturer or distributor of a food package that contains a priority food contact chemical may provide additional information to the department regarding the potential for harm to human health and the environment from specific uses of the chemical.

3. Waiver of reporting; fee; extension of deadline. The commissioner may waive all or part of the notification requirement under subsection 1 for one or more specified uses of a priority food contact chemical if the commissioner determines that substantially equivalent information is already publicly available, that the information is not needed for the purposes of this chapter or that the specified use or uses are minor in volume. The department may assess a fee payable by the manufacturer or distributor upon submission of the notification to cover the department's reasonable costs in managing the information collected. The department may extend the deadline for submission of the information required under subsection 1 for one or more specified uses of a priority food contact chemical in a food package if it determines that more time is needed by the manufacturer or distributor to comply with the submission requirement or if the information is not needed at that time.

4. Failure to provide notice. A food package containing a priority food contact chemical may not be sold, offered for sale or distributed for sale in the State if the manufacturer or distributor has failed to provide the information required in this section by the date required in this section. The commissioner shall exempt a food package from this prohibition if, in the commissioner's judgment, the lack of availability of the food package could pose an unreasonable risk to public health, safety or welfare.

5. Rulemaking to determine fees. If the department assesses a fee pursuant to subsection 2, paragraph C or subsection 3, the department shall determine the appropriate fee through major substantive rulemaking, as defined in Title 5, chapter 375, subchapter 2-A.

§1745. Sales prohibition; rules; safer alternatives to priority food contact chemicals

1. Authority. The board may adopt rules prohibiting the manufacture, sale or distribution in the State of a food package containing a priority food contact chemical in an amount greater than a de minimis level if the board finds, after consideration of information filed under section 1744 and other relevant information submitted to or obtained by the board, that:

A. Distribution of the food package directly or indirectly exposes consumers to the priority food contact chemical; and

B. One or more safer alternatives to the priority food contact chemical are available at a comparable cost.

If there are several available safer alternatives to a priority food contact chemical, the board may prohibit the sale of a food package that does not contain the safer alternative that is least toxic to human health or least harmful to the environment.

A rule adopted pursuant to this subsection must specify the effective date of the prohibition, which may not be sooner than 2 years after notice of the proposed rule is published as required under Title 5, section 8053, subsection 5.

Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

2. Alternatives assessment; presumptions. For the purpose of determining whether a safer alternative is available under subsection 1, paragraph B, the board may, in the absence of persuasive evidence to the contrary:

A. Presume that an alternative is a safer alternative if the alternative does not satisfy the criteria under section 1742, subsection 1, paragraph A;

B. Presume that a safer alternative is available if the sale of the food package containing the priority food contact chemical has been banned by another state within the United States based on the availability of a safer alternative; and

C. Presume that a safer alternative is available if the alternative is sold in the United States.

3. Implementation. No later than 180 days prior to the effective date of a prohibition adopted pursuant to subsection 1, the manufacturer or distributor of a food package that contains the priority food contact chemical and that is subject to the prohibition at the time of adoption shall file a compliance plan with the commissioner or seek a waiver under subsection 5. A compliance plan must:

A. Identify the food package that contains the priority food contact chemical;

B. Specify whether compliance will be achieved by discontinuing the sale of the food package in the State or by substituting a safer alternative in the food package; and

C. If compliance is achieved by substitution of a safer alternative in the food package, identify the safer alternative and the timetable for substitution.

4. Responsibility. The manufacturer or distributor of a food package that contains a priority food contact chemical shall notify persons that offer the food package for sale or distribution in the State of the requirements of this chapter.

5. Waiver for specific uses. The manufacturer or distributor of a food package that contains a priority food contact chemical and that is subject to a prohibition adopted pursuant to subsection 1 may apply to the commissioner for a waiver for one or more specific uses of the priority food contact chemical. The waiver application must, at a minimum:

A. Identify the specific use or uses of the food package for which the waiver is sought;

B. Identify the alternatives considered for substitution of the priority food contact chemical;

C. Explain the basis for concluding that the use of an alternative is not feasible; and

D. Identify the steps that have and will be taken to minimize the use of the priority food contact chemical.

The commissioner may grant a waiver with or without conditions upon finding that there is a need for the food package in which the priority food contact chemical is used and there are no technically or economically feasible alternatives for the use of that chemical in the food package. A waiver may be granted for a term not to exceed 5 years and may be renewed for one or more additional 5-year terms upon written application demonstrating that technically or economically feasible alternatives remain unavailable. The commissioner shall deny or grant a waiver request within 60 days after receipt of a completed waiver application.

6. Petitions. If rulemaking to prohibit the sale of a food package that contains a priority food contact chemical is initiated by petition under Title 5, section 8055, the department shall consider the information submitted in support of the petition but is not obligated to conduct a search of other sources of information on the chemical or its uses. The petitioner bears the burden of demonstrating that the criteria under subsection 1 for adoption of rules are met.

§1746. Applicability

The provisions of this chapter do not apply to:

1. Industry. A chemical used in or for industry or manufacturing, including chemicals processed or otherwise used in or for industrial or manufacturing processes;

2. Retailers. A retailer of a food package unless the retailer knowingly sells a food package that contains a priority food contact chemical after the effective date of its prohibition under section 1745 for which that retailer has received prior notification from a manufacturer, a distributor or the State;

3. Contaminants. A chemical that occurs in a food package only as a contaminant as long as the manufacturer had in place a manufacturing control program and exercised due diligence to minimize the presence of the contaminant in the food package; or

4. Certain manufacturers. A manufacturer of a food or beverage product that is contained in a food package or to which a food package is applied as long as that manufacturer has less than $1,000,000,000 of total annual national sales of food and beverage products.

§1747. Implementation, administration and enforcement; rules; violations

The department shall implement, administer and enforce this chapter and shall adopt rules as necessary for the implementation, administration and enforcement of this chapter.

1. Rules. Except as otherwise provided in this chapter, rules adopted by the department pursuant to this chapter are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

2. Violations. A person that violates any provision of this chapter is subject to penalties in accordance with Title 38, section 349.

3. Certificate of compliance. If there are grounds to suspect that a food package is being offered for sale in violation of this chapter, the department may request that the manufacturer or distributor of the food package provide a certificate of compliance with the applicable provisions of this chapter. Within 30 days of receipt of a request under this subsection, the manufacturer or distributor shall:

A. Provide the department with the certificate attesting that the food package does not contain the priority food contact chemical; or

B. Notify persons who sell the food package in this State that the sale of the food package is prohibited and provide the department with a list of the names and addresses of those notified.

4. Regulatory efficiency. The department may, in exercising its discretionary authority under this chapter, consider the extent to which a food contact chemical of high concern or a priority food contact chemical in a food package is adequately regulated by the Federal Government or an agency of this State to reduce or prevent the same public health threats that would be the basis for addressing the chemical under this chapter.

See title page for effective date.

CHAPTER 278

S.P. 499 - L.D. 1564

An Act To Authorize Project Labor Agreements for Public Works Projects

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

Sec. 1. 26 MRSA §1316, as enacted by PL 2011, c. 463, §3, is repealed.

Sec. 2. 26 MRSA c. 43 is enacted to read:

CHAPTER 43

PROJECT LABOR AGREEMENTS

§3501. Project labor agreements for public works projects

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

A. "Public authority" has the same meaning as in section 1304, subsection 7.

B. "Public works" has the same meaning as in section 1304, subsection 8.

2. Public authority may require project labor agreement. Notwithstanding any other provision of law regarding procurement of goods or services, a public authority may require a project labor agreement for any public works project when that public authority has determined, on a project-by-project basis and acting within its discretion, that it is in the public's interest to require such an agreement. In making such a determination, the public authority shall consider the effects a project labor agreement may have on:

A. The efficiency, cost and direct and indirect economic benefits to the public authority;

B. The availability of a skilled workforce to complete the public works project;

C. The prevention of construction delays;

D. The safety and quality of the public works project;

E. The advancement of minority-owned businesses and women-owned businesses; and

F. Employment opportunities for the community.

3. Requirements. A project labor agreement required by a public authority pursuant to this section must:

A. Set forth mutually binding procedures for resolving disputes that can be implemented without delay;

B. Include guarantees against a strike, lockout or other concerted action aimed at slowing or stopping the progress of the public works project;

C. Ensure a reliable source of skilled and experienced labor;

D. Include goals for the number of apprentices and for a percentage of work to be performed by minorities, women and veterans;

E. Provide for the invitation of all contractors to bid on the public works project without regard to whether the employees of any such contractor are members of a labor organization;

F. Permit the selection of the lowest responsible qualified bidder without regard to labor organization affiliation; and

G. Bind all contractors and subcontractors to the terms of the agreement.

A project labor agreement required by a public authority pursuant to this section may not require compulsory labor organization membership of employees working on the public works project.

4. Bidder that does not agree to abide by conditions. A bidder for a public works project that does not agree to abide by the conditions of the project labor agreement or a requirement to negotiate a project labor agreement may not be regarded as a responsible qualified bidder for the project.

See title page for effective date.