

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-NINTH LEGISLATURE

FIRST SPECIAL SESSION

August 26, 2019

SECOND REGULAR SESSION

January 8, 2020 to March 17, 2020

**THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
NOVEMBER 25, 2019**

**THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 16, 2020**

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

**Augusta, Maine
2020**

Management, Military Bureau as designated by the Commissioner of Defense, Veterans and Emergency Management and to law enforcement officials within the following organizational units: Bureau of State Police; Maine Drug Enforcement Agency; Office of the State Fire Marshal; the division within the Department of Public Safety designated by the Commissioner of Public Safety to enforce the law relating to the manufacture, importation, storage, transportation and sale of all liquor and to administer those laws relating to licensing and collection of taxes on malt liquor and wine; Bureau of Motor Vehicles; Bureau of Marine Patrol; the forest protection unit within the Bureau of Forestry; Bureau of Warden Service; Bureau of Parks and Lands; and the Office of Chief Medical Examiner, the investigation division and the Medicaid fraud control unit within the Office of the Attorney General.

See title page for effective date.

CHAPTER 579

S.P. 653 - L.D. 1901

An Act To Amend the Laws Prohibiting the Use of Handheld Phones and Devices While Driving

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, Maine residents need and expect laws governing road safety to be clear and consistent; and

Whereas, this legislation clarifies a new law setting the fines imposed upon a driver who has violated the prohibition against using a handheld electronic device or mobile telephone while operating a motor vehicle; and

Whereas, the new law was also intended to exempt all band and 2-way radios, but included exceptions only for certain types of 2-way radios as defined by the Code of Federal Regulations, creating confusion about what is and what is not permitted, and this legislation clarifies that the intent is to exempt all band and 2-way radios; and

Whereas, this legislation must take effect as soon as possible in order to prevent confusion about the new law; 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. 29-A MRSA §101, sub-§26-C, as enacted by PL 2019, c. 486, §3, is amended to read:

26-C. Handheld electronic device. "Handheld electronic device" means any handheld electronic device or portable electronic device that is not part of the operating equipment of the motor vehicle, including but not limited to an electronic game, a device for sending or receiving electronic mail, a text messaging device or a computer. "Handheld electronic device" does not include a:

A. ~~Device for communication over a citizens band radio service as defined in 47 Code of Federal Regulations, Section 95.303, the multi-use radio service as defined in 47 Code of Federal Regulations, Section 95.2703 or a land mobile radio service as defined in 47 Code of Federal Regulations, Section 90.7 or 2-way radio; or~~

B. Personal medical device necessary to monitor or regulate a person's medical condition, including but not limited to an insulin pump or heart monitor; ~~or~~

C. Device for communication over a land mobile radio service as defined in 47 Code of Federal Regulations, Section 90.7.

Sec. 2. 29-A MRSA §2121, sub-§3, as enacted by PL 2019, c. 486, §10, is amended to read:

3. Penalty. A person who violates this section commits a traffic infraction for which a fine of ~~not less than~~ \$50 for the first offense and ~~not less than~~ \$250 for a 2nd or subsequent offense may be adjudged.

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

Effective March 6, 2020.

CHAPTER 580

S.P. 708 - L.D. 2006

An Act To Amend the Laws Governing Waste Discharge Analysis by Laboratories Operated by Waste Discharge Facilities

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

Sec. 1. 22 MRSA §567, sub-§1, as amended by PL 2017, c. 407, Pt. A, §68, is further amended to read:

1. Acceptable data. Except as provided in this subsection, 6 months after the adoption of rules specified in subsection 2, certification is required of any

commercial, industrial, municipal, state or federal laboratory that analyzes water, soil, air, solid or hazardous waste, or radiological samples for the use of programs of the department or the Department of Environmental Protection, except as provided under chapter 411, the Maine Medical Laboratory Act; Title 26, chapter 7, subchapter 3-A, Substance Use Testing; and Title 29-A, section 2524, administration of tests to determine an alcohol level or drug concentration.

A laboratory operated by a waste discharge facility licensed pursuant to Title 38, section 413 may analyze waste discharges for total suspended solids, settleable solids, biological or biochemical oxygen demand, chemical oxygen demand, pH, chlorine residual, fecal coliform, E. coli, enterococcus, conductivity, color, temperature and dissolved oxygen without being certified under this section. The exception provided under this paragraph applies to a laboratory testing its own samples for pollutants listed in its permit or license; pretreatment samples; and samples from other wastewater treatment plants for up to 60 days per year. The time period provided in this paragraph, which is a maximum period for each treatment plant for which analysis is provided, may be extended by memorandum of agreement between the Department of Environmental Protection and the Health and Environmental Testing Laboratory.

See title page for effective date.

CHAPTER 581

S.P. 601 - L.D. 1777

**An Act To Add Rivers,
Streams and Brooks to the
Department of Environmental
Protection's Compensation Fee
Program**

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

Sec. 1. 38 MRSA §480-Z, 4th ¶, as amended by PL 2007, c. 527, §1, is further amended to read:

A project undertaken pursuant to this section must be approved by the department. The department shall base its approval of a wetlands compensation project on the wetland management priorities identified by the department for the watershed or biophysical region in which the project is located. The department shall base its approval of a compensation project concerning an area listed in subsection 7, paragraph C, D ~~or~~ E or F on the management priorities identified by the department for the type of habitat. The department may not approve a compensation project for unavoidable losses to an area until the applicant has complied with all other applicable provisions of this article and all applicable rules adopted by the department pursuant to this article.

For purposes of this section, "biophysical region" means a region with shared characteristics of climate, geology, soils and natural vegetation.

Sec. 2. 38 MRSA §480-Z, sub-§3, as amended by PL 2011, c. 655, Pt. JJ, §31 and affected by §41 and amended by c. 657, Pt. W, §5, is further amended to read:

3. Compensation fee program. The department may develop a ~~wetlands~~ compensation fee program for the areas listed in subsection 7, ~~paragraphs A and B~~ in consultation with ~~the Department of Agriculture, Conservation and Forestry, the United States Army Corps of Engineers and~~ state and federal resource agencies, including, but not limited to, the Department of Agriculture, Conservation and Forestry, the Department of Inland Fisheries and Wildlife, the United States Army Corps of Engineers, the United States Fish and Wildlife Service and the United States Environmental Protection Agency. ~~The department may develop a compensation fee program for the areas listed in subsection 7, paragraphs C, D and E in consultation with the Department of Inland Fisheries and Wildlife.~~

A. The program may include the following:

- (1) Identification of wetland management priorities on a watershed or biophysical region basis;
- (1-A) Identification of management priorities for the areas listed in subsection 7, paragraphs C, D and E and F;
- (2) Identification of the types of losses eligible for compensation under this subsection;
- (3) Standards for compensation fee projects;
- (4) Calculation of compensation fees based on the functions and values of the affected areas and the cost of compensation, taking into account the potential higher cost of compensation when a project is implemented at a later date; and
- (5) Methods to evaluate the long-term effectiveness of compensation fee projects implemented under this subsection in meeting the management priorities identified pursuant to subparagraphs (1) and (1-A).

B. Any compensation fee may be paid into a compensation fund established by the department as provided in subparagraph (1) or to an organization authorized by the department as provided in subparagraph (2). A compensation project funded in whole or in part from compensation fees must be approved by the department.

- (1) The department may establish compensation funds for the purpose of receiving compensation fees, grants and other related income. A compensation fund must be a fund