

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND THIRTIETH LEGISLATURE

FIRST REGULAR SESSION
December 2, 2020 to March 30, 2021

FIRST SPECIAL SESSION
April 28, 2021 to July 19, 2021

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 29, 2021

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
OCTOBER 18, 2021

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

Augusta, Maine
2021

5. An associate degree program, supported by public-private funding, to train students in green engineering and technology based within the Maine Community College System;

6. An apprenticeship program in green technology and employment, including but not limited to apprenticeships in solar farm development and operation;

7. Financing options through the Finance Authority of Maine or other appropriate entities for graduates of educational and apprenticeship programs described in this section to develop new businesses;

8. A solar steam train facility based at the Loring Development Authority of Maine. The proposal may include, but is not limited to, tax incentives, financing from the Finance Authority of Maine or other appropriate entities, formation of a committee to oversee development and outreach to create a public-private partnership and shared ownership between the State and employees of the facility; and

9. A committee to examine the transition to electric transportation infrastructure and development of manufacturing opportunities to support that transition.

For the purposes of this section, "green" means relating to or concerned with reducing negative short-term and long-term effects on the environment.

With the approval of 2/3 of the council and notwithstanding Title 20-A, section 11, subsection 10, the council may seek and receive private funds as needed to further its activities.

The council shall submit a report including the proposals required by this section to the Joint Standing Committee on Education and Cultural Affairs and the Joint Standing Committee on Innovation, Development, Economic Advancement and Business. The report must be submitted no later than December 1, 2021. After receipt of the report required by this section, a joint standing committee may report out a bill based upon the report to the Second Regular Session of the 130th Legislature.

Sec. 5. Appropriations and allocations. The following appropriations and allocations are made.

EDUCATION, DEPARTMENT OF

Science, Technology, Engineering and Mathematics Council Z175

Initiative: Provides base allocations to authorize expenditures in the event private funds are received to support the activities of the Science, Technology, Engineering and Mathematics Council related to the development of higher education programs and public-private partnerships to enhance higher education and employment opportunities in the State in science, technology, engineering and mathematics.

OTHER SPECIAL REVENUE FUNDS	2021-22	2022-23
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All Other	\$500	\$500
OTHER SPECIAL REVENUE	\$500	\$500
FUNDS TOTAL		

See title page for effective date.

CHAPTER 145

S.P. 234 - L.D. 596

An Act To Improve the Law Regarding Abandoned Roads

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

Sec. 1. 23 MRSA §3028, as amended by PL 2015, c. 464, §7, is repealed.

Sec. 2. 23 MRSA §3028-A is enacted to read:

§3028-A. Abandonment of town ways

Beginning October 1, 2021, a town way, or portion thereof, may not be declared discontinued by abandonment unless the municipality or county where the proposed abandoned town way is situated complies with the requirements of this section. A municipality or its officials or a county or its officials are not liable for nonperformance of a legal duty with respect to a town way declared discontinued by abandonment in accordance with this section.

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

A. "Affected property" means real property that abuts the town way to be declared discontinued by abandonment and real property for which the town way is the only access route.

B. "Best practicable notice" means, at minimum, the mailing of notice by the United States Postal Service, postage prepaid, first class, to affected property owners whose addresses appear in the assessment records of the municipality or county.

2. Declaration of abandonment. Municipal officers or county commissioners may vote to declare a town way discontinued by abandonment if:

A. For a period of 30 or more consecutive years, the town way was not kept passable for the use of motor vehicles at the expense of the municipality or county. Isolated acts of maintenance by the municipality or county without other evidence that shows a clear intent by the municipality or county to consider or use the town way as if it were a public way as defined in section 1903, subsection 11 does not negate evidence that the town way was not kept passable for the use of motor vehicles; and

B. The municipal officers or county commissioners vote to declare the town way discontinued by abandonment at a regularly scheduled meeting of the municipal officers or county commissioners. If the municipal officers or county commissioners vote to declare a town way discontinued by abandonment, they must also vote on whether a public easement is retained.

A municipality or county may not declare a town way discontinued by abandonment if evidence is presented to the municipal officers or county commissioners at a meeting held pursuant to paragraph B or a public hearing held pursuant to subsection 4 that the municipality or county received funds for any portion of the town way that is the subject of the discontinuance by abandonment for more than 84 months of the period of 30 or more consecutive years specified in paragraph A.

3. Notification of discontinuation by abandonment. The municipal officers or county commissioners shall give best practicable notice to all affected property owners of the town way to be declared discontinued by abandonment at least 30 days prior to the meeting required in subsection 2, paragraph B.

A. The notice must include information regarding the potential retention of a public easement, and:

- (1) The affected property owners' maintenance obligations for and right of access to the town way, if any;
- (2) The right of access to the town way by the public if a public easement is retained; and
- (3) Information regarding the rights of affected property owners to enter into agreements regarding maintenance of and access to that town way, including the right of affected property owners to create private easements.

B. If the town way to be declared discontinued by abandonment is the only means of access to property in an adjacent municipality or county, the municipal officers or county commissioners shall cause a written notice of the meeting required in subsection 2, paragraph B to be given to the municipal officers or county commissioners of the adjacent municipality or county at least 30 days prior to that meeting.

4. Public hearing. The municipal officers or county commissioners shall hold a public hearing prior to voting to declare a town way discontinued by abandonment under subsection 2 upon receipt of written request signed by at least 25% of affected property owners. The written request for a public hearing must be received by the municipal clerk or county clerk no more than 10 days after the notification issued pursuant to subsection 3.

5. Status of town way discontinued by abandonment. If the municipal officers or county commissioners vote to declare a town way discontinued by abandonment, the interests of the municipality or county in the abandoned town way pass as follows.

A. If the municipal officers or county commissioners vote to not retain a public easement in the abandoned town way, all interests of the municipality or county in the town way, if any, pass to the abutting property owners to the center of the town way.

B. If the municipal officers or county commissioners vote to retain a public easement in the abandoned town way, all other interests of the municipality or county in the town way, if any, pass to the abutting property owners to the center of the town way and the public easement retained is limited to rights of access by foot or motor vehicle as defined in Title 29-A, section 101, subsection 42.

An easement for public utility facilities necessary to provide or maintain service remains in a town way declared to be discontinued by abandonment regardless of whether a public easement is retained by the municipality or county.

6. Filing in registry of deeds. If the municipal officers or county commissioners vote to declare a town way discontinued by abandonment, the municipal clerk or county clerk shall record an attested certificate of the discontinuance by abandonment in the registry of deeds in the county where the abandoned town way is situated.

A. The certificate of discontinuance by abandonment may not be filed before the appeal period in subsection 7 has passed or, if an appeal is filed, before the appeal process has ended.

B. The certificate of discontinuance by abandonment must list the date of the vote by the municipal officers or county commissioners, describe the town way and include whether a public easement was retained.

C. The register of deeds shall record the certificate of discontinuance by abandonment under the name of the town way, the name of the municipality or county and the names of the affected property owners. The municipal clerk or county clerk shall provide a photocopy of the certificate to the Department of Transportation, Bureau of Maintenance and Operations.

7. Appeal. Notwithstanding section 3029, a person affected by a vote to declare a town way discontinued by abandonment may appeal the decision by filing a written appeal request within 10 days of the vote as follows:

A. With the municipal clerk for an appeal of a vote by the municipal officers in a municipality with a board of appeals authorized to hear the appeal;

B. With the county clerk for an appeal of a vote by the municipal officers in a municipality that does not have a board of appeals authorized to hear the appeal; or

C. With the county clerk for an appeal of a vote by the county commissioners.

Within 15 days after receiving a written appeal request filed pursuant to this subsection, the municipal clerk or county clerk shall schedule a public hearing on the appeal before the municipal board of appeals or county commissioners and provide written notice of the hearing date to the municipal officers or county commissioners and the person filing the appeal request. The public hearing must occur no more than 30 days after the appeal request is received.

A person aggrieved by the decision of the municipal board of appeals or county commissioners pursuant to this subsection may appeal the decision to the Superior Court in the county where the town way is situated, pursuant to the Maine Rules of Civil Procedure, Rule 80B.

8. Quasi-judicial act. The determination of the municipal officers regarding the status of a town way pursuant to this section is a quasi-judicial act under Title 14, section 8104-B, subsection 2.

9. Previously abandoned town ways. This section does not alter the status of a town way abandoned by a municipality or county under the terms of former section 3028.

10. Common law abandonment. This section does not alter the ability of a town way to be abandoned under the common law presumption of abandonment.

11. Removal of obstructions. If the municipal officers or county commissioners have declared a town way discontinued by abandonment and have retained a public easement in the abandoned town way under this section, the municipality, county commissioners or an abutter on the way, acting with the written permission of the municipal officers or county commissioners, may remove any gates, bars or other obstructions in the town way.

Sec. 3. Effective date. This Act takes effect October 1, 2021.

See title page for effective date.

**CHAPTER 146
S.P. 242 - L.D. 603**

**An Act Regarding the Practice
of Pharmacy**

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

Sec. 1. 32 MRSA §13702-A, sub-§22, as enacted by PL 2007, c. 402, Pt. DD, §2, is amended to read:

22. Pharmacist. "Pharmacist" means an individual provider of health care services licensed by this State to engage in the practice of pharmacy.

A. "Chain pharmacist" means an individual who is engaged in the practice of pharmacy within a chain; that is, where there is a corporate grouping of 4 or more pharmacies.

B. "Hospital pharmacist" means an individual who is engaged in the practice of pharmacy in a hospital setting.

C. "Independent pharmacist" means an individual who is engaged in the practice of pharmacy in an independent pharmacy; that is, where there are fewer than 4 pharmacies under the same ownership.

D. "Qualified assistant pharmacist" means an individual licensed by this State as a qualified assistant apothecary, qualified assistant or assistant pharmacist, provided that the license is in full force and effect, except for the right to serve as a pharmacist in charge.

Sec. 2. 32 MRSA §13702-A, sub-§28, as amended by PL 2017, c. 185, §1, is further amended to read:

28. Practice of pharmacy. "Practice of pharmacy" means the provision of health care services that include the interpretation and evaluation of prescription drug orders; the compounding, dispensing and labeling of drugs and devices, except labeling by a manufacturer, packer or distributor of nonprescription drugs and commercially packaged legend drugs and devices; the participation in drug selection and drug utilization reviews; the proper and safe storage of drugs and devices and the maintenance of proper records for these drugs and devices; the administration of vaccines licensed by the United States Food and Drug Administration that are recommended by the United States Centers for Disease Control and Prevention Advisory Committee on Immunization Practices, or successor organization, for administration to adults; the performance of collaborative drug therapy management; the responsibility for advising, when necessary or regulated, of therapeutic values, content, hazards and use of drugs and devices; the ordering and dispensing of over-the-counter nicotine replacement products approved by the United States Food and Drug Administration; and the offering or performing of those acts, services, operations or transactions necessary in the conduct, operation, management and control of a pharmacy.

Sec. 3. 32 MRSA §13722, sub-§1, ¶B, as enacted by PL 1987, c. 710, §5, is amended to read: