

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND THIRTY-FIRST LEGISLATURE

FIRST REGULAR SESSION
December 7, 2022 to March 30, 2023

FIRST SPECIAL SESSION
April 5, 2023 to July 26, 2023

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NONEMERGENCY LAWS IS
JUNE 29, 2023

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NONEMERGENCY LAWS IS
OCTOBER 25, 2023

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

Augusta, Maine
2023

B. For the purposes of determining depreciation recapture for moveable equipment, the methodology must enable percentage credits to reach 100% after the first 6 years of the assigned useful life; and

C. The methodology must treat as equivalent to the owner of the residential care facility any person or entity that owns or controls the entity that owns the residential care facility and any entity that is owned or controlled by the owner of the residential care facility.

Sec. 33. 22 MRSA §7932, sub-§2, as amended by PL 2001, c. 596, Pt. B, §15 and affected by §25, is further amended to read:

2. Facility. "Facility" means any assisted living facility, residential care facility or assisted housing ~~program~~ facility subject to licensure pursuant to chapters 1663 and 1664, any nursing facility or unit subject to licensure pursuant to chapter 405 and any private psychiatric hospital subject to licensure pursuant to chapter 405.

Sec. 34. 22 MRSA §7942, sub-§3, as amended by PL 2003, c. 634, §7, is further amended to read:

3. Long-term care facility. "Long-term care facility" means an assisted living ~~program~~ facility or residential care facility subject to licensure pursuant to chapters 1663 and 1664 and a nursing or intermediate care facility or unit subject to licensure pursuant to chapter 405.

Sec. 35. 22 MRSA §7942, sub-§7, as amended by PL 2011, c. 542, Pt. A, §47, is further amended to read:

7. State licensing rules. "State licensing rules" refers to the department's rules governing the licensing and functioning of nursing facilities, intermediate care facilities for persons with intellectual disabilities and assisted living ~~programs~~ facilities or residential care facilities.

Sec. 36. 22 MRSA §8702, sub-§4, as amended by PL 2011, c. 233, §1, is further amended to read:

4. Health care facility. "Health care facility" means a public or private, proprietary or not-for-profit entity or institution providing health services, including, but not limited to, a radiological facility licensed under chapter 160, a health care facility licensed under chapter 405, an independent radiological service center, a federally qualified health center certified by the United States Department of Health and Human Services, Health Resources and Services Administration, a rural health clinic or rehabilitation agency certified or otherwise approved by the Division of Licensing and Regulatory Services within the Department of Health and Human Services, a home health care provider licensed under chapter 419, an assisted living ~~program~~ facility or a residential care facility licensed under chapter 1663, a hospice provider licensed under chapter

1681, a state institution as defined under Title 34-B, chapter 1 and a mental health facility licensed under Title 34-B, chapter 1. For the purposes of this chapter, "health care facility" does not include retail pharmacies.

Sec. 37. 22 MRSA §9053, sub-§2, as enacted by PL 2015, c. 299, §25, is amended to read:

2. Assisted housing ~~program~~ facility. "Assisted housing ~~program~~ facility" means a ~~program~~ facility licensed pursuant to chapter 1663.

Sec. 38. 22 MRSA §9054, sub-§7, ¶L, as enacted by PL 2015, c. 299, §25, is amended to read:

L. Assisted housing ~~programs~~ facilities;

See title page for effective date.

**CHAPTER 177
S.P. 293 - L.D. 735**

An Act to Require the State to Hold a Public Hearing in a Municipality Before the State Constructs a Solar Project in That Municipality

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

Sec. 1. 5 MRSA §1742-B, as amended by PL 2021, c. 275, §2, is further amended by enacting after the 3rd paragraph a new paragraph to read:

If a proposed public improvement is for or includes installation of a solar energy project that will involve the disturbance of more than 1,000 square feet of land area, the state agency responsible for the installation of the solar energy project shall hold a public hearing on the project in the municipality where the project is located. The public hearing under this paragraph must be provided as soon as development of the schematic design for the solar energy project is complete.

Sec. 2. 23 MRSA §73, sub-§3, ¶F, as corrected by RR 1991, c. 2, §88, is amended to read:

F. Be consistent with the purposes, goals and policies of ~~the Comprehensive Planning and Land Use Regulation Act~~ Title 30-A, chapter 187, subchapter 2; and

Sec. 3. 23 MRSA §73, sub-§3, ¶G, as corrected by RR 1991, c. 2, §88, is amended to read:

G. Incorporate a public participation process in which local governmental bodies and the public have timely notice and opportunity to identify and comment on concerns related to transportation planning decisions, capital investment decisions and project decisions. ~~The department~~ Department of Transportation and the Maine Turnpike Authority shall take the comments and concerns of local

citizens into account and must be responsive to them; and

Sec. 4. 23 MRSA §73, sub-§3, ¶H is enacted to read:

H. Ensure opportunity for public input whenever the Department of Transportation or the Maine Turnpike Authority plans to install a solar energy project that will involve the disturbance of more than 1,000 square feet of land area. The department or the authority shall hold a public hearing in the municipality where the solar energy project is to be located.

See title page for effective date.

CHAPTER 178
S.P. 361 - L.D. 864

An Act to Clarify Provisions of
the Maine Good Samaritan
Law

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

Sec. 1. 17-A MRSA §1111-B, sub-§1, ¶A, as enacted by PL 2021, c. 724, §1, is amended by amending subparagraph (11) to read:

(11) Endangering the welfare of a child as described in section 554, ~~subsection 1, paragraph A;~~

See title page for effective date.

CHAPTER 179
H.P. 559 - L.D. 903

An Act to Establish Parity in
Tipping Laws for Restaurant
Workers

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

Sec. 1. 26 MRSA §664, sub-§2, ¶D, as enacted by PL 2017, c. 272, §1, is amended to read:

D. That all tips received by the affected employee must be retained by the employee, except for a valid tip pooling arrangement limited to employees who customarily and regularly receive tips in accordance with subsection 2-A;

Sec. 2. 26 MRSA §664, sub-§2-A, as amended by PL 2019, c. 10, §1, is further amended to read:

2-A. Tip pooling. This section may not be construed to prohibit an employer from establishing a valid tip pooling arrangement only among service employees

that does not violate the federal Fair Labor Standards Act of 1938 and regulations made pursuant to that Act as long as:

A. The tip pooling arrangement is only among service employees when the employer uses the tip credit under subsection 2; or

B. The tip pooling arrangement is among a group of employees when the employer pays all employees in the group the minimum hourly wage and does not use the tip credit under subsection 2. An employer may not receive tips from such a tip pool and may not allow supervisors and managers to receive tips from the tip pool.

See title page for effective date.

CHAPTER 180
S.P. 391 - L.D. 920

An Act Regarding Temporary
Transfers of Elver Fishing
Quotas for Medical Reasons

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

Sec. 1. 12 MRSA §6575-L, sub-§1, as corrected by RR 2015, c. 1, §5, is amended to read:

1. Temporary medical transfer requested prior to March 1st. Notwithstanding section 6505-A, subsection 3-A, the commissioner may authorize a temporary medical transfer that permits the holder of an elver fishing license issued under section 6505-A to transfer the entire remaining annual quota allocated to that person at the time the request is made to another person holding an elver fishing license issued under section 6505-A if the following criteria are met:

A. The transferor reported elver landings in the prior fishing year; and

B. The transferor is unable to fish the quota allocated to the transferor because the transferor has experienced a substantial illness or medical condition. The transferor shall provide the commissioner with documentation from a physician describing the substantial illness or medical condition; and

~~C. The transferor requests a temporary medical transfer in writing before March 1st of the fishing year for which it is being requested, except that the commissioner may adopt rules that provide a method for authorizing a temporary medical transfer requested after March 1st to address emergency medical conditions.~~

The commissioner may adopt rules that provide that a transferor may choose to retain the income and tax burden from the sale of the transferor's transferred quota or