

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals
(may include minor formatting differences from printed original)

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

C. The commissioner shall provide a school, school administrative unit or private school approved for tuition purposes that is unable to demonstrate compliance with basic school approval standards or other requirements of this Title with a corrective action plan.

If the commissioner finds that a school, school administrative unit or private school approved for tuition purposes is not in compliance with the Maine Human Rights Act, the commissioner shall refer the finding to the Maine Human Rights Commission.

Sec. 2. 20-A MRSA §4504, sub-§1, as enacted by PL 1983, c. 859, Pt. A, §§20 and 25, is amended to read:

1. Implementation. The commissioner shall determine which schools and school units are in compliance with the basic school approval standards, in accordance with the procedures of the basic school approval rules and the provisions of this Title, and the Maine Human Rights Act.

If the commissioner finds that a school or school administrative unit is not in compliance with the Maine Human Rights Act, the commissioner shall refer the finding to the Maine Human Rights Commission.

See title page for effective date.

CHAPTER 398

H.P. 877 - L.D. 1363

An Act to Support Extraction of Common Minerals by Amending the Maine Metallic Mineral Mining Act

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

Sec. 1. 38 MRSA §490-MM, sub-§3-A is enacted to read:

3-A. Cement. "Cement" means any of various calcined mixtures of clay and limestone that can be mixed with water and used as an ingredient in making mortar or concrete.

Sec. 2. 38 MRSA §490-MM, sub-§8, as enacted by PL 2011, c. 653, §23 and affected by §33, is amended to read:

8. Metallic mineral. "Metallic mineral" means any mineral, ore or excavated material ~~to be excavated from the natural deposits on or in the earth for its metallic mineral content to be used for commercial or industrial purposes.~~ "Metallic mineral" ~~does not include thorium or uranium that has metal or a metalloid element as its economically valuable constituent, regardless of the chemical end product of the metal or metalloid element.~~

Sec. 3. 38 MRSA §490-MM, sub-§11, as enacted by PL 2011, c. 653, §23 and affected by §33, is amended to read:

11. Mining, mining operation or mining activity. "Mining," "mining operation" or "mining activity" means activities, facilities or processes necessary for the extraction or removal of metallic minerals or overburden or for the preparation, washing, cleaning or other treatment of metallic minerals and includes the bulk sampling, advanced exploration, extraction or beneficiation of metallic minerals as well as waste storage and other stockpiles and reclamation activities, but does not include exploration ~~or any of the following activities:~~

A. The physical extraction, crushing, grinding, sorting, storage or heating of calcium carbonate or limestone to produce cement when such activity is subject to article 6, article 8-A or Title 12, chapter 206-A or when such activity covers one acre or less of surface area in total;

B. The exploration for or physical extraction, crushing, grinding, sorting or storage of borrow, topsoil, clay or silt when such activity is subject to article 7 or Title 12, chapter 206-A or when such activity covers 5 acres or less of surface area in total;

C. The exploration for or physical extraction, crushing, grinding, sorting or storage of gemstones, aggregate, dimension stone or other construction materials from a quarry that is subject to article 8-A or Title 12, chapter 206-A or when such activity covers one acre or less of surface area in total; and

D. The exploration for or physical extraction, crushing, grinding, sorting or storage of any other metallic minerals when such activity has been excluded from the requirements of this article pursuant to a determination made by the department under section 490-NN, subsection 4.

Sec. 4. 38 MRSA §490-NN, sub-§4 is enacted to read:

4. Determination of applicability of Maine Metallic Mineral Mining Act requirements. As provided in this subsection and following the adoption of rules by the department pursuant to this subsection, a person proposing to conduct exploration for or physical extraction, crushing, grinding, sorting or storage of metallic minerals as described in section 490-MM, subsection 11, paragraph D may request a written determination from the department that the requirements of this article do not apply to the activity. The department shall adopt rules governing the requirements for issuance of such a determination under this subsection, which must include, but are not limited to:

A. Provisions for ensuring that the activity will generate only mine waste that does not have the potential to create acid rock drainage, alkali rock drainage or drainage or other discharges that could cause violations of water quality criteria or standards other than sedimentation or turbidity and will not release or expose radioactive or other materials that could endanger human health or the environment. The provisions under this paragraph must include, but are not limited to, preextraction sampling requirements;

B. Provisions for ensuring that the activity, if excluded from the requirements of this article, is subject to requirements of article 6, article 7, article 8-A or Title 12, chapter 206-A as applicable, including, but not limited to, applicable requirements and standards under those laws regarding the effect of the activity on wildlife habitat and other protected natural resources; and

C. Provisions for requiring monitoring as necessary to demonstrate compliance with applicable standards and to protect water quality and human health during and after the activity.

An activity excluded from the requirements of this article as determined by the department pursuant to this subsection is not subject to the otherwise applicable requirements of this article, the otherwise applicable rules adopted pursuant to this article, except for those rules adopted by the department pursuant to this subsection, or the fees for metallic mineral mining set forth in section 352, subsection 4-A. Rules adopted by the department pursuant to this subsection are major substantive rules, as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 5. 38 MRSA §490-NN, sub-§5 is enacted to read:

5. Mining excise tax. A person engaging in mining activities pursuant to this article and a person, pursuant to article 6, article 7, article 8-A or Title 12, chapter 206-A, engaging in activities described in section 490-MM, subsection 11, paragraph D following a determination by the department under subsection 4 is subject to the mining excise tax under Title 36, chapter 371. A person engaging in the activities described in section 490-MM, subsection 11, paragraphs A to C is not subject to the mining excise tax under Title 36, chapter 371.

See title page for effective date.

**CHAPTER 399
S.P. 278 - L.D. 720**

**An Act to Expand Eligibility
for Supervised Community
Confinement for Prisoners with
a Prognosis Likely to Result in
an Incapacitating Medical
Condition**

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

Sec. 1. 34-A MRSA §3036-A, sub-§10, as amended by PL 2021, c. 376, §5, is further amended to read:

10. Terminally ill or incapacitated prisoner. With the consent of the prisoner, the commissioner may transfer a prisoner committed to the department from a correctional facility to supervised community confinement without meeting the eligibility requirements of subsection 2, paragraphs B and C and without meeting the criteria or fulfilling the process provided for under subsection 2-A if the department's director of medical care has determined that the prisoner has a terminal or severely incapacitating medical condition or has a worsening prognosis that is likely to result in a terminal or severely incapacitating medical condition and that care outside a correctional facility is medically appropriate. Except as set out in this subsection, the prisoner must live in a hospital or other appropriate care facility, such as a nursing facility, residential care facility or a facility that is a licensed hospice program pursuant to Title 22, section 8622, approved by the commissioner. As approved by the commissioner, the prisoner may receive hospice services from an entity licensed pursuant to Title 22, chapter 1681, subchapter 1 or other care services provided by an entity approved by the commissioner and, subject to approval by the commissioner, may live at home while receiving these services. The commissioner may exempt a prisoner transferred to supervised community confinement pursuant to this subsection from any mandatory condition under subsection 3 that the commissioner determines to be inapplicable. The prisoner shall provide any information pertaining to the prisoner's medical condition or care that is requested by the commissioner at any time while the prisoner is on supervised community confinement. If the commissioner determines that the prisoner has failed to fully comply with a request or if at any time the department's director of medical care determines that the prisoner does not have a terminal or severely incapacitating medical condition or that care outside a correctional facility is not medically appropriate, the commissioner shall revoke the transfer to supervised community confinement.

Sec. 2. 34-A MRSA §3036-A, sub-§13, as enacted by PL 2021, c. 376, §7, is amended to read: