

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND THIRTY-FIRST LEGISLATURE

SECOND REGULAR SESSION
January 3, 2024 to May 10, 2024

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
AUGUST 9, 2024

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

Augusta, Maine
2024

Whereas, the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A requires legislative authorization before major substantive agency rules may be finally adopted by the agency; and

Whereas, a major substantive rule has been submitted to the Legislature for review; and

Whereas, immediate enactment of this resolve is necessary to record the Legislature's position on final adoption of the rule; 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

Sec. 1. Adoption. Resolved: That final adoption of portions of Chapter 132: Learning Results: Parameters for Essential Instruction, a provisionally adopted major substantive rule of the Department of Education that has been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A, is not authorized.

Sec. 2. Social studies standards. Resolved: That the Department of Education shall initiate rule-making on the portion of the department's rule Chapter 132: Learning Results: Parameters for Essential Instruction that provides the parameters for instruction for the content area of social studies and submit a provisionally adopted rule to the Legislature in the First Regular Session of the 132nd Legislature for review. The department may adjust the content areas subject to review and submission to the Legislature in the First Regular Session of the 132nd Legislature pursuant to the Maine Revised Statutes, Title 20-A, section 6209, subsection 4 as necessary to accomplish the purposes of this section.

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

Effective April 13, 2024.

CHAPTER 168

H.P. 1399 - L.D. 2185

Resolve, Regarding Legislative Review of Chapter 2: Medical Use of Cannabis Program Rule, a Major Substantive Rule of the Department of Administrative and Financial Services, Office of Cannabis Policy

Emergency preamble. **Whereas**, acts and resolves of the Legislature do not become effective until

90 days after adjournment unless enacted as emergencies; and

Whereas, the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A requires legislative authorization before major substantive agency rules may be finally adopted by the agency; and

Whereas, a major substantive rule has been submitted to the Legislature for review; and

Whereas, immediate enactment of this resolve is necessary to record the Legislature's position on final adoption of the rule; 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

Sec. 1. Adoption. Resolved: That final adoption of Chapter 2: Medical Use of Cannabis Program Rule, a provisionally adopted major substantive rule of the Department of Administrative and Financial Services, office of cannabis policy that has been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A, is not authorized.

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

Effective April 16, 2024.

CHAPTER 169

S.P. 590 - L.D. 1471

Resolve, Regarding Legislative Review of Portions of Chapter 200: Metallic Mineral Exploration, Advanced Exploration and Mining, a Late-filed Major Substantive Rule of the Department of Environmental Protection

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

Whereas, the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A requires legislative authorization before major substantive agency rules may be finally adopted by the agency; and

Whereas, a major substantive rule was submitted to the Legislature outside the legislative rule acceptance

period and a legislative instrument to allow for legislative review was not prepared; and

Whereas, immediate enactment of this resolve is necessary to record the Legislature's position on final adoption of the rule; 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

Sec. 1. Adoption. Resolved: That, notwithstanding any provision of the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A to the contrary, and using this resolve as provided in Title 5, section 8072, subsection 11, the Legislature authorizes final adoption of portions of Chapter 200: Metallic Mineral Exploration, Advanced Exploration and Mining, a provisionally adopted major substantive rule of the Department of Environmental Protection that was submitted February 29, 2024 to the Legislature for review pursuant to Title 5, chapter 375, subchapter 2-A outside the legislative rule acceptance period, only if the following changes are made:

1. The rule must be amended, as necessary, in section 36(B), and any other relevant sections to provide that, as part of a preapplication mine waste and ore sampling and testing plan, proposed rock sampling under such plan must:

A. Include a minimum of 4 samples per acre of proposed exclusion area, except that the department may require less than 4 but not less than 2 samples per acre in cases where the department determines that the geology is uniform and not complex, such that requiring less than 4 but not less than 2 samples per acre is appropriate; and

B. Be conducted by a qualified professional;

2. The rule must be amended, as necessary, in section 36(C), and any other relevant sections to provide that, as part of a preapplication water quality evaluation plan, proposed water quality testing on groundwater and surface water samples from a proposed exclusion area must include, but not be limited to, testing for perfluoroalkyl and polyfluoroalkyl substances, or PFAS. The rule must also require water quality testing on groundwater and surface water samples from reclaimed portions of an exclusion area, as directed by the department, that includes, but is not limited to, testing of those samples for PFAS;

3. The rule must be amended, as necessary, in section 39 to require, as a condition of the department's approval of an exclusion application, that all lighting fixtures implemented or used by the licensee within the exclusion area must be designed to reduce, to the greatest extent practicable, the glare and light pollution on all

adjacent areas through the use of shielding, reflectors, light diffusors and other measures, as specified by the department. The rules must establish requirements for allowable lighting fixtures within the exclusion area that limit each lighting fixture to a light emittance rating of not more than 2,000 lumens and a correlated color temperature of not more than 3,000K;

4. The rule must be amended, as necessary, in section 39 to require, as a condition of the department's approval of an exclusion application, that reclamation within an exclusion area must, to the greatest extent practicable, be designed to result in restoration of natural vegetation and other wildlife and aquatic resources that existed prior to the commencement of mining activities within the exclusion area;

5. The rule must be amended, as necessary, in section 39(D)(4), and any other relevant sections, to provide that the total area within an exclusion area that is actively used for the physical extraction of metallic minerals and not yet reclaimed does not exceed 5 acres.

A. In calculating whether the 5-acre limit is reached, the rule may not include the areas within an exclusion area that are not actively used for the physical extraction of metallic minerals, including, but not limited to, areas where extracted material is stockpiled or stored; areas where extracted material is crushed, ground or physically sorted; areas that include buildings or other structures relating to or supporting mining activities; and access roads, parking lots and related infrastructure.

B. Once the 5-acre limit is reached, the rule must require reclamation in order to expand the area within the exclusion area that is actively used for the physical extraction of metallic minerals such that, at any time, a maximum of 5 acres in total are actively used for the physical extraction of metallic minerals and not yet reclaimed.

The rule must provide for the requirements and standards applicable to the reclamation of all areas within the exclusion area, including those areas not actively used for the physical extraction of metallic minerals; and

6. All other necessary changes must be made to the rule to ensure conformity and consistency throughout the rule and to ensure consistency between the rule and the provisions of the Maine Revised Statutes, Title 38, section 490-NN, subsection 4, including any necessary grammatical, formatting, punctuation or other technical, nonsubstantive editing changes.

The Department of Environmental Protection is not required to hold hearings or undertake further proceedings prior to final adoption of the rule in accordance with this section.

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

Effective April 16, 2024.

CHAPTER 170

H.P. 1212 - L.D. 1891

Resolve, to Require the Office of Tax Policy to Study the Adoption of a Pass-through Entity Income Tax

Sec. 1. Department of Administrative and Financial Services, Bureau of Revenue Services, Office of Tax Policy to examine and evaluate system of taxation of business income and possible adoption of pass-through entity income tax. Resolved: That the Department of Administrative and Financial Services, Bureau of Revenue Services, Office of Tax Policy shall examine and evaluate the State's current system of taxation of business income, including the current system of taxing pass-through business income at the partner or shareholder level, and the possible adoption of a pass-through entity income tax to tax such pass-through income, including the possibility of moving the taxation of that income, or some portion of that income, from the partner or shareholder level to the business entity that generated the income. The study must include examination of the impact of the adoption of a pass-through entity income tax on a mandatory and an elective basis, on a permanent and time-limited basis and on a retroactive basis. The Office of Tax Policy shall also include in the study consideration of the impact of the federal state and local tax deduction limitation on individual taxpayers in the State, and the manner and fiscal impact of how a pass-through entity income tax has been enacted and implemented in other states to, in part, address the state and local tax deduction. The Office of Tax Policy may consult with national income tax experts as appropriate. No later than January 15, 2025, the Office of Tax Policy shall submit a report based on the study to the joint standing committee of the Legislature having jurisdiction over taxation matters that includes its findings and recommendations, including suggested legislation. The joint standing committee may submit legislation related to the report to the 132nd Legislature in 2025.

See title page for effective date.

CHAPTER 171

S.P. 1002 - L.D. 2289

Resolve, to Establish an Automotive Right to Repair Working Group

Sec. 1. Automotive right to repair working group. Resolved: That the Attorney General shall convene a working group to develop recommendations for legislation to establish an entity with rule-making and enforcement authority to adopt standards governing access to motor vehicle telematics systems and to otherwise implement and enforce the requirements of the Maine Revised Statutes, Title 29-A, section 1810.

1. The Attorney General or the Attorney General's designee shall participate in the working group and shall invite the participation in the working group of the following additional members:

- A. The Secretary of State or the Secretary of State's designee;
- B. Two members representing motor vehicle manufacturers, at least one of whom must represent an organization of motor vehicle manufacturers;
- C. One member representing aftermarket parts manufacturers;
- D. One member representing aftermarket parts distributors and retailers;
- E. Two members representing independent repair facilities, at least one of whom is an owner or operator of a facility;
- F. One member representing new motor vehicle dealers;
- G. One member representing a consumer advocacy organization; and
- H. One member representing a data privacy advocacy organization.

Members of the working group serve without compensation. The Office of the Attorney General shall provide necessary staffing services to the working group.

2. The working group shall develop recommendations for legislation to establish an entity to ensure cyber-secure access to motor vehicle-generated data to owners and owner-authorized independent repair facilities for maintenance, diagnostic and repair purposes. The recommendations developed by the working group must address that entity's ability to:

- A. Identify and adopt relevant standards for implementing the requirements of Title 29-A, section 1810, including standards relating to access to vehicle telematics systems;