

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND NINTH LEGISLATURE

AT THE

SECOND REGULAR SESSION

January 2, 1980 to April 3, 1980

AND AT THE

THIRD SPECIAL SESSION

May 22, 1980

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PUBLIC LAWS
OF THE
STATE OF MAINE
AS PASSED AT THE
SECOND REGULAR SESSION
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recommended funding, to the Governor and the appropriate committee of the Legislature assigned in this area of energy and natural resources during the first regular session of the 110th Legislature.

Upon acceptance, by the Governor and the committee, of the board's determination of necessity for one or more hazardous waste facilities, the board shall prepare a plan which provides for the location and acquisition of suitable sites, and the planning, construction, maintenance and operation of hazardous waste facilities on those sites. The plan shall include the board's recommendation for public or private financing of all projects proposed by the plan. Specifically, the board shall prepare a budget covering a period of not less than 3 years and shall provide one or more methods of assessing generators of hazardous waste a fee to fund all reasonable and necessary planning, engineering, acquisition and construction of hazardous waste facilities, and shall provide one or more methods for assessing fees on users of the hazardous waste facilities to cover maintenance and operating costs, insurance, monitoring, closing costs and other necessary expenditures.

The board, when proposing site locations, shall consider the geographic location of probable generators, the distances and costs involved in the transport of hazardous waste to waste facilities, the compatibility of potential wastes and the board's rules and regulations.

Effective July 3, 1980

CHAPTER 731

H. P. 1719 — L. D. 1830

AN ACT Relating to Agricultural Development.

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

Sec. 1. 5 MRSA § 711, sub-§ 2, ¶ A, sub-¶ (1-A) is enacted to read:

- (1-A) Department of Agriculture, Food and Rural Resources:
- (a) Deputy commissioners;
 - (b) Associate Commissioner for Policy Development;
 - (c) Director, Bureau of Agricultural Productions;
 - (d) Director, Bureau of Agricultural Marketing;
 - (e) Director, Bureau of Agricultural and Rural Resources; and

(f) Director, Bureau of Public Services.

Sec. 2. 7 MRSA § 1, first sentence, as repealed and replaced by PL 1975, c. 771, § 96, is amended to read:

The Department of Agriculture, **Food and Rural Resources**, as heretofore established and hereinafter in this Title called the "department," shall be maintained for the improvement of agriculture and the advancement of the interests of husbandry, and shall consist of the Commissioner of Agriculture, **Food and Rural Resources**, hereafter in this Title called the "commissioner," and the following as heretofore created and established: The **Board of Pesticide Control**, the Maine Dairy and Nutrition Council Committee, the **Maine Dairy Promotion Board**, the Maine Milk Commission, the Maine Potato Commission, the Seed Potato Board, ~~Milk Tax Committee~~ the Soil and Water Conservation Commission, the Harness Racing Commission and the Board of Veterinary ~~Examiners~~ **Medicine**.

Sec. 3. 7 MRSA § 1, last 2 sentences, as repealed and replaced by PL 1975, c. 771, § 96, are repealed.

Sec. 4. 7 MRSA § 1-A is enacted to read:

§ 1-A. Legislative intent

The Legislature finds agriculture to be a major industry in the State, contributing substantially to the state's overall economy, essential to the maintenance and strengthening of rural life and values and necessary to the preservation of the health, safety and welfare of all of the people of this State.

The survival of the family farm is of special concern to the people of the State, and the ability of the family farm to prosper, while producing an abundance of high quality food and fiber, deserves a place of high priority in the determination of public policy. For this purpose there is established the Department of Agriculture, **Food and Rural Resources**.

Sec. 5. 7 MRSA § 2, first sentence, as amended by PL 1973, c. 598, § 1, is further amended to read:

The commissioner is the chief executive charged with the enforcement of this Title and ~~Title 17, chapter 43~~ **all statutes delegating responsibility to him or the department** and shall be vigilant in discovering violations thereof and making complaint to the proper authorities.

Sec. 6. 7 MRSA § 2, last paragraph, as last amended by PL 1975, c. 477, § 2, is further amended to read:

The commissioner does not have authority to exercise or interfere with the exercise of any discretionary statutory authority granted to the following, which authority shall be exclusively within the specific board, bureau, agency,

commission, committee or other governmental unit: The Maine Dairy and Nutrition Council Committee, **the Maine Dairy Promotion Board**, the Maine Milk Commission, the Seed Potato Board, the Harness Racing Commission, ~~Milk Tax Committee~~ the Maine Potato Commission, the Soil and Water Conservation Commission, ~~and~~ the Board of Veterinary Medicine **and the Board of Pesticide Control**.

Sec. 7. 7 MRSA § 2, as last amended by PL 1975, c. 584, is further amended by adding at the end the following new paragraph to read:

In addition, the commissioner shall be concerned with the quality of life of Maine farmers and rural communities. The commissioner shall promote: Farm financing and rural development proposals; conservation and preservation of agricultural lands; increased and improved production of beef, poultry, sheep, dairy beef and other livestock; expanded and improved production of potatoes, fruits and other vegetables and horticultural ventures; coordinated foreign and domestic marketing of Maine agricultural products; and, in conjunction with the university, crop development and integrated pest management. To accomplish these objectives, the commissioner is authorized for, or on behalf of, Maine's farmers and rural community: To engage in research and educational programs; to participate directly or indirectly in program to encourage and enable individuals to enter agricultural or other rural enterprises; to institute litigation or upon request to represent farmers or other members of the rural community in litigation where he determines that such litigation may be beneficial to agricultural industry as a whole; and to exercise all other powers of an agency of State Government. The commissioner may study such issues and, consistent with statute, take such actions either individually, for, or on behalf of, the state's farmers or rural residents, or jointly with such other persons, agencies or organizations as he determines may benefit the state's farmers and rural communities.

Sec. 8. 7 MRSA § 3, as repealed and replaced by PL 1973, c. 598, § 2, is repealed and the following enacted in its place:

§ 3. Bureaus and divisions

The commissioner may establish and organize such bureaus and divisions in the department as he deems necessary and may incorporate the commissions, boards and committees of the department within these bureaus and divisions. The commissioner may issue such administrative orders as he deems necessary to carry out the functions of the department.

Sec. 9. 7 MRSA § 5, as amended by PL 1975, c. 771, § 97, is further amended to read:

§ 5. Deputies; associates; directors

The commissioner may with the approval of the Governor appoint and fix the compensation of a chief deputy and such other deputies, associates and bureau

directors as in his judgment are required to assist him, and to enable him to carry out all laws, the execution of which is entrusted to him. ~~The chief deputy~~ **These deputies, associates and directors** shall hold office ~~during good behavior and such other deputies~~ during the pleasure of the commissioner. ~~Their compensation and expenses shall be paid from any funds appropriated for the use of the commissioner in the execution of said laws~~

Sec. 10. 7 MRSA § 956, first ¶, 3rd sentence, as amended by PL 1965, c. 219, § 7, is further amended to read:

He may also, in person, or by duly authorized representative, open any container and may ~~upon tendering market price~~ take samples therefrom.

Sec. 11. 7 MRSA § 956, first ¶, as last amended by PL 1977, c. 696, § 80, is further amended by adding after the 3rd sentence a new sentence to read:

He shall, upon written request, therefor, pay the packer the fair market value of any sample retained or destroyed by him.

Sec. 12. 7 MRSA § 958 is enacted to read:

§ 958. Law enforcement officers

In enforcing this Article, the commissioner or any other duly authorized representative shall be considered law enforcement officers only for purposes of service of process consistent with Title 17-A, section 17, subsection 1.

Sec. 13. 7 MRSA § 2301, as last amended by PL 1977, c. 694, § 135, is further amended to read:

§ 2301. Authority

The commissioner, when he shall find that there exists **within the State**, or in any other state, territory, district or part thereof any dangerous plant disease or insect infestation with reference to which the Secretary of Agriculture of the United States has not determined that a quarantine is necessary and has not established such quarantine, is authorized to promulgate and to enforce by appropriate rules and regulations, adopted in a manner consistent with the Maine Administrative Procedure Act, a quarantine prohibiting or restricting the transportation **within**, into or through the State, or any portion thereof, ~~from such other state, foreign country, territory or district~~ of any class of nursery stock, plant, fruit, seed or other article of any character whatsoever, capable of carrying such plant disease or insect infestation. The commissioner is authorized to make, in a manner consistent with the Maine Administrative Procedure Act, rules and regulations for the seizure, inspection, disinfection, destruction, or other disposition of any nursery stock, plant, fruit, seed or other article of any character whatsoever, capable of carrying any ~~other~~ plant disease or insect infestation, a quarantine with respect to which shall have been established by the Secretary of

Agriculture of the United States or the commissioner, and which exists within, or has been transported to, into or through this State in violation of such quarantine.

Sec. 14. 10 MRSA § 703, sub-§ 3, ¶ D as amended by PL 1979, c. 228, § 1, is further amended to read:

D. Any fishing vessel documented or to be documented as a fishing vessel under the laws of the United States, or any fishing vessel registered or to be registered under State of Maine law which is designed to be used for catching, processing or transporting fish or any vessel outfitted for such activity; and

Sec. 15. 32 MRSA § 4152, as amended by PL 1979, c. 26, § 1 is repealed and the following enacted in its place:

§ 4152. **Maine Sardine Council**

The Maine Sardine Council, as established by Title 36, section 4693, shall meet with the commissioner at regular intervals to be determined by it and more often if called by the commissioner.

The Maine Sardine Council shall advise the commissioner and the commissioner shall consult with the council on matters of general interest to the sardine industry within the jurisdiction of the commissioner.

Sec. 16. 32 MRSA § 4156, 2nd sentence, as repealed and replaced by PL 1979, c. 62, § 3, is amended to read:

The inspection fee provided for may be increased by the Commissioner of Agriculture, **Food and Rural Resources**, in a manner consistent with the rule-making provisions of the Maine Administrative Procedure Act, after consultation with the **Maine Sardine Industry Advisory Board Council** to an amount not to exceed 12¢ per case, in the event the fee of 8¢ per case is not adequate to cover the cost of the inspection, but the increased fee shall be reasonable and shall cover as nearly as may be possible the cost of the inspection.

Sec. 17. 36 MRSA § 4693, last ¶, as repealed and replaced by PL 1979, c. 26, § 5 and c. 541, Pt. B, § 49, is amended by adding after the 2nd sentence, a new sentence to read:

The council is authorized to consult with the Commissioner of Agriculture, Food and Rural Resources consistent with Title 32, chapter 61.

Sec. 18. **Transition; Department of Agriculture, Food and Rural Resources.** The Department of Agriculture, as heretofore created, shall be known as the Department of Agriculture, Food and Rural Resources. Any references to the Department of Agriculture shall be deemed to be a reference to the Department of Agriculture, Food and Rural Resources and all obligations and responsibilities having accrued to the Department of Agriculture, shall be deemed to have accrued to the Department of Agriculture, Food and Rural

Resources. The commissioner is authorized to transfer positions, lines, programs or accounts between bureaus and appropriations in order to carry out the intent of this Act.

Sec. 19. Revision clause. Wherever in the Revised Statutes the words "Department of Agriculture" appear or reference is made to that name, they shall be amended to read and mean the "Department of Agriculture, Food and Rural Resources."

Effective July 3, 1980

CHAPTER 732

S. P. 827 — L. D. 2037

AN ACT to Provide for Implementation of the Settlement of Claims by Indians in the State of Maine and to Create the Passamaquoddy Indian Territory and Penobscot Indian Territory.

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

Sec. 1. 30 MRSA Pt. 4 is enacted to read:

PART 4

INDIAN TERRITORIES

CHAPTER 601

MAINE INDIAN CLAIMS SETTLEMENT

§ 6201. Short title

This Act shall be known and may be cited as "AN ACT to Implement the Maine Indian Claims Settlement."

§ 6202. Legislative findings and declaration of policy

The Legislature finds and declares the following.

The Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians are asserting claims for possession of large areas of land in the State and for damages alleging that the lands in question originally were transferred in violation of the Indian Trade and Intercourse Act of 1790, 1 Stat. 137, or subsequent reenactments or versions thereof.

Substantial economic and social hardship could be created for large numbers of