

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**

**ONE HUNDRED AND NINETEENTH LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 2, 1998 to June 19, 1999**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 18, 1999**

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

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**J.S. McCarthy Company**  
**Augusta, Maine**  
**1999**

**4. Interest.** An interest in real property in existence at the time a trail easement is created is not impaired by the trail easement unless the owner of the interest is a party to the trail easement or consents to it.

### **§1583. Judicial actions**

**1. Action or intervention.** An owner of an interest in the real property burdened by a trail easement or a holder of the trail easement may bring or intervene in an action affecting the easement.

**2. Intervention only.** The State or a political subdivision of the State in which the real property burdened by a trail easement is located may intervene in an action affecting the easement.

**3. Power of court.** This chapter does not affect the power of a court to enforce a trail easement by injunction or proceeding in equity or to modify a trail easement in accordance with principles of law and equity.

### **§1584. Validity**

A trail easement is valid and enforceable even if:

**1. Not appurtenant to interest in real property.** It is not appurtenant to or does not run with an interest in real property;

**2. Assigned to another holder.** It can be or has been assigned to another holder;

**3. Not recognized at common law.** It is not of a character that has been recognized traditionally at common law;

**4. Negative burden.** It imposes a negative burden;

**5. Affirmative obligations.** It imposes affirmative obligations upon the owner of an interest in the burdened property or upon the holder;

**6. Benefit does not touch or concern real property.** The benefit does not touch or concern real property;

**7. No privity of estate or of contract.** There is no privity of estate or of contract; or

**8. Does not run to successors or assigns.** It does not run to the successors or assigns of the holder.

### **§1585. Applicability**

**1. Trail easement created after effective date.** This chapter applies to any interest created after the effective date of this chapter that meets the definition of "trail easement" as set forth in section 1581.

**2. Chapter does not invalidate interest.** This chapter does not invalidate any interest, whether designated as a trail easement or otherwise, that is enforceable under other laws of this State.

See title page for effective date.

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## **CHAPTER 372**

**H.P. 1152 - L.D. 1649**

### **An Act to Strengthen Maine's Research and Development Capacity in Renewable Energy Resources**

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

**Sec. 1. 35-A MRSA §3210, sub-§5,** as enacted by PL 1997, c. 316, §3, is amended to read:

**5. Funding for research and development; community demonstration projects.** The commission by rule shall establish a program allowing retail consumers of electricity to make voluntary contributions to fund renewable resource research and development and to fund demonstration community projects using renewable energy technologies. The State Planning Office shall administer the program. The program must:

A. Include a mechanism for customers to indicate their willingness to make contributions;

B. Provide that transmission and distribution utilities collect and account for the contributions and forward them to the commission; and

C. Provide for a distribution of the funds to the University of Maine System, the Maine Maritime Academy or the Maine Technical College System for renewable resource research and development; and

D. Provide for a distribution of the funds to Maine-based nonprofit organizations that qualify under the federal Internal Revenue Code, Section 501(c)(3), consumer-owned electric cooperatives, community-based nonprofit organizations and community action programs for demonstration community projects using renewable energy technologies.

Rules adopted under this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A.

**Sec. 2. 35-A MRSA §3210, sub-§6** is enacted to read:

**6. Fund.** There is established the Renewable Resource Fund, referred to in this subsection as the "fund." The fund is a nonlapsing fund administered by the State Planning Office. All funds collected by the commission pursuant to subsection 5 must be deposited in the fund for distribution by the State Planning Office in accordance with subsection 5. The State Planning Office may seek and accept funding for the program established pursuant to subsection 5 from other sources, public or private. Any funds accepted for use in the program established pursuant to subsection 5 must be deposited in the fund.

**Sec. 3. Allocation.** The following funds are allocated from Other Special Revenue funds to carry out the purposes of this Act.

	1999-00	2000-01
<b>EXECUTIVE DEPARTMENT</b>		
<b>Renewable Resource Fund</b>		
All Other	\$500	\$500
Provides a base allocation for the Renewable Resource Fund, administered by the State Planning Office, to authorize expenditures in the event that voluntary contributions are deposited in the fund.		

See title page for effective date.

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**CHAPTER 373**

**H.P. 1092 - L.D. 1539**

**An Act to Require More Timely Court-ordered Psychological Evaluations**

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

**Sec. 1. 15 MRSA §101-B, sub-§1,** as amended by PL 1989, c. 621, §1, is further amended to read:

**1. Court order; permissive.** The District Court or the Superior Court having jurisdiction in any criminal case for cause shown may order the defendant examined to determine the defendant's mental condition with reference to the issues of competency, criminal responsibility, abnormal condition of mind and any other issue involving the mental or emotional condition of the defendant. The examination may be conducted by the State Forensic Service or by a psychiatrist or licensed clinical psychologist inde-

pendent of the State Forensic Service. If additional examinations are ordered, the court shall ensure that at least one examination is conducted by the State Forensic Service. The court in selecting an independent practitioner and the site of any examination shall consider proximity to the court, availability of an examiner or examiners and the necessity for security precautions. ~~No~~ A person may not be presented for examination under this subsection without arrangements for that examination with the State Forensic Service or the independent practitioner being first made by the court, clerk of courts or sheriff. If the defendant is incarcerated, the examination is to be completed within ~~90~~ 45 days from the date of arrest. The State Forensic Service shall notify the court upon the completion of the examination. The opinion of the examiner or examiners relative to the competence, criminal responsibility, abnormal condition of mind or any other mental or emotional condition of the respondent must be reported without delay to the court following examination, together with copies to counsel for the respondent and counsel for the State.

See title page for effective date.

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**CHAPTER 374**

**H.P. 1407 - L.D. 2012**

**An Act to More Accurately Describe the Criminal Conduct Committed When a Person Grows or Cultivates Marijuana**

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

**Sec. 1. 17-A MRSA §1101, sub-§17,** as amended by PL 1997, c. 481, §1, is further amended to read:

**17. "Traffick-";**

- A. To make, create, manufacture;
- B. To grow or cultivate, except for marijuana;
- C. To sell, barter, trade, exchange or otherwise furnish for consideration; or
- D. To possess with the intent to do any act mentioned in paragraph C.

**Sec. 2. 17-A MRSA §1103, sub-§2, ¶A,** as amended by PL 1989, c. 850, §2, is further amended to read:

- A. A Class B crime if the drug is a schedule W drug; or if it is marijuana in a quantity of 20