

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.

J.S. McCarthy Company
Augusta, Maine
1999

constructing a road to notify the commission of the location of the road within 21 days. ~~Notwithstanding this subsection, the commission may adopt rules in accordance with Title 7, section 4206 to regulate large concentrated animal feeding operations.~~

Land use standards adopted pursuant to this chapter must establish a minimum setback of 100 feet for all structures within a commercial sporting camp complex that are constructed solely for the housing of guests, including structures within a main sporting camp complex and an outpost camp. The standards must establish a minimum setback of 150 feet for all other structures within a sporting camp complex, including, but not limited to, a main lodge, a dining area, a workshop and a parking area.

In adopting district boundaries and land use standards, the commission shall give consideration to public and private planning reports and other data available to it, and shall give weight to existing uses of land and to any reasonable plan of its owner as to its future use.

A permit from the commission is not required for the repair or maintenance of county-owned roads, bridges or culverts as long as the repair or maintenance is conducted in accordance with commission standards that pertain to these activities.

Sec. 9. 36 MRSA §656, sub-§1, ¶J is enacted to read:

J. An animal waste storage facility. For the purposes of this section, "animal waste storage facility" means a structure or pit constructed and used solely for storing manure, animal bedding waste or other wastes generated by animal production. For a facility to be eligible for this exemption, the Commissioner of Agriculture, Food and Rural Resources must certify that a nutrient management plan has been prepared in accordance with Title 7, section 4204 for the farm utilizing that animal waste storage facility.

Sec. 10. 36 MRSA §1760, sub-§81 is enacted to read:

81. Animal waste storage facility. Any materials for the construction, repair or maintenance of an animal waste storage facility. For the purposes of this section, "animal waste storage facility" means a structure or pit constructed and used solely for storing manure, animal bedding waste or other wastes generated by animal production. For a facility to be eligible for this exemption, the Commissioner of Agriculture, Food and Rural Resources must certify that a nutrient management plan has been prepared in accordance with Title 7, section 4204 for the farm utilizing that animal waste storage facility.

Sec. 11. Memorandum of understanding.

No later than 30 days after the effective date of this Act, the Department of Agriculture, Food and Rural Resources and the Department of Environmental Protection shall enter into a memorandum of understanding, setting forth a process to ensure a coordinated review of animal feeding operations pursuant to applicable environmental and land use laws, including administration of the National Pollutant Discharge Elimination System permit program as it applies to animal feeding operations.

Sec. 12. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

2000-01

ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF

Waste Facility Tax Reimbursement

All Other	\$5,650
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Provides funds to reimburse municipalities for 50% of the property tax revenue lost as a result of the new property tax exemption for qualified animal waste storage facilities.

DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES

TOTAL	\$5,650
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Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.

Effective June 17, 1999.

CHAPTER 531

H.P. 1612 - L.D. 2255

An Act to Make Corrections to Laws Recently Enacted by the 119th Legislature

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

Whereas, it is necessary to make technical corrections to recently enacted legislation some of which was enacted as emergency legislation; 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 enacted by the People of the State of Maine as follows:

PART A

Sec. A-1. 38 MRS §568-A, sub-§2, ¶A, as amended by PL 1999, c. 504, §11, is further amended to read:

~~A. For purposes of this paragraph, the number of facilities or capacity in gallons owned by the facility owner must be determined at the time of the discovery of the discharge. A facility owner includes any entity that is directly owned by the facility owner or owns the facility owner; any entity of which the facility owner is a franchisee; any entity that is a member of a partnership or limited partnership that includes the facility owner; any entity of which the facility owner is a subsidiary corporation, a parent corporation or a sibling corporation; or any entity that is related, whether directly or indirectly, to a person who owns a majority of shares in any other entity described in this paragraph. Standard deductibles are as follows.~~

(1) For expenses related to a leaking underground oil storage facility, the deductible amount is determined in accordance with the following schedule:

Number of underground storage facilities owned by the facility owner	Deductible
1	\$2,500
2 to 5	5,000
6 to 10	10,000
11 to 20	25,000
21 to 30	40,000
over 30	62,500

(2) For expenses related to a leaking aboveground oil storage facility, the deductible amount is determined in accordance with the following schedule:

Total aboveground oil storage capacity in gallons owned by the facility owner	Deductible
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Less than 1,320	\$500
1,321 to 50,000	2,500
50,001 to 250,000	5,000
250,001 to 500,000	10,000
500,001 to 1,000,000	25,000
1,000,001 to 1,500,000	40,000
greater than 1,500,000	62,500

(3) For facilities with both aboveground and underground tanks when the source of the discharge can not be determined or when the discharge is from both types of tanks, the standard deductible is the applicable amount under subparagraph (1) or (2), whichever is greater.

Sec. A-2. Effective date. This Part takes effect 90 days after adjournment of the First Regular Session of the 119th Legislature.

PART B

Sec. B-1. Resolve 1999, c. 74, §7 is amended to read:

Sec. 7. Report. Resolved: That no later than December 15, 1999, the task force shall submit its report, together with any recommendations for legislation, to the Joint Standing Committee on Business and Economic Development. The Joint Standing Committee on Business and Economic Development is authorized to report out a bill during the Second Regular Session of the 119th Legislature concerning the findings and recommendations of the task force.

If the task force requires an extension of the reporting deadline, it may apply to the Legislative Council, which may grant the extension; and be it further

Sec. B-2. Resolve 1999, c. 74, §8 is enacted to read:

Sec. 8. Appropriation. Resolved: That the following funds are appropriated from the General Fund to carry out the purposes of this resolve.

1999-00

LEGISLATURE

Task Force to Study the Effect of Government Regulation on Small Businesses

<u>Personal Services</u>	<u>\$880</u>
<u>All Other</u>	<u>2,100</u>

Provides funds for the per diem and expenses of

legislative members and the expenses of other members of the Task Force to Study the Effect of Government Regulation on Small Businesses.

LEGISLATURE
TOTAL

\$2,980

PART C

Sec. C-1. PL 1999, c. 460, §2 is enacted to read:

Sec. 2. Application. This Act applies to a claim or cause of action based on an act or omission occurring on or after the effective date of this Act.

Sec. C-2. Effective date. This Part takes effect 90 days after adjournment of the First Regular Session of the 119th Legislature.

PART D

Sec. D-1. 37-B MRSA §504, sub-§4, ¶A-1, as amended by PL 1999, c. 462, §4, is further amended to read:

A-1. As used in this subsection, unless the context indicates otherwise, the following terms have the following meanings.

(1) "Eligible dependent" means the wife, husband, surviving spouse, unmarried minor child, unmarried dependent child enrolled in secondary school or unmarried adult child who became incapable of self-support before reaching 18 years of age on account of mental or physical defects.

(2) "Eligible veteran" means any person who:

(a) Served on active duty in the United States Armed Forces during any federally recognized period of conflict, served on active duty in the United States Armed Forces at any time during the period December 22, 1961 to August 5, 1964 or was eligible for an Armed Forces Expeditionary Medal or campaign medal, in the active United States Armed Forces and who:

(i) If discharged, received an honorable discharge or a general discharge under honorable conditions, provided that the discharge was not upgraded through

a program of general amnesty; and

(ii) Was a resident of the State at the time of entering military service, death or the death of an eligible dependent;

(b) Served in the Maine National Guard and died as a result of injury, disease or illness sustained while serving on state active duty service as provided in chapter 3, subchapter III; or

(c) Served in the Armed Forces in the United States at any time and was killed or died as a result of hostile action and was a resident of the State at the time of entering military service, at the time of death or at the time of the death of an eligible dependent.

(d) Served in the Reserve Components of the United States Armed Forces and was entitled to retired pay under 10 United States Code, chapter 1223 or would have been entitled to retired pay under chapter 1223 except that the person was under 60 years of age.

(3) "Federally recognized period of conflict" means World War I, April 6, 1917 to November 11, 1918, or March 31, 1920 if service was in Russia; World War II, December 7, 1941 to December 31, 1946; Korean Conflict, June 27, 1950 to January 31, 1955; the Vietnam War, August 5, 1964 to May 7, 1975 and the period beginning on February 28, 1961 and ending on May 7, 1975 in the case of a veteran who served in the Republic of Vietnam during that period; and the Persian Gulf War, August 7, 1990 to the date that the United States Government recognizes as the end of the Persian Gulf War.

Sec. D-2. Effective date. This Part takes effect 90 days after adjournment of the First Regular Session of the 119th Legislature.

PART E

Sec. E-1. Resolve 1999, c. 64, §2, sub-§4 is repealed.

Sec. E-2. Retroactivity. This Part applies retroactively to June 10, 1999.

PART F

Sec. F-1. 22 MRSA §254, sub-§1, ¶B, as enacted by PL 1999, c. 401, Pt. KKK, §1 and affected by §10, is amended to read:

B. ~~Beginning October 1, 1999, in~~ In the supplemental component of the program, drugs and medications must include all prescription drugs and medications provided under the Medicaid program under this Title with the exception of drugs and medications provided by the basic component of the program under paragraph A;

Sec. F-2. PL 1999, c. 401, Pt. KKK, §10 is repealed and the following enacted in its place:

Sec. KKK-10. Effective dates. Sections 1, 4, 5 and 7 of this Part take effect August 1, 1999. Sections 3, 8 and 9 of this Part take effect July 1, 2000 only if sufficient funds are available in the Fund for a Healthy Maine.

PART G

Sec. G-1. 10 MRSA §1053, sub-§6, as amended by PL 1999, c. 484, §8 and c. 513, §5, is repealed and the following enacted in its place:

6. Securities outstanding. The principal amount of revenue obligation securities the authority may have outstanding at any one time, to which subsection 5 is stated to apply in the trust agreement or other document, may not exceed an aggregate principal amount equal to \$777,000,000 as follows:

A. The sum of \$330,000,000 consisting of not more than \$275,000,000 for loans and up to \$55,000,000 for use of bond proceeds to fund capital reserve funds for revenue obligation securities issued pursuant to this subchapter relating to loans for electric rate stabilization projects;

B. The sum of \$120,000,000 consisting of not more than \$100,000,000 for loans and up to \$20,000,000 for use of bond proceeds to fund capital reserve funds for revenue obligation securities issued pursuant to this subchapter relating to loans for major business expansion projects;

C. The sum of \$57,000,000 consisting of not more than \$45,000,000 for loans and up to \$12,000,000 for use of bond proceeds to fund capital reserve funds for revenue obligation securities issued pursuant to this subchapter relating to workers' compensation residual market mechanism projects;

D. The sum of \$150,000,000 less the aggregate outstanding balance of mortgage loans secured by capital reserve funds pursuant to section 1032 for all other revenue obligation securities issued pursuant to this subchapter; and

E. The sum of \$120,000,000 consisting of not more than \$100,000,000 for loans and up to \$20,000,000 for use of bond proceeds to fund capital reserve funds for revenue obligation securities issued pursuant to this subchapter relating to loans for paper industry job retention projects.

The amount of revenue obligation securities issued to refund securities previously issued may not be taken into account in determining the principal amount of securities outstanding, as long as proceeds of the refunding securities are applied as promptly as possible to the refunding of the previously issued securities. In computing the total amount of revenue obligation securities of the authority that may at any time be outstanding for any purpose, the amounts of the outstanding revenue obligation securities that have been issued as capital appreciation bonds or as similar instruments are valued as of any date of calculation at their then current accreted value rather than their face value.

PART H

Sec. H-1. 10 MRSA §1023-L, sub-§7, as enacted by PL 1999, c. 505, Pt. A, §7, is amended to read:

7. Direct payment program. The direct payment program is managed as follows.

A. The authority shall pay to each person, eligible under this subsection 3, \$2,000 upon presentation by the person to the authority of a canceled check or other evidence determined sufficient by the authority to demonstrate payment of the person's share of total response costs at the waste oil disposal site, unless the authority determines that the payment made by the person at that site was in an amount less than \$2,000, in which case the authority shall pay to that person an amount equal to the amount that person paid in relation to the site. All payments made under this subsection must be from funds transferred from the Maine Rainy Day Fund.

B. Any person eligible under this subsection 3 who presents an invoice for that person's share of total response costs at the site, but who has not yet paid the invoice, receives a negotiable instrument from the authority made payable jointly to that person and any entity identified by the Department of Environmental Protection as assuming liability for total response costs at the

site. The negotiable instrument must be in the amount of \$2,000, unless the authority determines that the payment to be made by the person at the site will be in an amount less than \$2,000, in which case the authority shall pay to the person an amount equal to the amount the person is to pay in relation to the site. All payments made under this subsection must be from funds transferred from the Maine Rainy Day Fund.

C. After the payments authorized in paragraphs A and B have been made, additional payments must be made from the available balance from funds transferred from the Maine Rainy Day Fund to all persons who received funds under paragraphs A and B who have paid their settlement share of total response costs, and whose total liability at the site exceeds the amount the persons received under paragraph A or B. Distributions under this paragraph are proportionate to the amount each person paid as the person's share of total response costs at the site. Payments made pursuant to this subsection may not exceed the person's settlement share of total response costs attributable to eligible persons as defined in this subsection multiplied by the total orphan share percentage at the waste oil disposal site. The authority may not issue deferred loans for eligible persons who have received payments pursuant to this subsection. This distribution must occur on April 1, 2000. Any remaining funds in the fund must be transferred to the Groundwater Oil Clean-up Fund.

For purposes of this subsection, "person" means any natural person domiciled in this State; a corporation or partnership in the State; the State; any agency, authority, department, commission, municipality, quasi-municipal corporation, special-purpose district or other instrumentality of the State; a political subdivision of the State, including but not limited to those defined in Title 14, chapter 741 and Title 30-A, chapter 225; any other entity identified as a responsible party at the waste oil disposal site; ~~or an entity~~ whose waste oil is identified as delivered to the waste oil disposal site and picked up from an address or location within the State in the records compiled by the Department of Environmental Protection or the United States Environmental Protection Agency or their agents, provided that neither the Federal Government nor any of its agencies, authorities, departments, boards, commissions or instrumentalities are eligible to have any share of their obligation for response costs paid by the fund.

Sec. H-2. Effective date. This Part takes effect 90 days after adjournment of the First Regular Session of the 119th Legislature.

PART I

Sec. I-1. 17-A MRSA §1105, sub-§1, ¶C, as repealed and replaced by PL 1999, c. 342, §1 and amended by c. 374, §4, is repealed and the following enacted in its place:

C. A person violates section 1103, 1104, 1106 or 1117 and, at the time of the offense, the person:

- (1) Uses a firearm;
- (2) Carries a firearm;
- (3) In furtherance of the offense, possesses a firearm; or
- (4) Is armed with a firearm.

Sec. I-2. 17-A MRSA §1105, sub-§1, ¶E, as amended by PL 1999, c. 374, §4; c. 417, §1; c. 422, §4; and c. 453, §8, is repealed and the following enacted in its place:

E. A person violates section 1103 or 1106 and, at the time of the offense, the person is on a school bus or on or within 1,000 feet of the real property comprising a private or public elementary or secondary school. For purposes of this paragraph, "school bus" has the same meaning as set forth in Title 29-A, section 2301, subsection 5:

Sec. I-3. 17-A MRSA §1105, sub-§1, ¶F, as amended by PL 1999, c. 374, §4; c. 417, §2; c. 422, §5; and c. 453, §9, is repealed and the following enacted in its place:

F. A person violates section 1103, 1106 or 1117 and, at the time of the offense, the person enlists or solicits the aid of or conspires with a child who is, in fact, under 18 years of age to traffick in, furnish or cultivate any scheduled drug:

Sec. I-4. 17-A MRSA §1105, sub-§1, ¶G, as enacted by PL 1999, c. 374, §4; c. 422, §6; and c. 453, §10, is repealed and the following enacted in its place:

G. A person violates section 1117 and, at the time of the offense, the person is within 1,000 feet of the real property comprising a private or public elementary or secondary school:

Sec. I-5. 17-A MRSA §1105, sub-§1, ¶¶H and I are enacted to read:

H. A person violates section 1103 or 1106 and, at the time of the offense, the person trafficks in or furnishes methamphetamine in a quantity of 100 grams or more; or

I. A person violates section 1103 or 1106 and, at the time of the offense, the person trafficks in or furnishes heroin in a quantity of 6 grams or more or 270 or more individual bags, folds, packages, envelopes or containers of any kind containing heroin.

Sec. I-6. 17-A MRSA §1106, sub-§3, ¶B, as amended by PL 1999, c. 453, §11, is further amended to read:

B. Seven grams or more of cocaine or 2 grams or more of cocaine in the form of cocaine base; ~~or~~

Sec. I-7. 17-A MRSA §1106, sub-§3, ¶C, as amended by PL 1999, c. 422, §7 and as repealed by PL 1999, c. 453, §12, is repealed.

PART J

Sec. J-1. 15 MRSA §3203-A, sub-§5, first ¶, as repealed and replaced by PL 1999, c. 127, Pt. A, §32 and c. 260, Pt. A, §5, is repealed and the following enacted in its place:

5. Detention hearing. Upon petition by a juvenile caseworker who ordered the detention or an attorney for the State who ordered the detention, the Juvenile Court shall review the decision to detain a juvenile within 24 hours following the detention, excluding Saturday, Sunday and legal holidays.

PART K

Sec. K-1. PL 1999, c. 271, §3 is enacted to read:

Sec. 3. Application. That section of this Act that amends the Maine Revised Statutes, Title 24-A, section 2902, subsection 2 applies to all policies of personal automobile insurance issued or renewed in this State on or after July 1, 2000.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved, except as otherwise indicated.

Effective June 23, 1999, unless otherwise indicated.

CHAPTER 532

S.P. 859 - L.D. 2257

An Act to Update the Statutes of the Maine Conservation Corps

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

Sec. 1. 26 MRSA §§2181 to 2186, as enacted by PL 1993, c. 410, Pt. O, §4, are amended to read:

§2181. Maine Conservation Corps Program

There is established in the ~~jobs training work-force development center~~ administrative office in the Department of Labor the Maine Conservation Corps, referred to in this chapter as the "Corps," to provide job training, ~~conservation~~ education and work opportunities for the economically disadvantaged, to improve public property for the increased use and enjoyment of the public, to provide conservation education, to promote and manage volunteer opportunities related to natural resources and to assist public and nonprofit organizations with projects that serve a valid public purpose and have purposes consistent with this subchapter.

§2182. Participants

~~Participants in the Corps must be economically disadvantaged. The Corps shall strive to include a diversity of participants. Individuals are eligible to participate if their Priority must be given to those whose family income is 150% or less of the nonfarm income official poverty line as defined by the federal Office of Management and Budget as revised annually in accordance with the United States Omnibus Budget Reconciliation Act of 1981, Section 673, Subsection 2. Priority must be given and to those who are economically disadvantaged as defined by the United States Job Training Partnership Act, Subchapter II, Public Law 97-300. A person is not eligible if that person has left employment or a secondary school for the purpose of participating in this program. Corps members may be jointly enrolled in any state or local job training program or human resource development program. Corps members enrolled in the Job Training Partnership program must be enrolled in that program by the service delivery area responsible for the county of residence of the enrollee pursuant to voluntary agreements entered into between the Corps and the service delivery areas.~~

§2183. Projects

1. Types of projects. Projects undertaken by the Corps include, but are not limited to, projects such as:

- A. Forestry, nursery and silvicultural operations;
- B. Wildlife habitat conservation, rehabilitation and improvement;
- C. Recreational area development, management and improvement;
- D. Energy conservation projects;