

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 scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

REVISED STATUTES
OF THE
STATE OF MAINE
1954

1959 CUMULATIVE SUPPLEMENT

ANNOTATED

IN FIVE VOLUMES

VOLUME 2

**Place in Pocket of Corresponding
Volume of Main Set**

THE MICHIE COMPANY
CHARLOTTESVILLE, VIRGINIA
1959

Chapter 39.

Maine Development Commission.

Secs. 1-6. Repealed by Public Laws 1955, c. 471, § 7.

Cross reference.—See c. 38-A, re present agency performing functions of Maine development commission.

Chapter 39-A.

Maine Mining Bureau.

Secs. 1-8. Repealed by Public Laws 1957, c. 293, § 1.

Cross reference.—See c. 39-B for present provisions re Maine mining bureau.

Chapter 39-B.

Maine Mining Bureau.

Sec. 1. Mining bureau established.—The Maine mining bureau, as heretofore established, shall consist of 7 members, one each from the state departments of agriculture, forestry, state, economic development and inland fisheries and game and the water improvement commission, each of whom shall be appointed by the head of his respective department, plus the state geologist. The state geologist, by virtue of his office, shall be the consultant to said bureau. They shall organize with a chairman, and a secretary who shall keep the records of their doings and such data regarding the mines in the state as may be useful. The jurisdiction of the bureau shall be confined to land owned or held in trust by the state. (1957, c. 293, § 2. 1959, c. 135, § 1.)

Effect of amendment.—The 1959 amendment rewrote the first sentence, increasing the membership from 5 to 7 by adding members from the department of inland fisheries and game and the water improvement commission.

Sec. 2. Authority to prospect.—Any person over 18 years of age or any corporation may enter upon state-owned land, including lands held in trust, when the trust is such as to be consistent with mineral development, on receipt of a prospector's permit from the Maine mining bureau for the purpose of prospecting for valuable minerals and metals, except water, sand and gravel. A prospector's permit shall be issued upon payment of a fee of \$2, and shall apply to state-owned lands throughout the state. A prospector's permit shall bear a number and be dated on the date of issue thereof and shall expire at midnight on the 31st day of December then next ensuing. The holder of a permit is entitled to a renewal of his permit upon expiration thereof, upon making application to the mining bureau on or before December 31st including payment of the prescribed fee, which renewal shall take effect on January 1st and bear the same number as the expired permit.

If machinery or explosives are to be used for prospecting on state-owned land, the methods to be employed and the amount of explosives to be allowed must first be approved by the mining bureau. Prospecting pits, trenches or other openings shall be filled in or otherwise repaired prior to abandonment, so that the public safety may not be jeopardized and the original land value may not be impaired. (1957, c. 293, § 2.)

Sec. 3. Location of claim and maintenance of right of possession.

—Any person or corporation who has secured a prospector's permit may locate one or more claims by defining the boundary lines of the claim or claims. No claim shall be greater than 1,500 feet in length by 600 feet in width. The location or record of any claim shall be construed to include all surface found within the surface boundary lines thereof and all ledges throughout their entire vertical depth, but shall not include any portion of such ledges beyond the end and side lines of such claim, or timber and grass on such claim. As nearly as circumstances will permit, a claim shall be staked out in the following manner; namely

I. By erecting a post at each of the 4 corners of the claim and numbering the posts consecutively, 1 through 4, beginning in the most northeasterly corner and proceeding about the claim in a clockwise direction. Every post shall stand not less than 4 feet above the ground and shall be not less than 4 inches in diameter.

II. By writing or placing on post #1, the name of the locator, the number of his prospector's permit, the date of staking, and, if the claim is staked on behalf of another person, also the name of the other person and the number of his prospector's permit.

III. By writing or placing on posts #2, #3 and #4, the name of the locator, and if the claim is staked for another person, his name.

IV. By plainly marking the trees with paint and by trimming the underbrush along the boundary lines of the claim to indicate clearly the outlines of the claim; where there are no trees or underbrush, by piling stones or placing pickets at reasonable intervals along the boundary lines of the claim.

V. By establishing post or buoy markers to witness claim corners which fall in a body of water, or by placing posts on dry land and marking thereon exact distances and directions to over-water claim corners.

Any person or corporation who has located and recorded any claim or claims shall, subject to the provisions of this chapter, have the right of possession of the premises covered by said claim or claims, for the purpose of conducting thereon mining operations and shall own any minerals or metals found therein except water, sand and gravel, and shall have the right to remove the same, and shall have the right to use such water, sand and gravel found on said premises for mining and processing operations. Such rights of possession and such ownership shall be alienable in the same manner as real estate. The claim shall in no way interfere with harvesting timber or leasing campsite lots until actual mining operations are being carried on. (1957, c. 293, § 2. 1959, c. 135, § 2.)

Effect of amendment.—The 1959 amendment repealed and replaced this section.

Sec. 4. Claim to be recorded.—No person or corporation shall have the right of possession of any claim or claims until such claim or claims shall have been recorded with the mining bureau, which record shall contain:

I. The name of the locator;

II. A general description of the minerals or metals sought;

III. The date of the location and description of the location of said claim, with reference to such natural object or permanent monument as will identify the claim;

IV. The locations and description of each corner, with the markings thereon;

V. An outline sketch or plan of the claim showing with reasonable accuracy, claim corners, witness points and prominent natural objects or permanent structural features, so that the claim may be located on the ground by members of the mining bureau or their representatives;

VI. The fee for recording, renewing or transferring a claim is \$2;

VII. A claim shall be in effect until December 31st following the date of recording, and shall be extended for further 12-month periods, not exceeding 4 in number, upon application to the mining bureau on or before December 31st and upon payment of a like fee as paid when the claim was recorded, and upon filing an affidavit that during the period about to expire investigatory work has been performed on the claim to the extent of not less than 200 man-hours or \$500 worth of work. Where the holder of the claim has 2 or more contiguous claims, the required amount of work for all the claims may be performed on one or more of said contiguous claims, or the required amount of work for one or more of said contiguous claims may be fulfilled by work done on all or any of the contiguous claims. The work done shall be described in the affidavit and shall include only work which tends to reveal such characteristics of the material sought as length, width, depth, thickness, tonnage and mineral or metal content. If the date of recording a claim is after the 30th day of September in any year, the bureau shall extend such claim until the 31st day of December of the next ensuing year without requiring such affidavit, upon payment by the locator of the required renewal fee.

VIII. The failure to comply with any of the requirements for renewing claims under subsection VII shall operate as a forfeiture of said claim or claims. Written notice of such forfeiture shall be sent by registered or certified mail to claimant's last known address. Any claimant who is aggrieved may file a written petition for a hearing before the Maine mining bureau within 14 days after notice of forfeiture has been given. If the petition for a hearing is filed with the bureau within said 14-day period, the bureau shall within 30 days grant a hearing on the forfeiture and give the claimant 10 days' notice of the time and place thereof. For good cause, the bureau may extend the time for filing such petition.

If any claimant is aggrieved by the decision of the bureau resulting from the hearing, he may within 30 days thereafter appeal to any justice of the superior court, by presenting to him a petition therefor, in term time or vacation. Such justice shall fix a time and place for hearing, which may be in vacation and cause notice thereof to be given to the Maine mining bureau; and after hearing, such justice may affirm or reverse the decision of the bureau and the decision of such justice shall be final. During the pendency of all proceedings under this section no person or corporation shall lay claim to the area in dispute.

IX. No claim may be held through authority of the prospector's permit for a period of more than 5 years from the initial date of recording, unless such occurs prior to August 28, 1957, in which case date of recording is construed to mean August 28, 1957. By the end of the 5-year period, any title to the claim will lapse unless the right to the claim has been established under the terms of section 5. Upon lapse or upon filing of notice of abandonment of a claim, no person or corporation holding the claim immediately prior to date of lapse or abandonment or his representative may relocate on the same area for a period of 60 days.

X. Any person or corporation with a recorded claim or contiguous claims may make application to the mining bureau for a ruling as to whether operations can be carried on consistent with any prior or proposed other use by the state or any agency or instrumentality thereof. Such ruling shall be made within 90 days of the date of such application and when obtained shall be binding and irrevocable. (1957, c. 293, § 2. 1959, c. 135, § 3.)

Effect of amendment.—The 1959 amendment rewrote the introductory paragraph, made "locations" plural in subsection IV, rewrote subsection VII, added present subsection VIII and redesignated former subsections VIII and IX as "IX" and "X."

Sec. 5. License to mine; fees. — Any person or corporation with a recorded claim or contiguous claims in accordance with section 4 may make application to the mining bureau for a license to mine, accompanied by a report from a geologist or mining engineer in good standing, describing proposed operations, together with the required license fee, plus an accurate survey of the property boundaries certified by a qualified surveyor. If said applicant has previously received a ruling from the mining bureau under section 4, subsection IX, that the proposed mining operations will not conflict with any prior or proposed state uses, a license to mine in the area specified shall be granted under such terms and conditions as the bureau may require. If no such ruling has previously been given, then no license to mine shall be granted until the bureau is satisfied that no such conflict exists. The license to mine shall expire on December 31st of each year. The annual fee shall be \$25 per claim included in the license to mine. The license to mine shall be renewed on expiration providing the licensee satisfied the bureau that he has complied with the terms and conditions imposed by the mining bureau in his license.

The holder of a license to mine shall make royalty and rental payment as follows:

I. Property within the terms of a license to mine is subject to an annual rental of \$5 per acre, payable in advance;

II. Royalty payment of 5% of the adjusted fair market value of the minerals or metals removed from the ground is charged on an annual basis, and shall be applied to defray rental charges up to the maximum rental chargeable in any one year. All royalty payments in excess of the maximum rental charges shall be paid as hereinbefore stated. The adjusted fair market value for such products as have a posted field or market price at the mine head shall be the posted field or market price at the time of removal from the ground without deductions except those expenses of hoisting, crushing and loading necessary to place the severed product in marketable form and at a marketable place. The adjusted fair market value for such severed products as must be processed or beneficiated before they reach a marketable form, shall be the fair value of such severed products in their first marketable form as ore concentrate at point of concentration, after deduction of expenses of hoisting, crushing, loading, transportation, processing and beneficiation.

In case said severed products have no market value at the mine or as a concentrate, the adjusted fair market value shall be the value of such severed products when they first reach a marketable form, after deduction of expenses of hoisting, crushing, loading, transportation, processing and beneficiation and after deduction of the value of any other materials or articles which are combined with, mixed with, absorbed in, or absorbed by said severed products in the process of turning said severed products into their first marketable form. There shall also be deducted the expenses of such combining, mixing or absorbing processes.

All rental and royalty moneys accruing from operations under the license to mine or mining lease shall be used for schools and shall be paid into the "Unorganized Territory Capital Working Fund," described in section 167 of chapter 41. (1957, c. 293, § 2. 1959, c. 135, § 4.)

Effect of amendment.—The 1959 amendment added the second sentence to subsection II of this section.

Sec. 6. Mining lease.—Any holder of a license to mine who has complied with the requirements of the bureau and of his license may secure a mining lease of the mining rights covered by his license to mine for such term and under such conditions as the mining bureau shall establish. The following additional preliminary requirements must be complied with:

I. That he has deposited with his application the required rental in advance of the first year's tenure.

II. That the tract to be taken under lease is accurately surveyed.

III. That the applicant's previous prospecting or mining activities in this state have caused no unreasonable damage to adjacent properties.

IV. That the applicant is bonded against any damage he may cause to the adjacent areas, or upon the substitution and acceptance by the bureau of other adequate proof of financial responsibility to satisfy judgments for damage claims.

The mining bureau may require that the applicant for a lease conduct bona fide mining operations under said mining license for not more than one year prior to the granting of a lease.

The mining lease is to be negotiated by the mining bureau and shall provide for the payment of the same rental for the property and the payment of the same royalty fees as provided under the terms of the license to mine. (1957, c. 293, § 2.)

Sec. 7. Safety; rules and regulations.—The mining bureau shall have the power to make such reasonable rules and regulations as it may deem proper with respect to safety and in the use and care of explosives in connection with all operations conducted under this chapter. (1957, c. 293, § 2.)

Sec. 8. Rights of way.—Any person who has located a claim and has been issued a license to mine or mining lease in accordance with sections 5 or 6, shall have the right of way across any lands owned or controlled by the state to and from said location, and the right to take from public reserved lots all wood and timber necessary to be used in the operation of the mine, by paying to the state or to the owner of the right to cut timber and grass, a fair and just price for the same. The bureau may issue a permit to the holder of a license to mine or mining lease giving him authority to open, construct, put in, maintain and use ditches, tunnels, pipes, conduits, flumes and other works through, over and upon said land for drainage and passage of water, together with the right to construct dams, provided same flow on land of others, in connection with the working of his mine to bring thereto water necessary or convenient for its operation with such conditions and restrictions as the bureau may impose. (1957, c. 293, § 2.)

Sec. 9. Mining underwater.—The same royalty as provided in section 5 shall be paid to the state on all mineral or metal commodities produced from mineral deposits situate beneath bodies of water, where the title to the land beneath the water is in the state, but no annual rental charges as specified in section 5 shall apply to such area covered by water. Where any mineral is situate under or in the bed of a stream or lake and for the efficient working of the mineral it is necessary to divert the water of such stream, or drain such lake, the mining bureau may permit the same to be done, subject to such regulations or alternative provisions for the benefit of any persons or corporations who are entitled to the use of the water of such stream or lake in its natural state, as to the bureau may seem just and expedient. (1957, c. 293, § 2. 1959, c. 135, §§ 5, 6.)

Effect of amendments.—This section was amended twice by P. L. 1959, c. 135. Section 5 of P. L. 1959, c. 135, repealed the first sentence of this section. Section 6 rewrote the former second sentence, now the first sentence.

Sec. 10. Annual reports. — Any person or corporation with a recorded claim or license to mine engaged in exploration, mine development, or mining under the provisions of the chapter shall file an annual report with the mining bureau and pay all applicable fees, rentals and royalties in the month of January following the year such operation was carried on setting forth:

- I. Location of the operation.
- II. Quantity and grade of mineral products or metals produced.
- III. The amount of rental which has accrued on property.
- IV. The amount of royalty which has accrued on material extracted.
- V. The number of persons ordinarily employed at operation below ground and above ground.
- VI. Other information as required by the bureau. (1957, c. 293, § 2.)

Sec. 11. Forfeiture.—In the event that any prospector, claimant, licensee or lessee violates any of the provisions of this chapter or any rule or regulation of the mining bureau, the bureau shall notify such prospector, claimant, licensee or lessee, as the case may be, of such alleged violation, and of the nature of such alleged violation, by sending such notice by registered or certified mail to him at his last known address. If such violation is not remedied within 30 days after the date of mailing such notice, the permit, claim, license or lease of such violator in existence at the time of such violation shall be liable to forfeiture. For cause, the bureau may extend such further time for compliance as it may determine. No forfeiture shall be valid until a second notice in writing shall have been served upon the person, firm or corporation holding the prospector's permit, claim, mining lease or license to mine, setting forth the alleged violations of law or rules and regulations, or both, 30 days prior to the date set for hearing. The hearing shall be held before the mining bureau. At such hearing the party so charged shall have the right to appear personally and by counsel to cross-examine the witnesses appearing against him and to produce evidence and witnesses in his own defense. A copy of the decision of the mining bureau shall be forthwith sent by registered or certified mail to the alleged violator. If the forfeiture relates to a claim or mining lease, an appropriate entry shall be made on the records of the state land agent, after the time for appellate review has expired or the appeal finally determined.

The mining bureau shall have the power to compel the attendance of witnesses and the production of any books, records, papers, accounts or documents from any person believed to have information pertinent to any matter to be heard before the mining bureau.

The fees of witnesses required to attend any hearing shall be the same as those allowed to witnesses appearing in the superior court.

Any justice of the superior court upon application of the mining bureau may compel the attendance of witnesses and the giving of testimony before the mining bureau in the same manner, to the same extent and subject to the same penalties as if before said court.

If any person is aggrieved by the decision of the bureau, he may within 30 days thereafter appeal on matters of law, to any justice of the superior court, by presenting to him a petition therefor, in term time or vacation. Such justice shall forthwith fix a time and place for hearing, which may be in vacation, and cause notice thereof to be given to the bureau; and after hearing, such justice may affirm, modify or reverse the decision of the bureau. Appeal by such aggrieved person or the mining bureau to the law court from such decision of such superior court justice may be taken as in equity cases. Upon such appeal the proceedings shall be the same as in appeals in equity procedure, and the law court may, after consideration, reverse or modify any decree so made by a justice based upon an erroneous ruling or finding of law. (1957, c. 293, § 2. 1959, c. 135, § 7.)

Effect of amendment.—The 1959 amendment substituted "violates" for "fails to comply with" in the first sentence and "violation" for "failure to so comply" twice in the first sentence and once near the beginning of the second sentence.

Sec. 12. Rights acquired prior to effective date of act.—All holders of claims duly recorded prior to the effective date of this act shall be required, insofar as may be consistent with their existing rights, to comply with the provisions of this chapter within one year from said effective date. (1957, c. 293, § 2.)

Effective date.—The effective date of the act inserting this section is August 28, 1957.

Chapter 40.

Maine Mining Bureau.

Secs. 1-14. Repealed by Public Laws 1955, c. 409, § 2.

Cross reference.—See c. 39-B for present provisions re Maine mining bureau.

Chapter 41.

Department of Education.

- Section 13-A. Physical Examination of School Bus Operators.
- Sections 28- 75. Duties of Administrative Units.
- Sections 77- 88. School Supervisory Units.
- Sections 98-111. Approval and Accreditation of Secondary Schools.
- Sections 111-A to 111-E-1. School District Commission.
- Sections 111-F to 111-U. Organization of School Administrative Districts.
- Section 121-A. Summer Schools.
- Sections 183-A to 183-F. Privately Owned Correspondence Schools.
- Sections 195-A to 195-Q. Vocational Rehabilitation.
- Sections 207-A to 207-I. Education of Physically Handicapped or Exceptional Children.
- Section 207-J. Teachers for Mentally Retarded Children.
- Sections 218-A to 218-C. Driver Education.
- Sections 218-D to 218-E. Training of Firemen.
- Sections 219-222. School Lunch and Special Milk Program.
- Sections 222-A to 222-D. National Defense Education Program.
- Section 242-A. Children at Private Tax-exempt Institutions.
- Section 242-B. Sick Leave for Teachers.

Department of Education. Board. Commissioner.

Sec. 2. State board of education; expenses.—The board, as heretofore created, shall consist of 10 members who shall be appointed by the governor with the advice and consent of the council. The members shall serve for a term of 5 years and until their successors shall have been duly appointed and qualified. A vacancy shall be filled for the unexpired term in accordance with the provisions of the regular appointment. The members shall take the oath of office prescribed for state officers. Members of the board shall be subject to removal from office by the governor and council for cause. Members of the board shall serve without pay, other than their actual expenses while carrying out the functions of the board. (1949, c. 403, § 2. 1951, c. 155. 1957, c. 289, § 1.)

Effect of amendment. — The 1957 amendment deleted the former first two sentences and substituted the present first sentence in lieu thereof. Prior to the amendment this section provided that five of the members appointed should repre-