

# MAINE STATE LEGISLATURE

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REVISED STATUTES  
OF THE  
STATE OF MAINE

1954

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1959 CUMULATIVE SUPPLEMENT

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ANNOTATED

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IN FIVE VOLUMES

**VOLUME 3**

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

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THE MICHIE COMPANY  
CHARLOTTESVILLE, VIRGINIA  
1959

of them have been approved in writing by the governor and council and filed with the secretary of state.

**III. Rights declared.** Any person aggrieved by a regulation or by an act of the commissioner in enforcing it may have his rights declared by bringing a petition for declaratory judgment under chapter 107, sections 38 to 50, naming the commissioner as defendant.

**IV. Violation.** Any person who violates a regulation issued by the commissioner under this section shall be punished by a fine of not more than \$100 or by imprisonment for not more than 90 days, or by both. (1959, c. 163.)

**Editor's note.**—P. L. 1959, c. 163, added this section to this chapter relative to exits in buildings and other structures, designating it "Sec. 48-A". Since former section 48-A had already been repealed by Public

Laws 1957, c. 397, § 49, the number assigned to the new section by the legislature was retained, thus obviating the necessity of treating it as a pre-empted number.

**Sec. 48-B.** Repealed by Public Laws 1957, c. 397, § 49.

**Cross reference.**—See now §§ 47-A and 47-B of this chapter for provisions relative to permits for construction of public

buildings, which sections are similar to former §§ 48-A and 48-B.

**Sec. 49. Fire escapes for certain buildings; appeal.**

**Failure to perform duty as evidence of actionable negligence.**—The failure of a defendant to perform a duty imposed by this section, for the benefit of tenants, which proximately results in harm or is the natural and probable result thereof, is, at least, evidence of actionable negligence

to be submitted to the jury. *Kimball v. Breton*, 153 Me. 476, 138 A. (2d) 637.

**Violation prima facie evidence of negligence.**—The violation of this section is prima facie evidence of negligence. *Kimball v. Breton*, 153 Me. 476, 138 A. (2d) 637.

**Sec. 51. Notice as to sufficiency of safeguards.**—The insurance commissioner, municipal officers or chief of the fire department shall give written notice to the occupant of such building, also to the owner thereof if known, of their determination as to the sufficiency of said precautions and safeguards, specifying in said notice any alteration, addition or repair which they require. Sixty days are allowed for compliance with such notice and order. (R. S. c. 85, § 48. 1957, c. 16, § 2.)

**Effect of amendment.**—The 1957 amendment made this section applicable to the insurance commissioner.

## Chapter 98.

### Harbor Masters. Wharves and Fish Weirs.

#### Wharves and Fish Weirs.

**Sec. 7. Application for license to build or extend wharves and fish weirs.**—Any person intending to build or extend any wharf, fish weir or trap in tidewaters, within the limits of any city or town, may apply in writing to the municipal officers thereof, stating the location, limits and boundaries, as nearly as may be, of such intended erection or extension, and asking license therefor. Upon receiving such application, said officers shall give at least 3 days' public notice thereof in a newspaper, published in the town, or, if there be no newspaper published in the town, in a newspaper published within the county, and shall therein designate a day and time on which they will meet on or near the premises described, to examine the same and hear all parties interested. If, upon such examination and hearing of all parties interested, said officers decide that such erection

or extension would not be an obstruction to navigation or injury to the rights of others, and determine to allow the same, they shall issue a license under their hands to the applicant, authorizing him to make such an erection or extension, and to maintain the same within the limits mentioned in such license; the applicant for license to build or extend a fish weir or trap as aforesaid shall first give bond to the town, with sureties, in the sum of \$500, conditioned that upon the termination of such license he shall remove all stakes and brush from the location therein described. Said municipal officers shall, within 10 days after the date of hearing, give written notice by registered mail of their decision to all parties interested. Any person aggrieved by the decision of the municipal officers, in either granting or refusing to grant a license as hereinbefore provided, may appeal to any justice of the superior court within 10 days after the mailing of such written notice. On receiving such an appeal, said justice in term time or in vacation shall set a time and place for hearing and give notice thereof in the same manner as hereinbefore provided for a hearing, before the municipal officers. The decision of said justice shall be communicated within 10 days after the date of hearing to the appellant and to the municipal officers of the town in which the proposed wharf, weir or trap is to be located; and this decision shall be binding in said municipal officers, who shall issue a license, if so directed by the decision of said justice, within 3 days after said decision has been communicated to them. If said appeal is sustained by said justice in whole or in part, the appellant shall have his costs against the appellee. If the appeal is not so sustained, the appellee shall have his costs against the appellant. If any owner to whom a license has been issued, or his heirs or assigns, fails to remove all stakes and brush within a period of 1 year after the termination of the license, as provided in the following section, any person can remove the same without charge against said owner, his heirs or assigns.

In the case of islands not within the jurisdiction of any town all powers of municipal officers to issue licenses to build weirs are conferred upon the owner or owners of such islands. If said owner or owners are unable to agree as to the issuance of a license they shall submit the question of such issuance to the commissioner of sea and shore fisheries, who shall, after a hearing at which all parties may be represented, decide as to the issuance of such license. (R. S. c. 86, § 7. 1955, c. 227.)

**Effect of amendment.**—The 1955 amendment substituted in the third sentence the words “with sureties, in the sum of \$500” for the words “without sureties, in the sum of \$100.”

**Sec. 8. License void.**—The license for the building or extension of a fish weir or trap issued under the provisions of the preceding section or any right or privilege granted by the legislature for the building or extension of any such fish weir or trap shall terminate and become void unless such weir or trap shall be built within 1 year from the date of the license or the granting of such right or privilege, and maintained and operated in good faith for some part of each year thereafter. A weir that is not under active construction by July 15th in any year shall not be considered a weir for the remainder of the year. (R. S. c. 86, § 8. 1959, c. 281, § 1.)

**Effect of amendment.**—The 1959 amendment added the last sentence to this section.

**Sec. 12. “Fish weir” defined.**—The words “fish weir” mentioned in sections 7 to 11 are defined to be a fixed structure erected and maintained during part of each fishing season in the tidewater, constructed of at least 25 spiling or stakes fastened together by binders, surrounded by brush, lath racks or netting, forming the catch pound into which fish are led or guided by one or more fixed leaders constructed of spiling or stakes not more than 20 feet apart and

at least 100 feet long, fastened together by binders surrounded by lath racks, brush or netting and from which catch pound they cannot readily escape. (1947, c. 257. 1959, c. 281, § 2.)

**Effect of amendment.**—The 1959 amendment rewrote this section.

## Chapter 100.

### Miscellaneous Provisions Relating to Towns.

Sections 7-A to 8. Public Dumping Grounds.  
 Sections 68-A to 68-J. Pin Ball Machines.  
 Section 71-A. Drive-In Theaters.  
 Sections 79-A to 79-D. Closing-Out Sales.  
 Sections 136-A to 136-F. Trading Stamp Companies.

#### Public Dumping Grounds.

**Sec. 7-A. Public dumping grounds; acquisition.**—Any municipality may by action of its legislative body direct its municipal officers to take suitable lands for public dumping grounds. When so directed, the municipal officers shall proceed in the same manner as used in laying out public ways, except that a fee simple title shall be acquired.

**I.** The public dumping ground is not established until it has been accepted, as laid out, by the legislative body of the municipality.

**II.** Any public dumping ground that ceases to be usable as such may be disposed of in the same manner as other lands owned by the municipality.

**III.** Public dumping grounds established under this section shall be subject to chapter 36, section 85. (1959, c. 130.)

**Sec. 7-B. Public dumping ground; nuisances.**—Whoever personally or through the agency of another leaves or deposits any offal, filth or other noisome substance in any public dumping ground, except in the manner prescribed by the local health officer, and in such manner as may be satisfactory to such health officer, shall be guilty of committing a nuisance. Such person shall be punished by a fine of not less than \$10 nor more than \$100, or by imprisonment for not more than 3 months. Any expenses incurred by a municipality in the abatement of such nuisances may be recovered in an action of debt brought in the name of the municipality against the guilty party. If requested, and if the gravamen of the offense so indicates, the court in its discretion may award double damages in such suits. (1959, c. 130.)

#### Dogs.

##### Sec. 9. Lists of all dogs; returns.

If any city or town fails to remit to the treasurer of state on or before October 15 of each year a sum of money equal to the licenses required by sections 9 to 28, inclusive, on all dogs living on the 15th day of June preceding, such deficiency shall be collected in the manner provided by section 13 of chapter 18. (R. S. c. 88, § 8. 1955, c. 135.)

**Effect of amendment.**—The 1955 amendment substituted in the last paragraph of the section the words “collected in the manner provided by section 13 of chapter 18” for the words “added to the state tax

of such delinquent city or town for the following year.” As the rest of the section was not changed by the amendment, only the last paragraph is set out.

**Sec. 10. Dog licenses; fee; suitable tag; duties of animal husbandry expert; kennels.**—On or before the 1st day of April of each year, the owner