

MAINE STATE LEGISLATURE

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L.D. 864

(Filing No. H-132)

STATE OF MAINE
HOUSE OF REPRESENTATIVES
113TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 641, L.D. 864,
Bill, "AN ACT to Amend the Laws Relating to and Ad-
ministered by the Department of Environmental Protec-
tion."

Amend the Bill by striking out all of section 1
and inserting in its place the following:

'Sec. 1. 4 MRSA §152, sub-~~§6~~, as amended by PL
1985, c. 746, §2, is repealed and the following en-
acted in its place:

6. Land use laws. Original jurisdiction, con-
current with that of the Superior Court, to grant eq-
uitable relief in proceedings involving alleged vio-
lations of a local land use ordinance or regulation
or a state land use law or regulation, which shall
include, but shall not be limited to, the following:

A. The law pertaining to the Maine Land Use Reg-
ulation Commission, Title 12, chapter 206-A;

B. Minimum lot size law, Title 12, sections 4807
to 4807-G;

C. The plumbing and subsurface wastewater dis-
posal rules adopted by the Department of Human
Services pursuant to Title 22, section 42;

D. Laws administered by local health officers
pursuant to Title 22, chapters 153 and 263;

E. Laws pertaining to public water supplies, Ti-
tle 22, sections 2642, 2647 and 2648;

F. Local ordinances pursuant to Title 22, sec-
tion 2642;

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1 G. Laws pertaining to fire prevention and pro-
2 tection which require enforcement by local offi-
3 cers pursuant to Title 25, chapter 313;

4 H. Laws pertaining to the construction of public
5 buildings for the physically disabled pursuant to
6 Title 25, chapter 331;

7 I. Local land use ordinances adopted pursuant to
8 Title 30, section 1917;

9 J. Local building codes adopted pursuant to Ti-
10 tle 30, sections 1917 and 2151;

11 K. Local housing codes adopted pursuant to Title
12 30, sections 1917 and 2151;

13 L. Local ordinances regarding automobile
14 junkyards pursuant to Title 30, chapter 215, sub-
15 chapter I;

16 M. Local ordinances regarding electrical instal-
17 lations pursuant to Title 30, chapter 215, sub-
18 chapter III;

19 N. Regulation and inspection of plumbing pursu-
20 ant to Title 30, chapter 215, subchapter X;

21 O. Local ordinances regarding malfunctioning do-
22 mestic sewage disposal units pursuant to Title
23 30, section 4359;

24 P. The subdivision law pursuant to Title 30,
25 section 4956; local subdivision ordinances
26 adopted pursuant to Title 30, section 1917; and
27 subdivision regulations adopted pursuant to Title
28 30, section 4956;

29 Q. Local zoning ordinances adopted pursuant to
30 Title 30, section 1917 and in accordance with Ti-
31 tle 30, section 4962;

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1 R. The Great Ponds Program, Title 38, sections
2 386 to 396;

3 S. The freshwater wetlands laws, Title 38, sec-
4 tions 405 to 410-D;

5 T. Laws pertaining to the discharge of wastes,
6 Title 38, sections 413, 414, 417, 418 and 420;

7 U. The alteration of rivers, streams and brooks
8 laws, Title 38, sections 425 to 431;

9 V. The alteration of coastal wetlands laws, Ti-
10 tle 38, sections 471 to 478;

11 W. Shoreland zoning ordinances adopted pursuant
12 to Title 38, sections 435 to 447;

13 X. The site location of development laws, Title
14 38, sections 481 to 485 and 488 to 490; and

15 Y. The oil discharge prevention and pollution
16 control laws, Title 38, sections 543, 545, 563,
17 564, 565, 566, 567 and 568.

18 **Sec. 2. 22 MRSA §2642, sub-§2, as enacted by PL**
19 **1975, c. 751, §4, is amended to read:**

20 **2. Penalty.** Whoever willfully violates any regu-
21 lation established under the authority of this sec-
22 tion shall, upon conviction, be ~~punished by a fine of~~
23 ~~not more than \$500~~ penalized in accordance with Title
24 30, section 4966.

25 **Sec. 3. 22 MRSA §2648, first ¶, as enacted by PL**
26 **1975, c. 751, §4, is amended to read:**

27 Any water utility or municipality is authorized
28 to designate by buoys in water or markers on the ice
29 in an area on a lake or pond from which water is
30 taken, with a radius commencing at its point of in-

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1 take. Such radius shall not exceed 200 feet and with-
2 in that area no person shall anchor or moor a boat or
3 carry on ice fishing. Any such buoys placed in the
4 water shall be plainly marked as required by the Di-
5 rector of the Bureau of Parks and Recreation under
6 Title 38, section 323. Any person violating this sec-
7 tion shall, on conviction, be ~~punished by a fine of~~
8 ~~not more than \$50 for each offense~~ penalized in ac-
9 cordance with Title 30, section 4966.

10 **Sec. 4. 25 MRSA §§2357 and 2358 are amended to**
11 **read:**

12 §2357. No occupancy without certificate; appeal

13 No new building ~~shall~~ may be occupied until the
14 inspector of buildings has given a certificate that
15 the same has been built in accordance with section
16 2353, and so as to be safe from fire. If the owner
17 permits it to be so occupied without such certifi-
18 cate, he shall be ~~liable to a fine of \$10 for each~~
19 ~~week he permits such building to be so occupied, to~~
20 ~~be recovered by complaint or indictment~~ penalized in
21 accordance with Title 30, section 4966. In case the
22 inspector of buildings for any cause declines to give
23 his certificate and the builder has in his own judg-
24 ment complied with section 2353, an appeal may be
25 taken to the municipal officers and, if on such ap-
26 peal it shall be decided by them that said section
27 has been complied with, the owner of said building
28 shall not be liable to a fine for want of the certif-
29 icate of the inspector.

30 §2358. Failure to comply with order of inspector

31 If the owner of any building neglects or refuses
32 for more than 30 days to comply with any direction of
33 the inspector of buildings concerning the repairs on
34 any building as provided in section 2354, or to make
35 such changes in the construction or situation of
36 chimneys, flues, funnels, stoves, furnaces, boilers,
37 boiler connections and heating apparatus, as may be

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1 required by such inspector of buildings under section
2 2355, or as may be confirmed by the municipal offi-
3 cers on appeal, he shall be ~~punished by a fine of \$10~~
4 ~~for each week he so neglects or refuses, to be recov-~~
5 ~~ered by complaint or indictment~~ penalized in accord-
6 ance with Title 30, section 4966.

7 Sec. 5. 25 MRS §2359, as amended by PL 1975, c.
8 623, §35, is further amended to read:

9 §2359. Refusing admission to inspector

10 Any owner or occupant of a building, who refuses
11 to permit an inspector of buildings to enter his
12 buildings or willfully obstructs him in the inspec-
13 tion of such building as required by chapters 313 to
14 321, shall be ~~punished by a fine of not less than \$1~~
15 ~~nor more than \$20, to be recovered by complaint or~~
16 ~~indictment~~ penalized in accordance with Title 30,
17 section 4966.

18 Sec. 6. 30 MRSA §4966, first ¶, as amended by PL
19 1985, c. 612, §17, is repealed.

20 Sec. 7. 30 MRSA §4966, sub-§4 is enacted to
21 read:

22 4. Application. The provisions of this section
23 apply to enforcement of land use laws and ordinances
24 or rules which are administered and enforced primari-
25 ly at the local level, including:

26 A. The plumbing and subsurface wastewater dis-
27 posal rules adopted by the Department of Human
28 Services pursuant to Title 22, section 42, in-
29 cluding the land area of the State which is sub-
30 ject to the jurisdiction of the Maine land Use
31 Regulation Commission;

32 B. Laws pertaining to public water supplies, Ti-
33 tle 22, sections 2642, 2647 and 2648;

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- 1 C. Local ordinances adopted pursuant to Title
2 22, section 2642;
- 3 D. Laws administered by local health officers
4 pursuant to Title 22, chapters 153 and 263;
- 5 E. Laws pertaining to fire prevention and pro-
6 tection, which require enforcement by local offi-
7 cers pursuant to Title 25, chapter 313;
- 8 F. Laws pertaining to the construction of public
9 buildings for the physically disabled pursuant to
10 Title 25, chapter 331;
- 11 G. Local land use ordinances adopted pursuant to
12 section 1917;
- 13 H. Local building codes adopted pursuant to sec-
14 tions 1917 and 2151;
- 15 I. Local housing codes adopted pursuant to sec-
16 tions 1917 and 2151;
- 17 J. Local ordinances regarding automobile
18 junkyards pursuant to chapter 215, subchapter I;
- 19 K. Local ordinances regarding electrical instal-
20 lations pursuant to chapter 215, subchapter III;
- 21 L. Local ordinances regarding regulation and in-
22 spection of plumbing pursuant to chapter 215,
23 subchapter X;
- 24 M. Local ordinances regarding malfunctioning
25 subsurface waste water disposal systems pursuant
26 to section 4359;
- 27 N. The subdivision law and local subdivision or-
28 dinances adopted pursuant to section 1917 and
29 subdivision regulations adopted pursuant to sec-
30 tion 4956;

COMMITTEE AMENDMENT "A" to H.P. 641, L.D. 864

1 O. Local zoning ordinances adopted pursuant to
2 section 1917 and in accordance with section 4962;
3 and

4 P. Shoreland zoning ordinances adopted pursuant
5 to Title 38, sections 435 to 447, including those
6 which were state-imposed.'

7 Further amend the Bill in section 4, in that part
8 designated "§394." in subsection 2, in the 2nd line
9 (page 3, line 16 in L.D.) by inserting after the fol-
10 lowing: "house," the following: 'installation of ca-
11 ble by a cable television company,'

12 Further amend the Bill in section 4, in that part
13 designated "§394." in subsection 2, in the last 2
14 lines (page 3, lines 23 and 24 in L.D.) by striking
15 out the following: "been contacted to obtain the
16 right to place" and inserting in its place the fol-
17 lowing: 'approved the placement of'

18 Further amend the Bill by striking out all of
19 sections 5 and 6.

20 Further amend the Bill in section 9, in subsec-
21 tion 1, in the 3rd line from the end (page 5, line 28
22 in L.D.) by striking out the following: "exception"
23 and inserting in its place the following: 'exception
24 subsection'

25 Further amend the Bill in section 10, in subsec-
26 tion 1, in the 4th line (page 5, line 36 in L.D.) by
27 inserting after the following: "requirement" the
28 following: 'pursuant to section 414-A, subsection
29 1, paragraph D,'

30 Further amend the Bill in section 23, in the 6th
31 line from the end (page 15, line 13 in L.D.) by
32 striking out the following: "15" and inserting in its
33 place the following: '5'

34 Further amend the Bill by renumbering the sec-

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1 tions to read consecutively.

2 STATEMENT OF FACT

3 The purpose of this amendment is to make a series
4 of technical corrections in the original bill, in-
5 cluding:

6 1. Restructuring the District Court jurisdiction
7 for easier comprehension;

8 2. Making a series of penalty provisions in the
9 Maine Revised Statutes, Titles 22, 25 and 30 con-
10 sistent;

11 3. Restructuring the provisions of the local
12 land use law enforcement section of Title 30 de-
13 scribing the variety of laws subject to those en-
14 forcement provisions;

15 4. Making clear that television cables are eli-
16 gible for an existing exemption to the Great
17 Ponds Programs and that eligibility for the ex-
18 emption is conditioned on approval by the Bureau
19 of Public Lands for permission to place the cable
20 on public submerged lands;

21 5. Deleting 2 provisions of the original bill
22 dealing with the salt pile control program;

23 6. Inserting a more explicit cross reference
24 than was contained in the original bill for vari-
25 ances to water pollution control requirements;
26 and

