

MAINE STATE LEGISLATURE

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January 7, 1997
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118th MAINE LEGISLATURE

FIRST REGULAR SESSION-1997

Legislative Document

No. 10

S.P. 12

In Senate, January 7, 1997

An Act to Correct Errors and Inconsistencies in the Laws of Maine.

(EMERGENCY)

Reported by Senator LONGLEY of Waldo for the Revisor of Statutes pursuant to the
Maine Revised Statutes, Title 1, section 94.

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

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

4 Whereas, Acts of previous Legislatures have resulted in
6 certain technical errors and inconsistencies in the laws of
Maine; and

8 Whereas, these errors and inconsistencies create
10 uncertainties and confusion in interpreting legislative intent;
and

12 Whereas, it is vitally necessary that these uncertainties
14 and this confusion be resolved in order to prevent any injustice
or hardship to the citizens of Maine; and

16 Whereas, in the judgment of the Legislature, these facts
18 create an emergency within the meaning of the Constitution of
Maine and require the following legislation as immediately
20 necessary for the preservation of the public peace, health and
safety; now, therefore,

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

24 **Sec. 1. 2 MRSA §8,** as enacted by PL 1995, c. 537, §1, is
26 amended to read:

28 **§8. Land use mediation; obligation to participate**

30 Agencies within the executive branch shall participate in
mediation under Title 5, chapter 314, subchapter II, when
32 requested to participate by the Court Mediation Alternative
Dispute Resolution Service. This section is repealed October 1,
34 2001.

36 **Sec. 2. 3 MRSA §927, sub-§6, ¶C,** as repealed by PL 1995, c.
488, §1 and amended by c. 505, §1, is repealed.

38 **Sec. 3. 4 MRSA §18, sub-§6,** as repealed by PL 1995, c. 560,
40 Pt. I, §2 and amended by c. 694, Pt. D, §1 and affected by Pt. E,
§2, is repealed.

42 **Sec. 4. 4 MRSA §18, sub-§6-B,** as enacted by PL 1995, c. 537,
44 §2 and repealed by c. 560, Pt. I, §2, is repealed.

46 **Sec. 5. 4 MRSA §18-B, sub-§10** is enacted to read:

48 **10. Land use mediation.** The land use mediation program is
a program within the Court Alternative Dispute Resolution Service.

2 A. The Director of the Court Alternative Dispute Resolution
4 Service shall administer the land use mediation program
established in Title 5, chapter 314, subchapter II.

6 B. A land use mediation fund is established as a
8 nonlapsing, dedicated fund within the Administrative Office
10 of the Courts. Fees collected for mediation services
12 pursuant to Title 5, chapter 314, subchapter II must be
14 deposited in the fund. The Administrative Office of the
Courts shall use the resources in the fund to cover the
costs of providing mediation services as required under
Title 5, chapter 314, subchapter II.

16 This subsection is repealed October 1, 2001. Any balances
18 remaining in the land use mediation fund must be transferred to a
nonlapsing account within the Judicial Department to be used to
defray mediation expenses.

20 **Sec. 6. 4 MRSA §807, sub-§3, ¶I**, as amended by PL 1995, c. 599,
22 §2 and c. 694, Pt. D, §4 and affected by Pt. E, §2, is repealed
and the following enacted in its place:

24 I. A person who is not an attorney, but is representing the
26 Department of Human Services in a child support enforcement
matter as provided by Title 14, section 3128-A, subsection 7
28 and Title 19-A, section 2361, subsection 10. This paragraph
is repealed October 1, 1998; or

30 **Sec. 7. Effective date.** That section of this Act that repeals
32 and replaces the Maine Revised Statutes, Title 4, section 807,
subsection 3, paragraph I takes effect October 1, 1997.

34 **Sec. 8. 5 MRSA §151, first ¶**, as amended by PL 1995, c. 402,
36 Pt. A, §2, and c. 505, §2 and affected by §22, is repealed and
the following enacted in its place:

38 All money received by the Treasurer of State from the Board
40 of Licensure in Medicine, the Board of Examiners in Physical
Therapy, the Board of Examiners of Psychologists, the State Board
42 of Nursing, the Board of Accountancy, the Board of Veterinary
44 Medicine, the Board of Osteopathic Licensure, the State Board of
Funeral Service, the State Board of Optometry, the Board of
46 Dental Examiners, the State Board of Registration for
Professional Engineers, the State Board of Certification for
48 Geologists and Soil Scientists, the Nursing Home Administrators
Licensing Board, the State Board of Licensure for Architects and
Landscape Architects, the Electricians' Examining Board, the Oil
50 and Solid Fuel Board, the Maine State Pilotage Commission, the
State Board of Barbers, the State Board of Cosmetology, the State

2 Board of Registration for Land Surveyors, the State Board of
3 Social Worker Registration, the Board of Licensure of Podiatric
4 Medicine, the Board of Chiropractic Licensure, the Board of
5 Examiners on Speech Pathology and Audiology, the Maine Real
6 Estate Commission, the Board of Registration of Dietetic
7 Practice, the State Board of Registration for Professional
8 Foresters, the Board of Hearing Aid Dealers and Fitters, the
9 Manufactured Housing Board, the Board of Occupational Therapists,
10 the Radiologic Technology Board of Examiners, the Board of
11 Registration of Substance Abuse Counselors, the Maine Athletic
12 Commission, the Board of Underground Oil Storage Tank Installers
13 and the Board of Commissioners of the Profession of Pharmacy
14 constitutes a fund, which is a continuous carrying account for
15 the payment of the compensation and expenses of the members and
16 the expenses of the board and for executing the law relating to
17 each board respectively, and as much of the fund as may be
18 required is appropriated for these purposes. The secretary of
19 each board is entitled to reimbursement for all expenditures for
20 books, stationery, printing and other necessary expenses incurred
21 in the discharge of that secretary's duties. All payments must be
22 made from the respective funds held in the State Treasury, after
23 the approval of the State Controller. These payments may not
24 exceed the amounts received by the Treasurer of State from the
25 treasurer of each respective board. Any balance remaining to the
26 credit of any board at the end of any year must be carried
forward to the next year.

28 **Sec. 9. Retroactivity.** That section of this Act that repealed
29 and replaced the Maine Revised Statutes, Title 5, section 151,
30 first paragraph is effective retroactively to January 1, 1996.

32 **Sec. 10. 5 MRSA §1660-D, sub-§6,** as enacted by PL 1995, c.
33 402, Pt. C, §2, is amended to read:

34 **6. Department.** "Department" means the Department of Human
35 Services, and the Department of Mental Health and, Mental
36 Retardation and the Office of Substance Abuse Services, as well
37 as other departments and agencies of State Government approved
38 for inclusion in this chapter by the commissioner.

40 **Sec. 11. 5 MRSA §1660-L,** as enacted by PL 1995, c. 402, Pt.
41 C, §2, is amended to read:

44 **§1660-L. Advisory Committee to the Commissioner**

45 There is established the Advisory Committee to the
46 Commissioner, referred to in this section as the "advisory
47 committee." The advisory committee must be appointed by the
48 commissioner and consists of 7 members. Three members must

2 represent the Department of Human Services, and the Department of
3 Mental Health and, Mental Retardation and ~~the-Office-of~~ Substance
4 Abuse Services. Three members must represent community
5 agencies. One member must represent the independent audit
6 community. The chair must be elected by the committee from its
7 members. All members of the advisory committee serve without
8 compensation or reimbursement for expenses. The advisory
9 committee must prepare an annual written report to the
10 Legislature on the experience of the department with this chapter.

11 **Sec. 12. 5 MRSA §3305, sub-§1, ¶L**, as repealed and replaced by
12 PL 1995, c. 625, Pt. A, §8 and amended by c. 656, Pt. A, §1, is
13 repealed and the following enacted in its place:

14 L. Coordinate the development of solid waste management
15 policy including:

16
17 (1) Collecting and analyzing solid waste management
18 and recycling data from all available sources including
19 commercial and municipal entities;

20
21 (2) Preparing a solid waste management and recycling
22 plan to be submitted to the Governor and the
23 Legislature by January 1, 1998 and every 5 years
24 thereafter; and

25
26 (3) Providing technical and financial assistance to
27 municipalities in waste reduction and recycling
28 activities; and

29
30 **Sec. 13. 5 MRSA §3331, sub-§5**, as enacted by PL 1995, c. 537,
31 §4, is amended to read:

32
33 **5. Reporting on the land use mediation program.** The
34 council shall report by December 1, 1998 and December 1, 2000 to
35 the Governor, the Administrative Office of the Courts, the
36 Executive Director of the Legislative Council and the Director of
37 the Court ~~Mediation~~ Alternative Dispute Resolution Service on the
38 operation and effectiveness of the land use mediation program
39 established under subchapter II. The reports must list the
40 number and type of mediation requests received, the number of
41 mediation sessions conducted, the number of signed mediation
42 agreements, a summary of the final disposition of mediation
43 agreements, a narrative discussion of the effectiveness of the
44 program as determined by the council, a summary of deposits and
45 expenditures from the land use mediation fund created in Title 4,
46 section 18 18-B, subsection 6-B 10 and any proposals by the
47 council with respect to the operation, improvement or
48 continuation of the mediation program. This subsection is
49 repealed October 1, 2001.
50

2 **Sec. 14. 5 MRSA §3341, sub-§2**, as enacted by PL 1995, c. 537,
§5, is amended to read:

4
6 **2. Provision of mediation services; forms, filing and fees.** The Court Mediation Alternative Dispute Resolution Service created in Title 4, section 18 18-B shall provide mediation services under this subchapter. The Court Mediation Alternative Dispute Resolution Service shall:

10 A. Assign mediators under this subchapter who are knowledgeable in land use regulatory issues and environmental law;

14 B. Establish a simple and expedient application process. Not later than February 1st of each year, the Court Mediation Alternative Dispute Resolution Service shall send to the chair of the Land and Water Resources Council a copy of each completed application received and each agreement signed during the previous calendar year; and

18 C. Establish a fee for services in an amount not to exceed \$175 for every 4 hours of mediation services provided. In addition, the landowner is responsible for the costs of providing notice as required under subsection 7.

22 **Sec. 15. 5 MRSA §12004-K, sub-§4-A**, as enacted by PL 1989, c. 503, Pt. A, §38, is repealed.

26 **Sec. 16. 5 MRSA §13063-C, sub-§2**, as enacted by PL 1995, c. 706, §2, is repealed and the following enacted in its place:

30 **2. Definitions.** As used in this section the following terms have the following meanings.

34 A. "Certified retained business" means any for-profit business in this State other than a public utility as defined by Title 35-A, section 102 that retains 100 or more qualified employees in this State and that meets all of the following criteria to the satisfaction of the commissioner:

36 (1) The business is not engaged in retail operations; or, if it is engaged in retail operations, less than 50% of its total annual revenues from state-based operations are derived from sales taxable in this State or the business can demonstrate to the commissioner by a preponderance of the evidence that any increased sales will not include sales tax revenues derived from a transferring or shifting of retail sales from other businesses in this State; and

2 (2) The commissioner determines that the business is a
4 successor to a business that would have ceased
6 operations in this State but for the acquisition of
8 that business after September 1, 1996 by the applicant
 by any means and the applicant demonstrates to the
 commissioner its intention to continue to operate and
 employ qualified employees in the State.

10 For purposes of this paragraph, "retail operations" means
12 sales of consumer goods for household use to consumers who
 personally visit the business location to purchase the goods.

14 B. "Qualified employees" means full-time employees who are
16 employed by a certified retained business, for whom a
18 retirement program subject to the Employee Retirement Income
20 Security Act of 1974, 29 United States Code, Sections 101 to
22 1461, as amended, and group health insurance are provided,
 and whose income, calculated on a calendar year basis, is
 greater than the average annual per capita income in the
 labor market area in which the qualified employee is
 employed. Qualified employees must be residents of this
 State.

24 **Sec. 17. 5 MRSA §18525, sub-§1, ¶B,** as amended by PL 1995, c.
26 643, §21, and repealed by §22, is repealed.

28 **Sec. 18. 10 MRSA §934, sub-§3, ¶A,** as amended by PL 1995, c.
30 688, §10, is repealed.

32 **Sec. 19. 10 MRSA §1471, sub-§4,** as amended by PL 1995, c. 65,
34 Pt. A, §18 and affected by §153 and Pt. C, §15, is further
 amended to read:

36 **4. Motor vehicle.** "Motor vehicle" means any self-propelled
38 vehicle designed primarily to transport not more than 14
40 individuals, except motorcycles as defined in Title 29-A, section
42 101, subsection 38, and any vehicles operated exclusively on a
 rail or rails. This definition is intended to include motor
 trucks that have a gross vehicle weight of not more than 10,000
 pounds as certified by the vehicle manufacturer or its franchised
 representative pursuant to Title 29, section 1652.

44 **Sec. 20. 17-A MRSA §15, sub-§1, ¶A,** as repealed and replaced
46 by PL 1995, c. 668, §2 and c. 680, §3, is repealed and the
 following enacted in its place:

48 A. Any person who the officer has probable cause to believe
 has committed or is committing:

- 2 (1) Murder;
- 4 (2) Any Class A, Class B or Class C crime;
- 6 (3) Assault while hunting;
- 8 (4) Any offense defined in chapter 45;
- 10 (5) Assault, criminal threatening, terrorizing or
12 stalking, if the officer reasonably believes that the
14 person may cause injury to others unless immediately
16 arrested;
- 18 (5-A) Assault or reckless conduct if the officer
20 reasonably believes that the person and the victim are
22 family or household members, as defined in Title 15,
24 section 321;
- 26 (6) Theft as defined in section 357, when the value of
28 the services is \$2,000 or less if the officer
30 reasonably believes that the person will not be
32 apprehended unless immediately arrested;
- 34 (7) Forgery, if the officer reasonably believes that
36 the person will not be apprehended unless immediately
38 arrested;
- 40 (8) Negotiating a worthless instrument if the officer
42 reasonably believes that the person will not be
44 apprehended unless immediately arrested;
- 46 (9) A violation of a condition of probation when
48 requested by an official of the Division of Probation
50 and Parole;
- (10) Violation of a condition of release in violation
 of Title 15, section 1026, subsection 3; Title 15,
 section 1027, subsection 3; Title 15, section 1051,
 subsection 2; and Title 15, section 1092;
- (11) Theft involving a detention under Title 17,
 section 3521;
- (12) Harassment, as set forth in section 506-A;
- (13) Violation of a protection order, as specified in
 Title 5, section 4659, subsection 2; Title 15, section
 321, subsection 6; Title 19, section 769, subsection 2;
 and Title 19, section 770, subsection 5; or

2 (14) A violation of a sex offender registration
4 provision under Title 34-A, chapter 11 or 13; and

6 **Sec. 21. 20-A MRSA §8703, sub-§§1 and 2**, as amended by PL 1995,
8 c. 402, Pt. A, §47 and amended by c. 505, §6 and affected by §22,
 are repealed and the following enacted in their place:

10 1. **Licensing.** Only a person licensed by the Secretary of
12 State as a driver education teacher may be employed by a public
14 secondary school, approved private secondary school, an applied
16 technology center, applied technology region or adult education
 program, conducted pursuant to chapter 315, to teach driver
 education. The Secretary of State shall establish instructor
 qualification requirements for persons licensed to teach driver
 education.

18 2. **Temporary license.** If a licensed driver education
20 teacher is not available to teach driver education and the school
22 board, cooperative board or private school requests, the
24 Secretary of State shall grant a temporary license to any person
 who holds a Class A instructor's license issued by the Secretary
 of State in accordance with Title 29-A, section 1354.

26 **Sec. 22. Retroactivity.** That section of this Act that repeals
28 and replaces the Maine Revised Statutes, Title 20-A, section
 8703, subsections 1 and 2 is effective retroactively to January
 1, 1996.

30 **Sec. 23. 20-A MRSA §9501, sub-§2**, as amended by PL 1995, c.
32 402, Pt. A, §47 and c. 505, §9 and affected by §22, is repealed
 and the following enacted in its place:

34 2. **Exemptions.** Educational programs related to the real
36 estate professions that are subject to approval under Title 32,
38 chapter 59, commercial driver education schools subject to
40 approval by the Secretary of State under Title 29-A, chapter 11,
42 subchapter III, educational programs offered by any Maine
44 nonprofit corporation, any educational programs offered by any
 professional or trade association primarily for the benefit of
 its own members and any educational institution authorized by the
 laws of this State to grant a degree are exempt from the
 requirements of this chapter.

46 **Sec. 24. Retroactivity.** That section of this Act that repeals
48 and replaces the Maine Revised Statutes, Title 20-A, section
 9501, subsection 2 is effective retroactively to January 1, 1996.

50 **Sec. 25. 20-A MRSA §18081**, as repealed by PL 1995, c. 560,
 Pt. F, §11 and repealed and replaced by c. 563, §1, is repealed.

2 **Sec. 26. 22 MRSA §395-B, sub-§1**, as amended by PL 1995, c.
596, §1, is repealed.

4 **Sec. 27. 22 MRSA §3553, sub-§7-A**, as amended by PL 1989, c.
6 700, Pt. A, §80 and repealed by c. 837, §2, is repealed.

8 **Sec. 28. 22 MRSA §8305, sub-§1-A, ¶F**, as enacted by PL 1993,
c. 353, §4, is amended to read:

10 F. The provider, other residents or other persons who
12 frequent the home have not been convicted of a crime in
14 which a child was a victim; have not been found, in a
statutorily authorized ~~forum~~ forum, to have abused or
16 neglected children; or have not had parental rights
terminated by a statutorily authorized entity.

18 **Sec. 29. 23 MRSA §54**, as amended by PL 1987, c. 141, Pt. B,
§16, is further amended to read:

20 **§54. Highway openings**

22 Wherever highways maintained by the State are affected,
24 whether the highways are situated in cities, towns or
plantations, the department ~~shall--have~~ has all and the same
26 rights, powers and duties in connection therewith as are granted
to cities in city streets by sections 3351 to 3359, and to cities
28 and towns by Title 35-A, sections 2306 and 2310. Whenever the
opening fee provided by section 3354 or by Title 35-A, section
30 ~~2312~~ 2510, has been paid to the department and a permit for
digging up and opening a highway maintained by the State has been
32 issued by the department, the holder of ~~said~~ the permit ~~shall--be~~
is entitled to make the opening described therein without the
34 payment of fees to the city or town or village corporation in
which the street, road or highway to be opened is situated.

36 **Sec. 30. 24 MRSA §2330, sub-§11**, as amended by PL 1991, c.
38 885, Pt. E, §22 and affected by §47, is further amended by
amending the first paragraph to read:

40 **11. Continued group coverage; certain circumstances.**
42 Notwithstanding this section, if the termination of an
individual's group insurance coverage is a result of the member
44 or employee being temporarily laid off or losing employment
because of an injury or disease that the employee claims to be
46 compensable under former Title 39 or Title 39-A, the insurer
shall allow the member or employee to elect, within the time
48 period prescribed by paragraph B B-1, to continue coverage under
the group policy at no higher level than the level of benefits or
50 coverage received by the employee immediately before termination

2 and at the member's or employee's expense or, at the member's or
employee's option, to convert to a policy of individual coverage
4 without evidence of insurability in accordance with this section.

6 **Sec. 31. 24-A MRSA §2808, sub-§2-A**, as enacted by PL 1995, c.
618, §3, is amended to read:

8 **2-A.** Notwithstanding subsections 1 and 2, an employee
leasing company registered pursuant to Title 32, chapter 125
10 qualifies as an eligible group for purposes of the purchase of
group life health insurance as provided in this section.

12 **Sec. 32. 26 MRSA §1401, sub-§§3 and 4**, as repealed by PL 1995,
14 c. 560, Pt. G, §14 and amended by c. 618, §15, are repealed.

16 **Sec. 33. 26 MRSA §1401, sub-§5**, as repealed by PL 1995, c.
560, Pt. G, §14 and amended by c. 618, §16, is repealed.

18 **Sec. 34. 26 MRSA §1401, sub-§6**, as repealed by PL 1995, c.
20 560, Pt. G, §14 and enacted by c. 618, §17, is repealed.

22 **Sec. 35. 26 MRSA §1401-B, sub-§6** is enacted to read:

24 **6. Monitor employee leasing industry.** The commissioner
26 shall coordinate the efforts of the State to ensure that the
employee leasing industry is developing in a manner that provides
28 the greatest benefit to Maine employers while minimizing the
financial risk to those employers and to the leased employees.
30 The commissioner shall meet at least annually with
representatives of the Bureau of Insurance, the Bureau of
32 Taxation, the Department of Economic and Community Development,
the Workers' Compensation Board and the Bureau of Labor Standards
34 within the Department of Labor. This group shall develop written
material for employers and new businesses that are considering
36 using an employee leasing firm. The material must provide
guidance for employers on what questions to ask to minimize their
38 own financial risk and that of their employees. The material
must also include instructions on how to obtain public
40 information on employee leasing companies, such as information
required for registration purposes. The commissioner shall meet
42 with the state officials listed in this subsection on at least an
annual basis to review the status of the employee leasing
44 industry and update the written materials as needed.

46 **Sec. 36. 26 MRSA §1418-K**, as enacted by PL 1995, c. 560, Pt.
F, §13, is repealed and the following enacted in its place:

48 **§1418-K. Fees**

50 **1. Fees prohibited generally.** Except as provided in

2 subsection 2, a rental fee may not be required or received for
3 the granting of authority to the division to operate a vending
4 facility.

5 2. Fees authorized; limitation. A rental fee or other fee
6 may be charged to the operator only if the vending facility is
7 located on commercial municipal property, including a public
8 airport, where the following conditions are met:

10 A. The vending facility generates revenue primarily from
11 the general public at large rather than from public
12 employees;

14 B. The vending facility occupies space for which there are
15 other competing retail commercial uses and other retail
16 users are, in fact, renting nearby public space on the
17 property; and

18 C. The public owner depends on generating revenue from the
19 space occupied by the vending facility.

22 Any rent or other fee charged to the operator must be less than
23 what would otherwise be charged to a competing commercial tenant
24 and must be pursuant to a written agreement. The terms of the
25 agreement must adequately account for the value of investments
26 made by the division to create or maintain the vending facility.

28 3. Application. This section applies to the rental of
29 vending facilities and the renewal of any rental agreement after
30 the effective date of this section.

32 Sec. 37. 29 MRSA §55-B, last ¶, as enacted by PL 1993, c. 698,
33 §3, is repealed.

34 Sec. 38. 29-A MRSA §1304, sub-§1, ¶F, as amended by PL 1995,
35 c. 402, Pt. A, §47 and c. 505, §11 and affected by §22, is
36 repealed and the following enacted in its place:

38 F. The Secretary of State may issue a restricted
39 instruction permit to an applicant who is enrolled in a
40 driver education program that includes practice driving.
41 That permit is valid:

44 (1) For a school year or other specified period; and

46 (2) Only when the permittee is accompanied by a driver
47 education teacher or a commercial driver education
48 instructor, licensed by the Secretary of State under
subchapter III.

2 **Sec. 39. Retroactivity.** That section of this Act that repeals
and replaces the Maine Revised Statutes, Title 29-A, section
4 1304, subsection 1, paragraph F is effective retroactively to
January 1, 1996.

6 **Sec. 40. 29-A MRSA §1351, sub-§2, ¶D,** as amended by PL 1995,
8 c. 402, Pt. A, §47 and c. 505, §12 and affected by §22, is
repealed and the following enacted in its place:

10 D. Person licensed by the Secretary of State.

12 **Sec. 41. 29-A MRSA §1351, sub-§3,** as amended by PL 1995, c.
14 402, Pt. A, §47 and c. 505, §13 and affected by §22, is repealed
and the following enacted in its place:

16 3. Certificate. A successful course completion certificate
18 may be issued if the course meets the standards adopted by the
Secretary of State. A certificate may not be issued to a person
20 who was not at least 15 years of age when beginning the course.

22 **Sec. 42. Retroactivity.** These sections of this Act that repeal
and replace the Maine Revised Statutes, Title 29-A, section 1351,
24 subsection 2, paragraph D and subsection 3 are effective
retroactively to January 1, 1996.

26 **Sec. 43. 34-B MRSA §1001, sub-§8, ¶E,** as amended by PL 1995,
28 c. 550, §1, is further amended to read:

30 E. The Aroostook Residential Center; or

32 **Sec. 44. 34-B MRSA §1001, sub-§8, ¶F,** as amended by PL 1995, c.
34 550, §1 as repealed by c. 560, Pt. K, §10, is repealed.

36 **Sec. 45. 34-B MRSA §6254,** as amended by PL 1995, c. 560, Pt.
K, §§78 to 80, is repealed.

38 **Sec. 46. 36 MRSA §1752, sub-§10,** as amended by PL 1995, c.
40 639, §8 and c. 640, §1, is repealed and the following enacted in
its place:

42 10. Retailer. "Retailer" means a person who makes retail
44 sales or who is required to register by section 1754-A or 1754-B
or who is registered under section 1756.

46 **Sec. 47. 36 MRSA §2113,** as amended by PL 1995, c. 639, §9 and
c. 640, §7, is repealed and the following enacted in its place:

2 **§2113. Criminal penalties**

4 A violation of any provision of this Part for which a
6 penalty or forfeiture is not provided by any other provision of
8 law is a Class E crime, except that any violation of any
10 provision of this Part for which a penalty or forfeiture is not
 provided by any other provision of law by a person who has a
 prior conviction under the same provision within the prior 3
 years is a Class D crime.

12 **Sec. 48. 36 MRSA §5276-A, sub-§1**, as amended by PL 1995, c.
14 639, §29 and c. 694, Pt. D, §62 and affected by Pt. E, §2, is
 repealed and the following enacted in its place:

16 **1. Generally.** An agency of the State, including the
18 University of Maine System or the Maine Technical College System,
20 that is authorized to collect from an individual or corporation a
22 liquidated debt greater than \$25 shall notify in writing the
24 State Tax Assessor and supply information necessary to identify
26 the debtor whose refund is sought to be set off. The assessor,
28 upon notification, shall assist the requesting agency by setting
30 off that debt against a refund to which that individual or
 corporation is entitled under this Part. Liquidated child
 support debts that the Department of Human Services has
 contracted to collect, pursuant to Title 19-A, section 2103 or
 2301, subsection 2, are eligible, under the provisions of this
 section, for setoff against a refund due the obligated
 individual. The assessor shall provide the creditor agency with
 the name, address and social security number of each debtor whose
 refund is subject to setoff.

32 **Sec. 49. Effective date.** That section of this Act that repeals
34 and replaces the Maine Revised Statutes, Title 36, section
36 5276-A, subsection 1 takes effect October 1, 1997.

38 **Sec. 50. 38 MRSA §482, sub-§2**, as amended by PL 1995, c. 700,
40 §3 and c. 704, Pt. A, §3 and affected by Pt. C, §2, is further
 amended to read:

42 **2. Development of state or regional significance that may**
44 **substantially affect the environment.** "Development of state or
46 regional significance that may substantially affect the
 environment," in this article also called "development," means
 any federal, state, municipal, quasi-municipal, educational,
 charitable, residential, commercial or industrial development
 that:

48 A. Occupies a land or water area in excess of 20 acres;

2 ~~B. ---Contemplates---drilling---for---or---excavating---natural~~
4 ~~resources-on-land-or-under-water-where-the-area-affected-is~~
~~in-excess-of-60,000-square-feet;~~

6 C. Is a metallic mineral mining or advanced exploration
8 activity as defined in this section;

10 D. Is a structure as defined in this section;

12 E. Is a subdivision as defined in this section; or

14 I. Generates 100 or more passenger car equivalents at peak
hour.

16 "~~Development~~"--~~does--not--include--borrow--pits--regulated--under~~
18 ~~article-7.~~

20 **Sec. 51. Effective date.** That section of this Act that amends
the Maine Revised Statutes, Title 38, section 482, subsection 2
takes effect July 1, 1997.

22 **Sec. 52. 38 MRSA §488, sub-§11,** as amended by PL 1995, c. 659,
24 §2 and c. 700, §8, is repealed and the following enacted in its
26 place:

28 11. Farm and fire ponds. A pond that is used for
irrigation of field crops, water storage for cranberry operations
30 or fire protection determined to be necessary in that location by
the municipal fire department is exempt from review under this
32 article. This provision does not provide an exemption for mining
or advanced exploration activity or excavation for borrow, clay,
topsoil or silt.

34 **Sec. 53. 38 MRSA §488, sub-§16,** as repealed and replaced by PL
36 1995, c. 625, Pt. A, §53 and repealed by c. 700, §9, is repealed.

38 **Sec. 54. 38 MRSA §488, sub-§17,** as enacted by PL 1995, c. 493,
40 §7 and affected by §21, is amended to read:

42 **17. Structure area within residential lots.** Buildings,
roads, paved areas or areas to be stripped or graded and not
revegetated that are located within lots used solely for
44 single-family residential housing are not counted toward the
3-acre threshold described in section 382 482, subsection 6,
46 paragraph B for purposes of determining jurisdiction. A road
associated only with such lots is also not counted toward the
48 3-acre threshold. For purposes of this subsection,
"single-family residential housing" does not include multi-unit
50 housing such as condominiums and apartment buildings.

2 **Sec. 55. 38 MRSA §489-A, sub-§1**, as amended by PL 1995, c.
4 700, §10 and c. 704, Pt. A, §21 and affected by Pt. C, §2, is
 further amended to read:

6 **1. Kinds of projects.** The following kinds of projects may
8 be reviewed by registered municipalities pursuant to this section:

10 A. Subdivisions as described in section 482, subsection 5
 of more than 20 acres but less than 100 acres; or

12 ~~D. Structures as described in section 482, subsection 6,~~
14 ~~paragraph B in excess of 3 acres but less than 7 acres; or~~

16 ~~F. Excavation on more than 5 acres of land for borrow,~~
18 ~~topsoil, clay or silt, whether alone or in combination as~~
 ~~described in section 482, subsection 2-B; or~~

20 G. A project generating 100 to 200 passenger car
 equivalents at peak hour.

22 **Sec. 56. 38 MRSA §490-EE, sub-§3, ¶C**, as enacted by PL 1995,
24 c. 700, §35, is amended to read:

26 C. A fee of \$250 for each variance requested under section
 490-CC, except for the following:

28 (1) A fee of \$500 for a variance to excavate below the
30 seasonal high water table;

32 (2) A fee of \$500 for a variance to create an
 externally drained quarry;

34 (3) A fee of \$125 for a variance to waive the topsoil
 salvage requirement; and

36 (4) A fee of \$125 for a variance to waive the
38 monitoring requirements for airblasts and ground
 vibration; and

40 ~~(5) A fee of \$250 upon filing a notice of intent to~~
42 ~~expand under section 490-EE; and~~

44 **Sec. 57. 38 MRSA §1310-F, sub-§1-B, ¶B**, as amended by PL 1995,
46 c. 665, Pt. HH, §1, is further amended to read:

48 B. Until January 1, 1996, the state cost share is 50%, and
 for closure costs incurred after that date until January 1,
 1997 1998, the State's cost share is 30% for the following:

2 (1) The cost of materials and the cost of placement of
4 materials associated with the physical construction of
6 that portion of a cover over a landfill that meets the
8 minimum landfill cover permeability of 1 x
10(-5)cm./sec. and the thickness standards of 40 Code
of Federal Regulations, Part 258, Section 258.60(a).

10 **Sec. 58. 38 MRSA §1310-N, sub-§1, ¶C**, as repealed and replaced
12 by PL 1993, c. 680, Pt. A, §37 and amended by c. 732, Pt. B, §1,
14 is repealed and the following enacted in its place:

16 C. In the case of a disposal facility, the volume of the
18 waste and the risks related to its handling and disposal
20 have been reduced to the maximum practical extent by
22 recycling and source reduction prior to disposal. This
24 paragraph does not apply to the expansion of a commercial
26 solid waste disposal facility that accepts only special
28 waste for landfilling.

30 **Sec. 59. 38 MRSA §1310-N, sub-§5**, as repealed and replaced by
32 PL 1993, c. 680, Pt. A, §37 and amended by c. 732, Pt. B, §2, is
34 repealed and the following enacted in its place:

36 5. Recycling and source reduction determination. The
38 department shall find that the provisions of subsection 1,
40 paragraph C are satisfied when the applicant demonstrates that
42 all requirements of this subsection have been satisfied.

44 A. The proposed solid waste disposal facility will accept
46 solid waste that is subject to recycling and source
48 reduction programs, voluntary or otherwise, at least as
effective as those imposed by this chapter and other
provisions of state law.

(1) The department shall attach this requirement as a
standard condition to the license of a solid waste
disposal facility governing the future acceptance of
solid waste at the proposed facility.

B. The applicant has shown consistency with the recycling
provisions of the state plan.

This subsection does not apply to the expansion of a commercial
solid waste disposal facility that accepts only special waste for
landfilling.

48 **Sec. 60. PL 1995, c. 505, §4, first 3 lines** are repealed and the
following enacted in their place:

2 section corrects the conflict by changing the name of the Court
Mediation Service to the Court Alternative Dispute Resolution
Service in the Maine Revised Statutes, Title 2, section 8.

4
6 Section 2 corrects a conflict created by Public Law 1995,
chapter 488, which repealed Title 3, chapter 33, including
8 section 927, subsection 6, paragraph C and Public Law 1995,
chapter 505, which amended Title 3, section 927, subsection 6,
10 paragraph C, by eliminating the Board of Commercial Driver
Education.

12 Sections 3 to 5 correct a conflict created by Public Law
1995, chapter 537, which enacted a new subsection; chapter 694,
14 which made cross-reference changes; and chapter 560, which
repealed the entire section and enacted a similar provision
16 elsewhere. These sections correct the conflict by repealing
Title 4, section 18, subsections 6 and 6-B and enacting the text
18 of subsection 6-B as Title 4, section 18-B, subsection 10.

20 Section 6 corrects a conflict created by Public Law 1995,
chapter 599 and Public Law 1995, chapter 694, which made a
22 technical change to the same provision. This section corrects
the conflict by incorporating changes made by both public laws
24 and section 7 provides an effective date of October 1, 1997.

26 Section 8 corrects a conflict created by Public Law 1995,
chapters 402 and 505. Public Law 1995, chapter 402 changed the
28 name of the Board of Commercial Driver Education to the Board of
Driver Education. Chapter 402 has a revision clause that gives
30 the Revisor of Statutes authority to change the name of the board
throughout the statutes. Public Law 1995, chapter 505 eliminated
32 the board. This section corrects the conflict by repealing and
replacing Title 5, section 151, first paragraph using the Public
34 Law 1995, chapter 505 version of that paragraph. Section 9
provides a retroactivity date of January 1, 1996.

36
38 Section 10 corrects a department name to reflect changes
made by Public Law 1995, chapter 560, Part K, section 82.

40 Section 11 corrects a department name to reflect changes
made by Public Law 1995, chapter 560, Part K, section 82.

42
44 Section 12 corrects a conflict created by Public Law 1995,
chapters 625 and 656. Chapter 625 corrected a previous conflict
and chapter 656 made changes to paragraph L without making
46 reference to chapter 625.

48 Section 13 changes a program name to reflect a change made
by Public Law 1995, chapter 560 and corrects a cross-reference to
50 reflect changes made in this Act.

2 Section 14 changes a program name to reflect a change made
by Public Law 1995, chapter 560.

4
6 Section 15 repeals a reference to the Planning Advisory
Council, which was repealed by Public Law 1991, chapter 622, Part
F, section 31.

8
10 Section 16 corrects format and an internal reference.

12 Section 17 corrects an error that was created when a section
of Public Law 1995, chapter 643 made a technical change and
another section of the same public law repealed the provision.
14 This section corrects the conflict by repealing the provision.

16 Section 18 corrects a conflict created by Public Law 1995,
chapter 688, which made a technical change to Title 10, section
18 934, subsection 3, paragraph A, and chapter 648, which repealed
Title 10, section 934 and enacted the provision elsewhere. This
20 section corrects the error by repealing paragraph A.

22 Section 19 removes a cross-reference to a repealed section
of law.

24
26 Section 20 corrects a conflict created by Public Law 1995,
chapters 668 and 680, which affected the same section of law, by
incorporating the changes made by both laws.

28
30 Section 21 corrects a conflict created by Public Law 1995,
chapters 402 and 505. Public Law 1995, chapter 402 changed the
32 name of the Board of Commercial Driver Education to the Board of
Driver Education. Chapter 402 has a revision clause that gives
34 the Revisor of Statutes authority to change the name of the board
throughout the statutes. Public Law 1995, chapter 505 eliminated
36 the board. This section corrects the conflict by repealing and
replacing Title 20-A, section 8703, subsections 1 and 2 using the
Public Law 1995, chapter 505 version of those subsections.
38 Section 22 provides a retroactivity date of January 1, 1996.

40 Section 23 corrects a conflict created by Public Law 1995,
chapters 402 and 505. Public Law 1995, chapter 402 changed the
42 name of the Board of Commercial Driver Education to the Board of
Driver Education. Chapter 402 has a revision clause that gives
44 the Revisor of Statutes authority to change the name of the board
throughout the statutes. Public Law 1995, chapter 505 eliminated
46 the board. This section corrects the conflict by repealing and
replacing Title 20-A, section 9501, subsection 2 using the Public
48 Law 1995, chapter 505 version of that subsection. Section 24
provides a retroactivity date of January 1, 1996.

2 Section 25 corrects a conflict created by Public Law 1995,
4 chapter 563, section 1, which made substantive changes, and
6 chapter 560, Part F, section 11, which repealed the provision.
This section corrects the conflict by repealing the provision.

8 Section 26 corrects a conflict created by Public Law 1995,
10 chapters 596 and 653. Chapter 596 amended Title 22, section
12 395-B, subsection 1; chapter 653 repealed the entire section and
enacted substantively similar provisions in Title 22, section
1716. This section corrects the conflict by repealing section
395-B, subsection 1.

14 Section 27 corrects a conflict created by Public Law 1989,
16 chapter 700, which made a technical change, and chapter 837,
18 which repealed the same provision. This section corrects the
conflict by repealing the provision.

20 Section 28 corrects a clerical error by changing the word
"form" to "forum."

22 Section 29 corrects a cross-reference and makes grammatical
24 changes.

26 Section 30 corrects a cross-reference.

28 Section 31 corrects a clerical error by changing a reference
from "life" insurance to "health" insurance.

30 Sections 32 to 34 correct a conflict created by Public Law
32 1995, chapter 618, which made technical changes and added a new
34 subsection 6 to Title 26, section 1401, and chapter 560, which
repealed the entire section and enacted it as Title 26, section
1401-B. Section 35 adds subsection 6 to section 1401-B.

36 Section 36 corrects a conflict created by Public Law 1995,
38 chapter 560, which repealed Title 20-A, section 18081 and enacted
40 the same language as Title 26, section 1418-K, and chapter 563,
42 which repealed and replaced Title 20-A, section 18081. This
section corrects the conflict by repealing Title 26, section
1418-K and replacing it with the changes made by chapter 563.

44 Section 37 corrects a conflict created by Public Law 1993,
46 chapter 683, which repealed all of Title 29, and chapter 698,
48 which enacted the last paragraph of section 55-B. This section
corrects the conflict by repealing Title 29, section 55-B, last
paragraph.

50 Section 38 corrects a conflict created by Public Law 1995,
chapters 402 and 505. Public Law 1995, chapter 402 changed the

2 name of the Board of Commercial Driver Education to the Board of
4 Driver Education. Chapter 402 has a revision clause that gives
6 the Revisor of Statutes authority to change the name of the board
8 throughout the statutes. Public Law 1995, chapter 505 eliminated
10 the board. This section corrects the conflict by repealing and
12 replacing Title 29-A, section 1304, subsection 1, paragraph F
14 using the Public Law 1995, chapter 505 version of that
16 paragraph. Section 39 provides a retroactivity date of January
18 1, 1996.

20 Sections 40 and 41 correct a conflict created by Public Law
22 1995, chapters 402 and 505. Public Law 1995, chapter 402 changed
24 the name of the Board of Commercial Driver Education to the Board
26 of Driver Education. Chapter 402 has a revision clause that
28 gives the Revisor of Statutes authority to change the name of the
30 board throughout the statutes. Public Law 1995, chapter 505
32 eliminated the board. Sections 40 and 41 correct the conflict by
34 repealing and replacing Title 29-A, section 1351, subsection 2,
36 paragraph D and section 1351, subsection 3 using the Public Law
38 1995, chapter 505 versions of that paragraph and that
40 subsection. Section 42 provides a retroactivity date of January
42 1, 1996.

44 Sections 43 and 44 correct a conflict created by Public Law
46 1995, chapter 550, which made a grammatical change to Title 34-B,
48 section 1001, subsection 8, paragraph F, and chapter 560, which
50 repealed the paragraph. These sections correct the conflict by
repealing the paragraph.

Section 45 repeals Title 34-B, section 6254. Public Law
1995, chapter 560, Part K, sections 78 and 79 repealed Title
34-B, section 6254, subsection 1. However, subsection 2, which
requires facilities specified in subsection 1 to submit reports,
was not repealed but is nonsensical without subsection 1.

Section 46 corrects a conflict created by Public Law 1995,
chapters 639 and 640, which both made cross-reference changes.
This section corrects the conflict by incorporating the changes
made by both laws.

Section 47 corrects a conflict created by Public Law 1995,
chapters 639 and 640. Chapter 639 increased the penalty for
certain crimes and chapter 640 made technical changes to the
provision. This section corrects the conflict by repealing the
provision and replacing it with the chapter 639 version.

Sections 48 and 49 correct a conflict created by Public Law
1995, chapters 639 and 694, which both made technical changes to
the same provision. The sections correct the conflict by
incorporating the changes made by both laws, which will take
effect October 1, 1997 according to the provisions of chapter 694.

2 Sections 50 and 51 correct a conflict created by Public Law
4 1995, chapters 700 and 704, which both amended the same provision
6 but have different effective dates. These sections correct the
conflict by incorporating the changes made by chapter 700 into
the chapter 704 version, which is to take effect July 1, 1997.

8 Section 52 corrects a conflict created by Public Law 1995,
10 chapters 659 and 700, which affected the same provision. Chapter
659 removed the exemption for multiple ponds having a total
12 surface area of less than 10 acres located on a parcel. Chapter
700 included in those activities that are not exempt excavations
14 for borrow, clay, topsoil or silt. This section corrects the
conflict by incorporating changes made by both public laws.

16 Section 53 corrects a conflict created by Public Law 1995,
18 chapter 625, which made technical changes to Title 38, section
488, subsection 16, and Public Law 1995, chapter 700, which
20 repealed the subsection. This section corrects the conflict by
repealing the subsection.

22 Section 54 corrects a cross-reference.

24 Section 55 corrects a conflict created by PL 1995, chapters
700 and 704, which both affected the same provision of law.
26 Chapter 700 repealed Title 38 section 489-A, subsection 1,
paragraph F. Chapter 704 repealed paragraph D, made a technical
28 change to paragraph F and enacted a new paragraph G. This
section corrects the conflict by making a technical change to the
30 chapter 704 version and repealing paragraph F.

32 Section 56 corrects a clerical error by removing duplicative
34 language.

36 Section 57 effectuates the intent of Public Law 1995,
chapter 665, Part HH, section 1 by changing the date in Title 38,
38 section 1310-F, subsection 1-B, paragraph B from January 1, 1997
to January 1, 1998.

40 Section 58 corrects a conflict created by Public Law 1993,
42 chapters 680 and 732, which affected the same provision of law.
Chapter 680 repealed and replaced all of Title 38, section 1310-N
44 without changing the language of subsection 1, paragraph C.
Chapter 732 amended paragraph C to exempt the expansion of
46 certain commercial solid waste disposal facilities from inclusion
in the provisions of the paragraph. This section corrects the
48 conflict by incorporating both laws.

50 Section 59 corrects a conflict created by Public Law 1993,
chapters 680 and 732, which affected the same provision of law.

2 Chapter 680 repealed and replaced all of Title 38, section 1310-N
but did not change the language of subsection 5. Chapter 732
4 of the subsection certain commercial solid waste disposal
facilities. This section corrects the conflict by incorporating
6 both public laws.

8 Section 60 corrects an amending clause.

10 Section 61 corrects an error in an appropriation section
where the figure for capital expenditures is incorrect. The
12 total assumes that the figure for capital expenditures, as
changed in this section, is correct.

14 Section 62 corrects a clerical error. Section 63 makes the
16 correction retroactive to August 1, 1996.