

MAINE STATE LEGISLATURE

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NINETY - EIGHTH LEGISLATURE

Legislative Document

No. 1094

S. P. 398

In Senate, March 5, 1957

Referred to the Committee on Natural Resources. Sent down for concurrence and ordered printed.

CHESTER T. WINSLOW, Secretary

Presented by Senator Butler of Franklin.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FIFTY-SEVEN

AN ACT Revising the Maine Mining Law.

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

Sec. 1. R. S., c. 39-A, repealed. Chapter 39-A of the Revised Statutes, as enacted by section 1 of chapter 409 of the public laws of 1955, is hereby repealed.

Sec. 2. R. S., c. 39-B, additional. The Revised Statutes are hereby amended by adding thereto a new chapter to be numbered 39-B, to read as follows:

Chapter 39-B.

Maine Mining Bureau.

Sec. 1. Mining Bureau established. The Maine Mining Bureau, as heretofore established, shall consist of 5 members, one each from the State Department of Agriculture and the Forestry Department, each of whom shall be appointed by the head of his respective department, the Deputy Secretary of State, the State Geologist and the Commissioner of the Department of Development of Industry and Commerce or such member of the staff or of his Advisory Board as he may designate. 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.

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 any 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.

Sec. 3. Location of claim and maintenance of right of possession. Any person or corporation who has secured a prospector's permit as aforesaid may locate a claim, by defining the boundaries of the claim, which shall not be more than 1,500 feet in length and not more than 600 feet in width. 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, one through 4, beginning in the 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" in diameter.

II. By writing or placing on post #1, the name of the locator, the number of his prospector's permit, the date and hour 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 post #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 cutting 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 approximate distances and directions to over-water claim corners.

The location or record of any claim shall be construed to include all surface ground within the surface lines thereof and all ledges throughout their entire depth, but shall not include any portion of such ledges beyond the end and side lines of the claim or timber and grass on the claim. The claim shall in no way interfere with harvesting timber or leasing of campsite lots until actual mining operations are being carried on. No person or corporation shall locate more than 3 claims in any one unorganized township in one year.

Sec. 4. Claim to be recorded. Within 30 days of the date of posting the location notice upon the claim, the locator shall record his claim with the State Land Agent which must contain:

- I. The name of the locator;
- II. A description of the rock or mineral 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 location 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 may be extended for a further 12-month period 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 its equivalent. 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 or mineral or metal content.

The Bureau may extend such claims notwithstanding that all required work was not performed if the date of recording the claim occurs after the 30th day of September.

VIII. 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 the effective date of this act, in which case date of recording is construed to mean said effective date. 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 of a claim, no person or corporation holding the claim immediately prior to the date of lapse, nor his representative, may relocate on the same area for a period of 60 days.

Sec. 5. License to mine; fee; mineral lease. 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. After the Mining Bureau is satisfied that mining operations can be carried on consistent with any prior or proposed other use by the State, or any agency or instrumentality thereof, a license to mine in the area specified may be granted under such terms and conditions as the Bureau may require. The license to mine shall expire on De-

ember 31st of each year. The annual fee shall be \$25 per claim included in the license to mine. The license to mine may be renewed on expiration providing the licensee satisfies the Bureau that he has complied with the law relating to expenditures as follows: no license to mine shall be issued or renewed until the claim holder satisfies the Bureau that he has expended at least \$200 on the claim in labor, improvements or development of a mining nature during the preceding one-year period and has complied with conditions imposed by the Mining Bureau, and with the following rental and royalty provisions:

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 fair market value at time of sale of the mineral or metal commodity produced is charged on an annual basis, and may be applied to defray rental charges up to the maximum rental chargeable in any one year.

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.

Any holder of a license to mine who has complied with the requirements of the Bureau and of his license, and who in addition has opened a mine which in the opinion of the Bureau he has worked in a bona fide manner as a mine or mineral producing operation for at least one year may apply for 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, provided that the following additional preliminary requirements have been complied with:

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

II. That he has supplied detailed evidence to satisfy the Bureau that he has operated the mine on a commercially acceptable basis for at least one year prior to application.

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

IV. That the operation has caused no unreasonable damage to adjacent properties.

V. That the applicant is bonded against any damage he may cause to the adjacent areas.

VI. That the Mining Bureau is satisfied that mining operations can be carried on consistent with any prior or proposed other use by the State, its agencies or instrumentalities, of the area specified in the application to lease.

The mining lease is to be negotiated by the Mining Bureau and shall provide for payment for rental of the property and payment of royalty fee as provided under the terms of the license to mine.

Sec. 6. 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.

Sec. 7. Rights of way. Any person who has located a claim and has been issued a license to mine or mining lease in accordance with section 5, 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 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 or upon said land for drainage and passage of water, together with the right to construct dams, provided same flow no 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.

Sec. 8. Mining under water. Whenever it is discovered that a vein or lode or other valuable mineral deposit in a mine being worked continues from under the land to under water, where the title to the land underneath the water is in the State, the owner or owners of the mine shall have the sole right to claim property rights and to follow the mineral deposit, and to conduct such operations as are necessary to develop and mine the said continuation of the mineral deposit. A royalty as provided in section 5 shall be paid to the State on all mineral or metal commodities produced from said under water continuations. 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.

Sec. 9. 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 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. Probable use and destination of minerals or metals.
- IV. The amount of rental which has accrued on property.
- V. The amount of royalty which has accrued on material extracted.
- VI. The number of persons ordinarily employed at operation below ground and above ground.
- VII. Other information as required by Bureau.

Sec. 10. Forfeiture. Failure to comply with any of the provisions of this chapter or any rule or regulation of the Mining Bureau will result in the for-

feiture of the prospector's permit, claim or license to mine which may be in existence at the time. If the forfeiture relates to a claim, an appropriate entry shall be made on the records of the State Land Agent. No forfeiture shall be valid until notice in writing shall have been served upon the person, firm or corporation holding the prospector's permit, claim or license to mine setting forth the alleged violations of law or rules and regulations, or both, 14 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. The decision of the Mining Bureau may be reviewed by certiorari.

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.

Sec. 11. Rights acquired prior to effective date of act. All holders of claims recorded in the office of the State Land Agent prior to the effective date of this act shall be required to comply with the provisions of this chapter within one year from said effective date.'