

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

AS PASSED BY THE

One Hundred and Fourth Legislature

OF THE

STATE OF MAINE

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OF THE
STATE OF MAINE
AS PASSED BY THE
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present by the provisions hereof may be excluded from the place where such investigation is held and witnesses may be kept separate and apart from one another and not allowed to communicate with one another until they have been examined.

Effective October 1, 1969

Chapter 378

AN ACT Relating to Communications Between Physicians and Patients.

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

R. S., T. 32, § 3153, additional. Title 32 of the Revised Statutes is amended by adding a new section 3153 to read as follows:

§ 3153. Communications between physicians and patients

Except at the request of, or with the consent of, the patient, no duly licensed physician shall be required to testify in any civil or criminal action, suit or proceeding at law or in equity respecting any information which he may have acquired in attending, examining or treating the patient in a professional capacity if such information was necessary to enable him to furnish professional care to the patient. However, when the physical or mental condition of the patient is at issue in such action, suit or proceeding or when a court in the exercise of sound discretion, deems such disclosure necessary to the proper administration of justice, no information communicated to, or otherwise learned by, such physician in connection with such attendance, examination or treatment shall be privileged and disclosure may be required.

Nothing in this section shall prohibit disclosure by a physician of information concerning a patient when such disclosure is required by law.

Effective October 1, 1969

Chapter 379

AN ACT Revising the Law Regulating the Alteration of Wetlands.

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

Sec. 1. R. S., T. 12, § 4701, amended. The first sentence of section 4701 of

Title 12 of the Revised Statutes, as enacted by chapter 348 of the public laws of 1967, is amended to read as follows:

No person, agency or municipality shall remove, fill, dredge or drain sanitary sewage into, or otherwise alter any ~~swamp, marsh, bog, beach, flat or other wetland bordering coastal waters, or fill, dredge or drain sanitary sewage into such waters within such area~~ coastal wetland, as defined herein, without filing written notice of his intention to do so, including such plans as may be necessary to describe the proposed activity, with the municipal officers in the municipality affected and with the Wetlands Control Board.

Sec. 2. R. S., T. 12, § 4701, amended. Section 4701 of Title 12 of the Revised Statutes, as enacted by chapter 348 of the public laws of 1967, is amended by adding at the end the following:

For purposes of this chapter; coastal wetland is defined as any swamp, marsh, bog, beach, flat or other contiguous lowland above extreme low water which is subject to tidal action or normal storm flowage at any time excepting periods of maximum storm activity.

When winter conditions prevent a municipality or the Wetlands Control Board from evaluating a permit application, the municipality or board upon notifying the applicant of such fact may defer action on the application for up to 120 days. The applicant shall not during the period of deferral remove, fill, dredge, drain sanitary sewage into, or otherwise alter such coastal wetland.

The results of the public hearing shall be reported to the Wetlands Control Board by the municipal officers within 7 days of such hearing.

Each such notice of intention filed with the municipality shall be accompanied by a permit fee of \$30 to cover the administrative costs of the municipality in processing the permit application.

Sec. 3. R. S., T. 12, § 4702, amended. The first 2 sentences of section 4702 of Title 12 of the Revised Statutes, as enacted by chapter 348 of the public laws of 1967, are amended to read as follows:

Permit to undertake the proposed alteration shall be issued by the municipal officers within ~~7~~ 30 days of such hearing providing the Wetlands Control Board approves. Such permit may be conditioned upon the applicant amending his proposal to take whatever measures are deemed necessary by either the municipality or the Wetlands Control Board to protect the public interest.

Sec. 4. R. S., T. 12, § 4702, amended. Section 4702 of Title 12 of the Revised Statutes, as enacted by chapter 348 of the public laws of 1967, is amended by adding at the end the following:

Every permit issued by municipal officers shall be recorded by the owner in the registry of deeds for the county in which the wetlands lies. Any permit not recorded within 30 days of its issuance shall be void.

Sec. 5. R. S., T. 12, § 4704, amended. Section 4704 of Title 12 of the Revised Statutes, as enacted by chapter 348 of the public laws of 1967, is amended to read as follows:

§ 4704. Appeal

Appeal may be taken to the Superior Court within 30 days after the denial of a permit or the issuance of a conditional permit for the purpose of determining whether the action appealed from so restricts the use of the property as to deprive the owner of the reasonable use thereof, ~~or is~~ **and is therefore** an unreasonable exercise of police power, or **which** constitutes the equivalent of a taking without compensation. The court upon such a finding may set aside ~~or amend~~ the action appealed from.

Sec. 6. R. S., T. 12, § 4705, amended. Section 4705 of Title 12 of the Revised Statutes, as enacted by chapter 348 and as amended by section 32 of chapter 544, both of the public laws of 1967, is further amended to read as follows:

§ 4705. Wetlands Control Board

The Wetlands Control Board shall be composed of the Commissioners of Sea and Shore Fisheries and of Inland Fisheries and Game, the Chairman of the Water and Air Environmental Improvement Commission, the Chairman of the State Highway Commission ~~and~~, the Forest Commissioner ~~and~~ the Commissioner of Health and Welfare or their delegates.

Sec. 7. R. S., T. 12, § 4708, amended. Section 4708 of Title 12 of the Revised Statutes, as enacted by chapter 348 of the public laws of 1967, is amended to read as follows:

§ 4708. Exception

Nothing in this chapter shall prohibit the normal maintenance or repair of presently existing ways, roads or railroad beds nor the construction, maintenance and repair of installations and facilities of any utility as defined in Title 23, section 255 or of private roads and bridges required or convenient to agriculture, or in a logging or lumbering operation, abutting or crossing said wetlands, provided no watercourse is substantially altered.

Sec. 8. R. S., T. 12, § 4709, repealed and replaced. Section 4709 of Title 12 of the Revised Statutes, as enacted by chapter 348 of the public laws of 1967, is repealed and the following enacted in place thereof:

§ 4709. Violation

Whoever violates any provision of this chapter shall be punished by a fine of not more than \$100.

The Superior Court shall also have jurisdiction to restrain a continuing violation of this chapter at the suit of any person and, if necessary, to preserve any of the values and purposes for which this chapter was passed, as outlined in section 4702, shall order a restoration of the affected area to as near its original condition as possible; said restoration to be undertaken and costs borne by the property owner.

A continuing violation is defined as any filling, dredging, draining, altering or removal of materials which takes place in coastal wetlands contrary to the provisions of a valid permit or without a permit having been issued, and without regard to whether these physical acts were witnessed as they were being carried out or whether the action was willfully undertaken to avoid the intent of this chapter or only innocently undertaken.

Inland fish and game wardens, coastal wardens and all other law enforcement officers enumerated in section 2003, shall enforce this chapter.

Effective October 1, 1969

Chapter 380

AN ACT to Establish Revised Boundaries for the Master Plan of the Capitol Complex Area at Augusta.

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

R. S., T. 1, § 814, repealed and replaced. Section 814 of Title 1 of the Revised Statutes is repealed and the following enacted in place thereof:

§ 814. Purchase of real estate

Whenever it determines that public exigencies require it, for the enlargement of the State Capitol grounds for the accommodation of the governmental agencies of the State of Maine located at the seat of government in Augusta, for the construction of additional buildings and structures for parking spaces and other facilities, for the enlargement of the State Capitol grounds, and for the implementation of projects approved by the Legislature for the expansion of State Government in the capital area, the Governor and Council may purchase or take by eminent domain real estate in Augusta within an area bounded, as follows: Beginning at the intersection of the easterly line of Florence Street with the northerly line of Capitol Street; thence easterly along said northerly line of Capitol Street to a point of 150 feet westerly of the intersection of the westerly line of Federal Street projected northerly across said Capitol Street and said northerly line of Capitol Street; thence southerly and parallel to said westerly line of Federal Street about 800 feet to Kennedy Brook; thence following the thread of the stream generally easterly to its intersection with the northerly property line of land of the State of Maine, being part of the Motor Vehicle premises; thence westerly about 60 feet along said property line; thence southerly along said property line about 155 feet; thence easterly along said property line about 140 feet; thence southerly along said property line about 120 feet to the northerly line of Manley Street; thence diagonally and southwesterly across Manley Street to its intersection with the northwesterly corner of other land of the State of Maine, thence southerly along said property line extended to the northerly line of Glenwood Street; thence along said Glenwood Street easterly to the westerly line of State Street; thence northerly along said