

MAINE STATE LEGISLATURE

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ACTS, RESOLVES AND CONSTITUTIONAL RESOLUTIONS

AS PASSED BY THE

One Hundred and Sixth Legislature

OF THE

STATE OF MAINE

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PUBLIC LAWS
OF THE
STATE OF MAINE
AS PASSED BY THE
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A. Whoever applies for and is issued any license or permit by the commissioner shall be deemed to have given consent to the inspection and search of all his boats, vehicles and buildings, and any box, bag, barrel, car or other container found in his possession and which may be used in connection with the business act or activity covered by the license or permit, and shall be deemed to have given consent to the seizure of any contraband and evidence, as defined in section 4552, therein found. No dwelling house may be searched without a search warrant, and then only in the daytime.

If a person refuses, upon the request of a law enforcement officer, to permit the inspection and search as provided above, then the commissioner, upon the receipt of a written statement under oath of the law enforcement officer stating that such person had refused to permit such inspection and search, shall immediately notify the person, in writing, by registered or certified mail, return receipt requested, that his license or permit have been suspended. Such suspension shall be for a period of the remainder of the license period and one additional year.

If such person desires a hearing, he may notify the commissioner within 10 days of the receipt of notice of his revocation, in writing, of such desire. Any suspension shall remain in effect pending the outcome of such hearing. The scope of such a hearing shall cover whether the individual was the holder of a license or permit issued by the commissioner and whether he refused to permit inspection and search upon the request of a law enforcement officer. If it is determined after hearing that such person did not refuse to permit inspection and search, any suspension in effect shall be removed immediately. Such person shall have a right of appeal to the Superior Court in the county where he resides to review the order of suspension by the commissioner if such appeal is filed within 10 days of the commissioner's decision. Any suspension shall remain in effect pending the outcome of such appeal.

Effective October 3, 1973

CHAPTER 460

AN ACT to Create a Department of Conservation.

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

Sec. 1. R. S., T. 12, § 501, repealed and replaced. Section 501 of Title 12 of the Revised Statutes, as repealed and replaced by section 20 of chapter 513 of the public laws of 1965 and as amended, is repealed and the following enacted in place thereof:

§ 501. Director of Bureau of Forestry

The Director of the Bureau of Forestry within the Department of Conservation shall not, when appointed nor while in office, be directly or indirectly concerned in the purchase of state-owned lands, nor of timber or grass growing or cut thereon, except in his official capacity.

The Director of the Bureau of Forestry shall possess all of the powers, duties, rights, responsibilities, liabilities and functions formerly possessed by

the Forest Commissioner, which are not in conflict with the powers, duties, rights, responsibilities, liabilities or functions of the Commissioner of the Department of Conservation.

Sec. 2. R. S., T. 12, § 501-A, sub-§ 7, repealed. Subsection 7 of section 501-A of Title 12 of the Revised Statutes, as enacted by section 3 of chapter 226 of the public laws of 1965, is repealed.

Sec. 3. R. S., T. 12, § 531, amended. The first paragraph of section 531 of Title 12 of the Revised Statutes, as enacted by section 1 of Section D of chapter 91 of the private and special laws of 1971, is amended to read as follows:

The ~~Division of Science, Technology and Mineral Resources~~ Bureau of Geology shall be established in the Department of Conservation to administer the programs of the Maine Geological Survey and other natural resource functions of the State as directed by law; and to provide administrative and fiscal assistance to the Maine Mining Bureau.

Sec. 4. R. S., T. 12, § 531, amended. The first and last sentences of the 2nd paragraph of section 531 of Title 12 of the Revised Statutes, as enacted by section 1 of Section D of chapter 91 of the private and special laws of 1971, are amended to read as follows:

The ~~commissioner~~ Commissioner of the Department of Conservation may employ a director of the ~~division~~ bureau and an assistant director.

The director may employ, with the approval of the commissioner and subject to the Personnel Law, such employees as may be necessary to carry out the duties of the ~~division~~ bureau.

Sec. 5. R. S., T. 12, § 531, amended. The 3rd paragraph of section 531 of Title 12 of the Revised Statutes, as enacted by section 1 of Section D of chapter 91 of the private and special laws of 1971, is amended to read as follows:

The ~~division~~ bureau is empowered to:

Sec. 6. R. S., T. 12, § 531, sub-§ 3, amended. The last sentence of subsection 3 of section 531 of Title 12 of the Revised Statutes, as enacted by section 1 of Section D of chapter 91 of the private and special laws of 1971, is amended to read as follows:

Members of the ~~division~~ bureau staff may visit the executive offices of mining companies from time to time in order to maintain the interest of company executives in mineral development within the State;

Sec. 7. R. S., T. 12, § 531, sub-§ 6, amended. The first 2 sentences of subsection 6 of section 531 of Title 12 of the Revised Statutes, as enacted by section 1 of Section D of chapter 91 of the private and special laws of 1971, are amended to read as follows:

There is established within the ~~division~~ bureau a revolving fund for the use of the ~~division~~ bureau to cover printing and distribution costs for geological

and related technical literature. The commissioner is authorized to fix the price at which publications of the ~~division~~ bureau may be sold and delivered.

Sec. 8. R. S., T. 12, § 602, amended. The first paragraph of section 602 of Title 12 of the Revised Statutes, as last repealed and replaced by section 1 of chapter 537 of the public laws of 1971, is amended to read as follows:

The Parks and Recreation ~~Department~~ Bureau within the Department of Conservation, hereinafter in this Title called the "department" "bureau," is hereby established and shall exercise such powers and perform such duties as are set forth in this Title. The Parks and Recreation ~~Department~~ Bureau within the Department of Conservation shall consist of a ~~Commissioner~~ Director of Parks and Recreation, hereinafter called the "commissioner" "director," and such official and clerical staff as are provided for. The Maine State Park and Recreation Commission is hereby abolished and all the powers, duties, rights, responsibilities, liabilities and functions of any kind or nature, which have been, until January 1, 1972, reposed in the Maine State Park and Recreation Commission by any public or private law or by any lease, grant, contract or other legal transaction, are hereby vested in the ~~commissioner~~ director. ~~The Governor, with the advice and consent of the Council, shall appoint a Commissioner of Parks and Recreation whenever a vacancy occurs. The commissioner shall hold office during the tenure of the Governor and shall serve until his successor is appointed and qualified~~

Sec. 9. R. S., T. 12, § 602, amended. The first and last sentences of the 2nd paragraph of section 602 of Title 12 of the Revised Statutes, as last repealed and replaced by section 1 of chapter 537 of the public laws of 1971, are amended to read as follows:

The ~~department~~ bureau shall have jurisdiction, custody and control in, over and upon all state parks and memorials and national parks which are under control and management of the State, excepting Baxter State Park.

Said ~~department~~ bureau shall have and exercise the following powers and authority:

Sec. 10. R. S., T. 12, § 604, amended. Section 604 of Title 12 of the Revised Statutes is amended to read as follows:

§ 604. Restrictions

The powers and duties of the commission as set forth in this chapter shall not be so construed as to interfere or conflict in any way with the powers and duties of the United States and its national park areas under national control, Baxter State Park, Department of Inland Fisheries and Game ~~or the Forestry Department and their duly appointed wardens~~ and the enforcement of the inland fisheries and game ~~and forestry~~ laws in respect to state parks or to the State generally.

Sec. 11. R. S., T. 12, § 633, amended. The first and 2nd sentences of the first paragraph and the 2nd paragraph of section 633 of Title 12 of the Revised Statutes, as enacted by chapter 312 of the public laws of 1965, are amended to read as follows:

The ~~Governor~~ Commissioner of the Department of Conservation shall appoint a Keep Maine Scenic Committee to advise and consult with the ~~commission~~ bureau in carrying out the administration of this chapter. The committee shall consist of 11 members and the chairman shall be appointed by the ~~Governor~~ commissioner.

The ~~commission~~ bureau may promulgate rules and regulations to carry out this chapter in accordance with Title 5, chapter 303. Such rules and regulations shall not be in conflict with existing laws, rules and regulations setting forth the responsibilities and duties of existing state departments.

Sec. 12. R. S., T. 12, § 662, sub-§ 2, repealed and replaced. Subsection 2 of section 662 of Title 12 of the Revised Statutes, as enacted by section 1 of chapter 496 of the public laws of 1965, is repealed and the following enacted in place thereof:

2. Bureau. "Bureau" means the Bureau of Parks and Recreation.

Sec. 13. R. S., T. 12, § 683, amended. The first sentence, as enacted by chapter 494 of the public laws of 1969, and the 3rd sentence, as enacted by chapter 494 of the public laws of 1969 and as amended by section 1 of chapter 619 of the public laws of 1971, of section 683 of Title 12 of the Revised Statutes, are amended to read as follows:

To carry out the purposes stated in section 681, there is created, within the Department of Conservation, the Maine Land Use Regulation Commission, hereafter in this chapter called the "commission."

The commission shall consist of ~~3~~ 4 permanent members: The Director of the Bureau of Parks and Recreation, the Director of the Bureau of Forestry, ~~Forest Commissioner~~ and the State Planning Director, and the Commissioner of the Department of Conservation, or their designated alternates and 4 members serving staggered 4-year terms to be appointed by the Governor with the advice and consent of the Council.

Sec. 14. R. S., T. 12, § 684, amended. The first sentence of section 684 of Title 12 of the Revised Statutes, as enacted by chapter 494 of the public laws of 1969, is amended to read as follows:

The commission shall elect annually, from its own membership, a ~~chairman~~ and secretary and such other officers it deems necessary. The Commissioner of the Department of Conservation shall be chairman of the commission.

Sec. 15. R. S., T. 12, § 685, amended. The first, 4th and last sentences of section 685 of Title 12 of the Revised Statutes, as enacted by chapter 494 of the public laws of 1969, are amended to read as follows:

The commission shall prepare a biennial budget and after approval of the budget by the Commissioner of the Department of Conservation, and it shall submit to the Legislature requests for appropriations sufficient to carry out its assigned tasks.

The Commissioner of the Department of Conservation, with the approval of the commission, is authorized to hire an executive director who shall be the

principal administrative, operational and executive employee of the commission.

The executive director with the approval of the ~~commission~~ **Commissioner of the Department of Conservation** may hire whatever competent professional personnel and other staff he deems necessary and he may obtain office space, goods and services as required.

Sec. 16. R. S., T. 12, c. 428, additional. Title 12 of the Revised Statutes is amended by adding a new chapter 428 to read as follows:

CHAPTER 428

DEPARTMENT OF CONSERVATION

§ 5011. Department; commissioner

There is created and established the Department of Conservation to preserve, protect and enhance the land resources of the State of Maine; to encourage the wise use of the scenic, mineral and forest resources of the State of Maine, and to ensure that coordinated planning for the future allocation of lands for recreational, forest production, mining and other public and private uses is effectively accomplished; and to provide for the effective management of public lands in the State of Maine. The Department of Conservation shall consist of a Commissioner of Conservation appointed by the Governor with the advice and consent of the Council to serve a term coterminous with the Governor and until his successor is appointed and qualified, and subject to removal for cause by the Governor and Council; and the following as heretofore created and established are incorporated into the Department of Conservation:

1. Forestry Department;
2. Parks and Recreation Department;
3. Maine Forest Authority;
4. Maine Mining Bureau;
5. Keep Maine Scenic Committee;
6. Allagash Wilderness Waterway;
7. Land Use Regulation Commission.

§ 5012. Duties of commissioner

The commissioner is the chief executive officer of the Department of Conservation. He shall coordinate and supervise the activities and programs of the bureaus and agencies which are part of the department; undertake comprehensive planning and analysis with respect to the functions and responsibilities of the department; and develop and implement, whenever necessary, procedures and practices to promote economy, efficiency and coordination in and between the various agencies and bureaus of the department.

From time to time he shall recommend to the Governor and Legislature such changes in the laws relating to the organization, functions, services or procedures of the agencies and bureaus of the department as he shall deem desirable. The commissioner shall prepare a budget for the department; and shall organize and maintain within the department an administrative services division to which he may assign personnel from the agencies and bureaus of the department.

The commissioner may, subject to the approval of the Governor and Council, apply for and accept on behalf of the State any funds, including grants, bequests, gifts or contributions from any person, corporation or government, including the Government of the United States. Such funds shall be deposited in a separate account with the Treasurer of State and received by him on behalf of the State. All such funds may, subject to the rules and regulations promulgated by the Governor and Council, be expended by the Commissioner of Conservation.

§ 5013. Department organization

The Department of Conservation shall be composed of the Land Use Regulation Commission and the following bureaus:

1. Land Use Regulation Commission. The Maine Land Use Regulation Commission as established by Title 12, chapter 206-A.

2. Bureau of Forestry. The Bureau of Forestry, which shall be under the direction and supervision of a director, who shall be qualified by training, experience and skill in forestry. The director shall be appointed by the commissioner, with the approval of the Governor, from an eligible list supplied by the Personnel Department to serve for a term coterminous with the commissioner, subject to removal for cause by the commissioner with the approval of the Governor.

3. Bureau of Parks and Recreation. The Bureau of Parks and Recreation, which shall be under the direction and supervision of a director. The director shall be appointed by the commissioner, with the approval of the Governor, from an eligible list supplied by the Personnel Department, to serve for a term coterminous with the commissioner, subject to removal for cause by the commissioner with the approval of the Governor.

4. Bureau of Public Lands. The Bureau of Public Lands, which shall be under the direction and supervision of a director. The director shall be appointed by the commissioner, with the approval of the Governor, from an eligible list supplied by the Personnel Department, to serve for a term coterminous with the commissioner, subject to removal for cause by the commissioner with the approval of the Governor.

5. Bureau of Geology. The Bureau of Geology shall consist of the Maine Mining Bureau as established by Title 10, section 2101 and the Division of Science, Technology and Mineral Resources as established by Title 12, section 531.

Every person appointed as a bureau director or in another supervisory capacity in the department shall have experience and skill in the field of the functions of such position. So far as is practicable in the judgment of the

commissioner, appointments to such positions shall be made by promoting employees of the State serving in positions which are classified and in every instance when a person is promoted from a classified position upon termination of his service in such classified supervisory position, the employee shall, if he shall so request, be restored to the classified position from which he shall have been promoted or to a position equivalent thereto in salary grade in the same state agency, without impairment of his personnel status or the loss of seniority, retirement or other rights to which uninterrupted service in the classified position would have entitled him, provided that if his service in such unclassified supervisory position shall have been terminated for cause, his right to be so restored shall be determined by the Personnel Board.

§ 5014. Delegation of Public Lands Authority

The Commissioner of the Department of Conservation may from time to time delegate to the Director of the Bureau of Public Lands or the Director of the Bureau of Forestry any of the powers, duties, rights, responsibilities, liabilities and functions possessed by the Commissioner of the Department of Conservation pursuant to Title 30, chapter 233 and Title 12, sections 502, 504, 508, 514 and 515.

Sec. 17. Amendatory clause. Wherever in the Revised Statutes, Title 12, chapter 206, as enacted by section 1 of chapter 496 of the public laws of 1965, the word "department" appears, it shall mean "bureau."

Sec. 18. Amendatory clause. Wherever in the Revised Statutes the words "Forest Commissioner" appear, they shall mean the "Director of the Bureau of Forestry" and wherever the words "Forestry Department" appear, they shall mean "Bureau of Forestry."

Sec. 19. Amendatory clause. Wherever in the Revised Statutes the words "Commissioner of Parks and Recreation" appear, they shall mean "Director of the Bureau of Parks and Recreation", and wherever the words, "Parks and Recreation Department" appear, they shall mean "Bureau of Parks and Recreation."

Sec. 20. Amendatory clause. Wherever in the Revised Statutes, Title 30, chapter 233 and in Title 12, sections 502, 504, 508, 514 and 515 the words "Forest Commissioner" or "commissioner" appear, they shall mean "Commissioner of the Department of Conservation."

Sec. 21. Transitional provision.

1. Dedicated revenue. Nothing in this Act shall be construed to change the status of any dedicated revenue. Money now raised for specific purposes shall be expended only for the purposes raised and shall not be diverted.

2. Legislative intent. On the effective date of this Act, the Governor shall appoint a person Commissioner of the Department of Conservation pursuant to this Act. Nothing in this Act shall be construed to prevent a person from serving as both a bureau director and commissioner.

3. **Rules, regulations and procedures.** All existing regulations currently in effect and operation in the Departments of Forestry and Parks and Recreation or of any bureau, division, institution, administrative unit or officer thereof, shall continue in effect, unless in conflict with this Act, until rescinded, amended or changed.

“Regulation” shall include, but is not limited to, any regulation, rule, order, administrative procedure, policy, determination, directive, authorization, permit, license, privilege, requirement, designation or agreement.

Sec. 22. Funds and equipment transferred. Notwithstanding the Revised Statutes, Title 5, section 1585, all accrued expenditures, assets, liabilities, balances of appropriations, transfers, revenues or other available funds in any account, or subdivision of an account, of any agency to be reallocated to another department strictly as a result of the reorganization effort, shall be transferred to the proper place in the new structure by the State Controller, upon recommendation of the department head, the State Budget Officer and upon approval by the Governor and Executive Council.

Effective October 3, 1973

CHAPTER 461

AN ACT Relating to Qualifications for Jury Service of 18-year-old Voters.

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

R. S., T. 14, § 1211, amended. The first sentence of section 1211 of Title 14 of the Revised Statutes, as enacted by section 1 of chapter 391 of the public laws of 1971, is amended to read as follows:

A prospective juror is disqualified to serve on a jury if he: Is not a citizen of the United States, ~~20~~ 18 years old and a resident of the county; is unable to read, speak and understand the English language; is incapable, by reason of his physical or mental disability, of rendering satisfactory jury service; but a person claiming this disqualification may be required to submit a physician's certificate as to the disability and the certifying physician is subject to inquiry by the court at its discretion; or has lost the right to vote because of a criminal conviction.

Effective October 3, 1973

CHAPTER 462

AN ACT to Lease Management and Cultivation Areas in Maine's Coastal Waters.

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

Sec. 1. R. S., T. 12, § 3401, sub-§§ 8-A and 28-A, additional. Section 3401 of Title 12 of the Revised Statutes is amended by adding 2 new subsections, 8-A and 28-A, to read as follows: