

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE
AS PASSED BY THE
One Hundred and Sixth Legislature
1ST SPECIAL SESSION
JANUARY 2, 1974 TO MARCH 29, 1974
AND BY THE
One Hundred and Seventh Legislature
REGULAR SESSION
JANUARY 1, 1975 TO JULY 2, 1975

PUBLISHED BY THE DIRECTOR OF LEGISLATIVE RESEARCH IN
ACCORDANCE WITH THE REVISED STATUTES OF 1964, TITLE 3,
SECTION 164, SUBSECTION 6.

THE KNOWLTON AND MCLEARY COMPANY
FARMINGTON, MAINE
1975

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
One Hundred and Sixth Legislature

AT THE
SPECIAL SESSION

January 2, 1974

to

March 29, 1974

seeking election in the general election for the offices of district attorney, their expenditures for election to the prosecutorial districts as described in Title 30, section 553-A, shall not exceed 50¢ multiplied by the total number of votes cast for all legally qualified candidates for county attorney for such offices in each of the counties comprising the prosecutorial districts for the general election year 1972.

Effective June 28, 1974

CHAPTER 757

AN ACT Granting Energy Emergency Powers to the Governor.

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

Whereas, any shortages of petroleum products and electricity could threaten the health, safety and welfare of the people of the State; and

Whereas, any shortages of other similarly critical material supplies may be imminent; and

Whereas, immediate delegation of temporary emergency powers to the Governor are immediately necessary for the preservation of the public peace, health and safety; and

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

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

Sec. 1. R. S., T. 37-A, § 53, repealed and replaced. Section 53 of Title 37-A of the Revised Statutes, as enacted by section 1 of chapter 580 of the public laws of 1971, is repealed and the following enacted in place thereof:

§ 53. Definitions

As used in this chapter, unless the context otherwise requires, the following words shall have the following meanings.

1. **Civil defense.** "Civil defense" shall mean the preparation for and the carrying out of all emergency functions, other than functions for which military forces are primarily responsible, to minimize and repair injury and damage resulting from disasters or catastrophes caused by enemy attacks, sabotage, riots, or other hostile action, or by fire, flood, earthquake or other natural or man-made causes. These functions include, without limitation, fire fighting services, police services, medical and health services, rescue, engineering, air raid warning services, communications, radiological, chemical and other special weapons defense, evacuation of persons from stricken areas, emergency welfare services, economic stabilization, allocation of critical materials in short supply, emergency transportation, existing or properly as-

signed functions of plant protection and other functions related to civilian protection, together with all other activities necessary or incidental to the preparation for the carrying out of the foregoing functions.

2. Disaster. "Disaster" means occurrence or imminent threat of wide-spread or severe damage, injury or loss of life or property resulting from any natural or man-made cause, including, but not limited to, fire, flood, earthquake, wind, storm, wave action, oil spill or other water contamination requiring emergency action to avert danger or damage, epidemic, air contamination, blight, drought, critical material shortage, infestation, explosion, riot or hostile military or paramilitary action.

3. Local organization for civil defense. "Local organization for civil defense" shall mean an organization created in accordance with this chapter by state, county or local authority to perform local civil defense functions.

4. Political subdivision. "Political subdivision" includes counties, cities, towns, villages, townships, districts, authorities and other public corporations and entities whether organized and existing under charter or general law.

Sec. 2. R. S., T. 37-A, § 57, repealed and replaced. Section 57 of Title 37-A of the Revised Statutes, as enacted by section 1 of chapter 580 of the public laws of 1971, is repealed and the following enacted in place thereof:

§ 57. Emergency proclamation; Governor's powers

1. Disaster proclamation. Whenever any disaster or catastrophe exists or appears imminent arising from attack, sabotage, riot, or other hostile action, or by fire, earthquake or other natural or man-made causes, the Governor shall, by proclamation, declare the fact and that an emergency exists in any or all sections of the State.

If the Governor is temporarily absent from the State or is otherwise unavailable, the next person in the State who would act as Governor if the office of Governor were vacant shall, by proclamation, declare the fact and that an emergency exists in any or all sections of the State. A copy of such proclamation shall be filed with the Secretary of State. The Governor, either directly or through the Adjutant General, shall have general direction and control of the bureau and shall be responsible for the carrying out of this chapter, and in the event of disaster or catastrophe beyond local control, the Governor may assume direct operational control over all or any part of the civil defense and public safety functions within the State.

In performing his duties under this chapter, the Governor, directly or through the Adjutant General, is authorized and directed to cooperate with all departments and agencies of the Federal Government, with the offices and agencies of other states and foreign countries, and the political subdivisions thereof, and with private agencies in all matters pertaining to the civil defense of the State and of the nation.

In performing his duties under this chapter, the Governor is further authorized and empowered:

A. Orders, rules and regulations. To make, amend and rescind the necessary orders, rules and regulations to carry out this chapter within the limits

of the authority conferred upon him and not inconsistent with the rules, regulations and directives of the President of the United States or of any federal department or agency having specifically authorized civil defense functions;

B. Plans and program. To prepare a comprehensive plan and program for the civil defense of this State, such plan and program to be integrated into and coordinated with the civil defense plans of federal agencies and with the plans of other states and foreign countries, and the political subdivisions thereof, to the fullest possible extent, and to coordinate the preparation of plans and programs for civil defense by the political subdivisions of this State, such plans to be integrated into and coordinated with the civil defense plan and program of this State to the fullest possible extent;

C. Training and public information programs. In accordance with such plan and program for the civil defense of this State, and consistent with the civil defense plans, programs and directives of the Federal Government, to procure supplies and equipment, to institute training programs and public information programs, and to take all other preparatory steps including the partial or full mobilization of civil defense organizations in advance of actual disaster or catastrophe, to insure the furnishing of adequately trained and equipped forces of civil defense personnel in time of need;

D. Studies and surveys. To conduct such studies and surveys and to take such inventories of the industries, resources and facilities of this State as may be necessary to ascertain the capabilities of the State for civil defense, and to plan for the most efficient emergency use thereof, including emergency economic controls to insure adequate production and equitable distribution of essential commodities;

E. Critical material reserves. Whenever a shortage of critical material supplies in the State appears imminent, to establish emergency reserves of such products as may be necessary to ensure the health, welfare and safety of the people of this State and in aid thereof to purchase quantities of such materials for resale on a cost plus expenses basis for priority end users within the State;

F. Mutual aid arrangements. On behalf of this State, to enter into mutual aid arrangements with other states and foreign countries, and the political subdivisions thereof, and to coordinate mutual aid plans between political subdivisions of this State;

G. Delegation of authority. To delegate any authority vested in him under this chapter, and to provide for the subdelegation of any such authority.

2. Energy emergency proclamation.

A. Proclamation. Whenever an actual or impending acute shortage in usable energy resources threatens the health, safety or welfare of the citizens of the State, the Governor shall, by proclamation, declare that an energy emergency exists in any or all sections of the State, in the manner set forth in the first paragraph of subsection 1.

B. Powers. Upon the issuance of an energy emergency proclamation and after consulting with the Director of the Office of Energy Resources, the Governor is authorized to exercise all the powers granted in this chapter, except as may be specifically limited by this subsection and such powers shall include without limitation the authority to:

- (1) Establish and implement programs, controls, standards, priorities and quotas for the allocation, conservation and consumption of energy resources;
- (2) Regulate the hours and days during which nonresidential buildings may be open and the temperatures at which they may be maintained;
- (3) Regulate the use of gasoline and diesel-powered land vehicles, watercraft and aircraft;
- (4) After consulting, when appropriate, with the New England governors, and upon the recommendations of the Maine Public Utilities Commission, regulate the generation, distribution and consumption of electricity;
- (5) Establish temporary state and local boards and agencies;
- (6) Establish and implement programs and agreements for the purposes of coordinating the emergency energy response of the State with those of the Federal Government and of other states and localities;
- (7) Temporarily suspend truck weight and size regulations, but not in conflict with federal regulations;
- (8) Regulate the storage distribution and consumption of home heating oil.

C. Exclusions. In dealing with a declared energy emergency, the following powers granted by this chapter may not be invoked:

- (1) The eminent domain powers granted in section 58;
- (2) The enforcement powers granted in the 3rd and 4th paragraphs of section 59 and the enforcement powers granted in section 69, unless the Governor specifically invokes these powers by an order issued pursuant to an energy emergency proclamation. Such order shall specify those emergency orders, rules or regulations which shall be enforceable pursuant to this paragraph and shall further specify the enforcement activities civil defense organizations are to pursue. No enforcement action may be taken pursuant to this paragraph without publication of the order authorizing such action in a manner reasonably calculated to give persons affected thereby adequate notice of the order, rule or regulation to be enforced and the sanctions to be applied.

D. Environmental regulations.

- (1) Except as provided in subparagraph (2), nothing contained in this subsection shall be construed to authorize the Governor to suspend or to modify orders, regulations, standards or classifications issued or enforced

by the Department of Environmental Protection or the Land Use Regulation Commission.

(2) At any time an energy emergency proclamation is in effect, the Governor may call the Board of Environmental Protection into extraordinary session to consider temporary waivers or suspensions of rules and standards related to air and water quality necessary to relieve then existing energy shortages. Thereupon, the board is empowered notwithstanding any other provision of law to approve such suspensions or waivers as it determines are necessary to relieve or avoid an energy shortage and will not result in environmental degradation of a permanent or enduring nature. In no event shall any suspension or modification be granted which will result in a circumvention of Title 38, sections 481 to 488, 541 and 557. No such waiver or suspension shall remain in effect longer than 60 days or after the date on which the board renders a further order issued pursuant to the regular procedures specified in Title 38, whichever shall first occur.

E. Approval of Executive Council.

(1) All orders, rules and regulations proposed by the Governor pursuant to the powers granted by this subsection shall be transmitted to the Executive Council and shall not be effective until approved by a majority of the Executive Council. In the event the council takes no action within 5 days of the transmittal date, such orders, rules or regulations shall become effective as proposed.

(2) In the event of an emergency in which it is not feasible to secure the prior approval of the Executive Council, an order, rule or regulation shall be made immediately effective and shall be promptly transmitted to the chairman of the council. Not later than 5 days following such communication, the council may by majority vote reverse any such order, rule or regulation.

F. Judicial enforcement. The Superior Court of the county in which there occurs a failure to obey an order, rule or regulation promulgated in accordance with this subsection shall have jurisdiction to issue a restraining order or injunction to enforce said order, rule or regulation. Such proceeding shall be held in accordance with Rule 65 of the Maine Rules of Civil Procedure.

G. Expiration. The authority conferred by this subsection shall terminate on midnight, February 28, 1975. All orders, rules and regulations issued pursuant thereto and still in effect on that date shall cease to be effective, except that criminal proceedings then pending may proceed to final judgment and sentence.

H. Convene Legislature. In the event that any order, rule or regulation issued by the Governor pursuant to the powers granted in paragraph B are to be in effect for longer than 90 days, the Governor shall, before the 80th day following the issuance of said order, rule or regulation, convene the Legislature.

3. **Termination of emergency.** Whenever the Governor is satisfied that an emergency no longer exists, he shall terminate the proclamation by an-

other proclamation affecting the sections of the State covered by the original proclamation, or any part thereof. Said proclamation shall be published in such newspapers of the State and posted in such places as the Governor, or the person acting in that capacity, deems appropriate.

Sec. 3. R. S., T. 37-A, § 58, amended. The first paragraph of section 58 of Title 37-A of the Revised Statutes, as enacted by section 1 of chapter 580 of the public laws of 1971, is amended to read as follows:

When the Governor has issued a proclamation as provided for in section 57, subsection 1, and when thereafter in his judgment for the better protection and welfare of this State or its inhabitants, the situation so requires as a matter of public necessity or convenience, he may take possession of any property, real or personal, located within this State for public uses in furtherance of this chapter.

Sec. 4. R. S., T. 37-A, § 67, amended. The first sentence of section 67 of Title 37-A of the Revised Statutes, as enacted by section 1 of chapter 580 of the public laws of 1971, is repealed and the following enacted in place thereof:

Upon the issuance of a proclamation as provided in section 57, the Governor shall have the power and authority to utilize any available property and enlist the aid of any person to assist in the effort to control, put out or end the disaster, catastrophe or emergency or aid in the caring for the safety of persons.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

Effective March 26, 1974

CHAPTER 758

AN ACT Relating to the Powers of the Milk Commission.

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

Sec. 1. R. S., T. 7, § 2951, sub-§ 14, additional. Section 2951 of Title 7 of the Revised Statutes is amended by adding a new subsection 14, to read as follows:

14. Retail store. "Retail store" means a grocery store, dairy product store or any similar commercial establishment where milk is sold to consumers for consumption off the premises.

Sec. 2. R. S., T. 7, § 2952, amended. The first sentence of section 2952 of Title 7 of the Revised Statutes, as amended by chapter 362 of the public laws of 1967, is repealed and the following enacted in place thereof:

The Maine Milk Commission, as heretofore established, shall consist of 2 producers, a dealer, a producer-dealer, the owner of a retail store and 2 consumers, one of whom shall be a representative from a nonprofit organization established for the purposes of consumer protection. All members of the commission shall be residents of the State.