

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 Seventh Legislature

1975

The compensation of the wardens shall be determined under the Personnel Law ~~and shall not be more than one pay grade below that of the Maine State Police.~~

Sec. 6. 12 MRSA § 365I, sub-§ 3, as last amended by PL 1969, c. 408, § 1, is further amended to read:

3. **Compensation.** Their compensation is determined under the Personnel Law ~~and shall not be more than one pay grade below that of the Maine State Police.~~

Sec. 7. 25 MRSA § 1506, as last amended by PL 1973, c. 788, § 108, is repealed.

Sec. 8. 34 MRSA § 10, as last amended by PL 1973, c. 788, § 168, is repealed.

Sec. 9. P&SL 1971, c. 142, is repealed.

Sec. 10. **Scope.** Employees receiving compensation under Title 5, section 634 on the effective date of this Act shall continue to receive such compensation until the Personnel Board has adopted a compensation plan which includes such employees with no reduction in their compensation.

Sec. 11. **Effective date.** This Act shall take effect October 4, 1976.

Effective October 4, 1976

CHAPTER 595

AN ACT Relating to the Dredging, Filling or otherwise Altering Coastal Wetlands.

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

Sec. 1. 12 MRSA §§ 4701 - 4709, as enacted by PL 1967, c. 348 and as amended, are repealed.

Sec. 2. 38 MRSA c. 3, sub-c. I, Art. 4, as enacted by PL 1967, c. 475, § 12 and as amended, is repealed.

Sec. 3. 38 MRSA c. 3, sub-c. I, Art. 5 is enacted to read:

ARTICLE 5

ALTERATION OF COASTAL WETLANDS

§ 471. Prohibitions

No individual person, firm, corporation, municipality, state agency or other legal entity shall dredge or cause to be dredged, drain or cause to be drained,

fill or cause to be filled or erect or cause to be erected a causeway, bridge, marina, wharf, dock or other permanent structure in, on or over any coastal wetland without first obtaining a permit therefor from the Board of Environmental Protection or a municipality acting under the provisions of sections 473 and 474; nor shall any action be taken in violation of the conditions of such permit, once obtained.

§ 472. Definition

For the purposes of this subchapter, coastal wetland is defined as all tidal and subtidal lands including all areas below any identifiable debris line left by tidal action, all areas with vegetation present that is tolerant of salt water and occurs primarily in a salt water habitat, and any swamp, marsh, bog, beach, flat or other contiguous lowland which is subject to tidal action or normal storm flowage at any time excepting periods of maximum storm activity.

§ 473. Permit granting authority

All permits shall be issued by the Board of Environmental Protection, except that a municipality may apply, on forms provided by the board, to the Board of Environmental Protection for authority to issue such permits. The board shall grant such authority if it finds that the municipality has:

1. Planning board. Established a planning board;
2. Adopted zoning ordinance. Adopted a zoning ordinance approved by the board and the Land Use Regulation Commission, pursuant to Title 12, chapter 424;
3. Notice. Made provision by ordinance or regulation for prompt notice to the board and the public upon receipt of application and written notification to the applicant and the board of the issuance of or denial of a permit stating the reasons therefor; and
4. Application form. The application form shall be the same as that provided by the Board of Environmental Protection.

In the event that the board finds that a municipality has failed to satisfy one or more of the above listed criteria, it shall notify the municipality accordingly and make recommendations through which it may establish compliance. The municipality may then submit a modified application for approval.

If at any time the board determines that a municipality may be failing to exercise its permit granting authority in accordance with its approved procedures or the purposes of this Article as embodied in the standards set forth in section 474, it shall notify the municipality of the specific alleged deficiencies and shall order a public hearing, of which adequate public notice shall be given, to be held in the municipality to solicit public or official comment thereon. Following such hearing, if it finds such deficiencies, it may revoke the municipalities permit granting authority. The municipality may reapply for authority at any time.

§ 474. Permits; standards

If the applicant for the permit demonstrates to the satisfaction of the board or municipality as appropriate, that the proposed activity will not unreasonably interfere with existing recreational and navigational uses; nor cause unreasonable soil erosion; nor unreasonably interfere with the natural flow of any waters; nor unreasonably harm wildlife or freshwater, estuarine or marine fisheries; nor lower the quality of any waters, the board or municipality shall grant the permit upon such terms as are necessary to insure that the proposed activity will comply with the foregoing standards.

Within 30 days after receipt of a completed application for a permit, the board or municipality shall either issue the permit or deny the permit setting forth the reasons therefor or order a hearing thereon within 30 days of the order for which hearing adequate public notice shall be given. Within 30 days after the adjournment of such hearing, the board or municipality shall either issue the permit or deny the permit setting forth the reasons therefor. In the event that a permit applied for is denied either by the municipality or the board, the applicant may request a hearing before either of the above with reasonable public notice given.

The board shall issue no permit without notifying the municipality in which the proposed alteration is to occur and considering any comments filed within a reasonable period by said municipality.

No permit issued by a municipality shall become effective until 30 days subsequent to its issuance, but if approved by the board in less than 30 days then the effective date shall be the date of approval. A copy of the application for the permit and the permit issued by the municipality shall be sent to the board immediately upon its issuance by registered mail. The board shall review such permit and either approve, deny or modify it as it deems necessary. Failure of the board to act within 30 days of the receipt of the permit by the municipality shall constitute its approval and the permit shall be effective as issued.

When winter conditions prevent the board or municipality from evaluating a permit application, the board or municipality, upon notifying the applicant of such fact, may defer action on the application for a reasonable period. The applicant shall not during the period of deferral fill or cause to be filled, dredge or cause to be dredged, drain or cause to be drained or otherwise alter such coastal wetland.

§ 475. Penalties

Any individual person, firm, corporation, municipality, state agency or other legal entity who dredges or causes to be dredged, drains or causes to be drained, fills or causes to be filled or erects or causes to be erected, any causeway, bridge, marina, wharf, dock or other permanent structure in, on or over any coastal wetland in violation of this subchapter shall be punished by a fine of not more than \$500 for each day of violation.

A violation is defined as any filling, dredging, draining, depositing, altering, erecting 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 subchapter or without knowledge of this subchapter undertaken. Any such filling, dredging, draining, depositing, altering or removal of materials shall be prima facie evidence that it was done or caused to be done by the owner of such coastal wetlands.

§ 476. Enforcement

Inland fish and game wardens, coastal wardens and all other law enforcement officers enumerated in Title 12, section 2003 shall enforce this subchapter.

§ 477. Injunction; restoration

In the event of the violation of this subchapter, the Attorney General may institute proceedings to enjoin further violations and to compel restoration of the affected area to its condition prior to the occurrence of the violation.

§ 478. Exemptions

The Board of Environmental Protection may by rule or regulation exempt from this subchapter certain activities including, but not limited to, repairs and maintenance of existing structures or waive such procedural requirements as it deems not inconsistent with the purposes of this subchapter. Nothing in this subchapter shall prohibit the minor repair of existing permanent structures which would require less than a total of one cubic yard of material to be filled, deposited, dredged, moved or removed in any coastal wetland or normal maintenance or repair of presently existing ways, roads or railroad beds nor maintenance and repair of installations and facilities of any utility as defined in Title 23, section 255, abutting or crossing said coastal wetlands, provided no watercourse is substantially altered.

Effective October 1, 1975

CHAPTER 596

AN ACT Relating to Purchases of Spirituous, Vinous and Malt Beverages by Licensees for Resale.

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

Whereas, public law 1975, chapter 586, enacted by the 107th Legislature, was intended to restrict licensees from receiving the discount prices currently available at the Kittery State Liquor Store; and

Whereas, this measure was intended to result in an increase in revenues to the State; and

Whereas, recent abnormally large purchases of liquor by licensees at the Kittery State Liquor Store indicate an intent by licensees to avoid where possible the effects of chapter 586 and represent a threat to the financial soundness of the current biennial state budget; and