

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE
AS PASSED BY THE

ONE HUNDRED AND TENTH LEGISLATURE

FIRST REGULAR SESSION
December 3, 1980 to June 19, 1981

AND AT THE

FIRST SPECIAL SESSION
August 3, 1981

**PUBLISHED BY THE DIRECTOR OF LEGISLATIVE RESEARCH IN
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PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION

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ONE HUNDRED AND TENTH LEGISLATURE

1981

8. Statutory referendum procedure; submission at statewide election; effective date. This Act shall be submitted to the legal voters of the State of Maine at a statewide election to be held on the Tuesday following the first Monday of November following passage of this Act. The city aldermen, town selectmen and plantation assessors of this State shall notify the inhabitants of their respective cities, towns and plantations to meet, in the manner prescribed by law for holding a statewide election, to vote on the acceptance or rejection of this Act by voting on the following question:

“Shall a bond issue be ratified in the amount of \$1,500,000 to assist municipalities with solid waste for resource conservation and recovery systems?”

The legal voters of each city, town and plantation shall vote by ballot on this question, and shall designate their choice by a cross or check mark placed within a corresponding square below the word “Yes” or “No.” The ballots shall be received, sorted, counted and declared in open ward, town and plantation meetings and returns made to the Secretary of State in the same manner as votes for members of the Legislature. The Governor shall review the returns and, if it appears that a majority of the legal votes are in favor of the Act, the Governor shall proclaim that fact without delay, and the Act shall become effective 30 days after the date of the proclamation.

The Secretary of State shall prepare and furnish to each city, town and plantation all ballots, returns and copies of this Act necessary to carry out the purposes of this referendum.

Sec. 3. Retroactive reimbursement. Solid waste resource recovery or resource conservation projects, undertaken or contracted for since July 1, 1981, may be considered reimbursable under this Act.

Effective pending referendum.

CHAPTER 529

S. P. 701 — L. D. 1692

AN ACT to Make Additional Corrections of Errors and Inconsistencies in the Laws of Maine.

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

Whereas, Acts of the 110th Legislature have resulted in technical errors and inconsistencies in the divorce and theft laws of Maine; and

Whereas, these errors and inconsistencies will create uncertainties and confusion in interpreting legislative intent; and

Whereas, it is vitally necessary that these uncertainties and this confusion be resolved in order to prevent any injustice or hardship to the citizens of Maine; 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. 17-A MRSA § 356, as repealed and replaced by PL 1981, c. 317, § 9, is repealed and the following enacted in its place:

§ 356. Theft of lost, mislaid or mistakenly delivered property

A person is guilty of theft if:

- 1. He obtains or exercises control over the property of another which he knows to have been lost or mislaid or to have been delivered under a mistake as to the identity of the recipient or as to the nature or amount of the property; and**
- 2. With the intent to deprive the owner of the property at any time subsequent to acquiring it, he fails to take reasonable measures to return it.**

Sec. 2. 19 MRSA § 662, as repealed and replaced by PL 1981, c. 470, § 45, is repealed and the following enacted in its place:

§ 662. Certain divorces validated

1. Writ of attachment. All divorces heretofore granted in this State on libels inserted in a writ of attachment, and otherwise valid except for the want of attachment nominal or otherwise upon the writ, are validated.

2. Pendency of another claim. All judgments or orders heretofore entered granting a divorce, annulment, disposition of property under Title 19, section 722-A, or other disposition, award or division of property incident upon a divorce or annulment, and otherwise final except for the pendency of another claim or counterclaim in the same action, are declared final, nonappealable and effective for all purposes as of the date of entry of such judgment or order. This subsection does not apply to any judgment for divorce, annulment or property disposition in which the appeal period, including any extensions, has commenced but has not expired as of the effective date of this subsection.

Sec. 3. 22 MRSA § 2387, sub-§ 4, as amended by PL 1973, c. 567, § 20, is further amended to read:

4. Petition; order. A district attorney or the Attorney General may petition the Superior Court in the name of the State in the nature of a proceeding in rem to order forfeiture of ~~a conveyance property~~ subject to forfeiture under subsection 1, ~~paragraph~~ **paragraphs B and C.** Such petition shall be filed in the court having jurisdiction over the ~~said conveyance property~~. Such proceeding shall be deemed a civil suit, in which the State shall have the burden of proving all material facts by a preponderance of the evidence and the owner of ~~said conveyance the property~~ or other person claiming thereunder shall have such burden as to all exceptions set forth in subsection 3. The court shall order the State to give notice by certified or registered mail or hand delivered by a deputy sheriff to the owner of the ~~said conveyance property~~ and to such other person as appears to have an interest therein and shall promptly, but not less than 2 weeks after notice, hold a hearing on the petition. At such hearing, the court shall hear evidence and make findings of fact and enter conclusions of law, and shall thereupon issue a final order, from which the parties shall have such right of appeal. Such final order shall provide for disposition of the ~~said conveyance property~~ by the State or any subdivision thereof in any manner not prohibited by law, including official use by an authorized law enforcement or other public agency, or sale at public auction or by competitive bidding. The proceeds of any such sale shall be used to pay the reasonable expenses of the forfeiture proceedings, seizure, storage, maintenance of custody, advertising and notice, and to pay any bonafide mortgage thereon, and the balance, if any, shall be deposited in the treasury of the State, county or municipality making such seizure.

Sec. 4. 22 MRSA § 2387, sub-§ 5, first sentence, as repealed and replaced by PL 1975, c. 740, § 129, is amended to read:

Any officer, department or agency having custody or property subject to forfeiture under subsection 1, paragraph A ~~or~~ B or C, or having disposed of the property shall keep and maintain full and complete records showing from whom it received the property, under what authority it held or received or disposed of the property, to whom it delivered the property, the date and manner of destruction or disposition of the property and the exact kinds, quantities and forms of the property.

Sec. 5. 26 MRSA § 962, sub-§ 6, ¶ B, as enacted by PL 1969, c. 424, § 1, is amended to read:

B. Appointed to office pursuant to statute, ordinance or resolution for a specified term of office by the executive head or body of the public employer, **except that appointees to county offices shall not be excluded under this section unless defined as a county officer under Title 30, section 1502; or**

Emergency clause. In view of the emergency cited in the preamble, sections 2, 3 and 4 of this Act shall take effect when approved.