

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND ELEVENTH LEGISLATURE

FIRST REGULAR SESSION
December 1, 1982 to June 24, 1983
Chapters 1-452

PUBLISHED BY THE DIRECTOR OF LEGISLATIVE RESEARCH
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ANNOTATED, TITLE 3, SECTION 164, SUBSECTION 6.

J.S. McCarthy Co., Inc.
Augusta, Maine
1983

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION

and

FIRST SPECIAL SESSION

of the

ONE HUNDRED AND ELEVENTH LEGISLATURE

1983

7. Privileged entry. The commissioner, his agents or subcontractors shall be privileged to enter upon any private land in order to periodically examine fishways in dams or other artificial obstructions and the examination of dams provided in subsection 2. The commissioner shall notify the landowner, lessee or other person in control of the dam when the examination will take place and the time required to complete the examination. The commissioner shall make every effort to preserve private land and shall restore surrounding lands to the grade and condition existing prior to entry, if economically feasible.

Sec. 3. 12 MRSA §7701-B is enacted to read:

§7701-B. Construction of new dams or other artificial obstructions

1. Notice required. Prior to construction or prior to authorizing construction of a new dam or other obstruction in the inland waters, the owner, lessee or other person in control of the dam or other artificial obstruction, shall provide written notice to the commissioner, supplying information on construction plans, proposed location and date of construction of the dam or other artificial obstruction.

2. Initiation of fishway proceedings. Within 30 days of receipt of the construction notice, the commissioner shall review the plans in order to determine whether fishway construction or alteration of proposed fishway construction plans may be required pursuant to the criteria set forth in section 7701, subsection 3. If the commissioner determines that the construction or alteration may be necessary, he shall initiate fishway proceedings and follow the procedures prescribed in section 7701.

Effective September 23, 1983.

CHAPTER 375

S.P. 525 - L.D. 1548

AN ACT Relating to Forest Practice.

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

Whereas, there are numerous islands in the State that have timber that has been harvested and that needs to be harvested; and

Whereas, the timber that has been harvested must be transported to the mainland this spring or its economic value will be greatly diminished; 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. 38 MRSA §418, sub-§1, as amended by PL 1973, c. 625, §272, is further amended to read:

1. Prohibitions. No person, firm, corporation or other legal entity ~~shall~~ may place logs or pulpwood into the inland waters of this State after October 1, 1976 for the purpose of driving the same to pulp mills, lumber mills or any other destination, except to transport logs or pulpwood from islands to the mainland.

No person, firm, corporation or other legal entity ~~shall~~ may place logs or pulpwood on the ice of any inland waters of this State after October 1, 1976, except to transport logs or pulpwood from islands to the mainland.

No person, firm, corporation or other legal entity ~~shall~~ may place logs or pulpwood into the inland waters of this State after October 1, 1976 for the purpose of storage or curing the same, or for other purposes incidental to the processing of forest products, or to transport logs or pulpwood from islands to the mainland, without a permit from the board as described in subsection 2.

Sec. 2. 38 MRSA §418, sub-§2, as amended by PL 1977, c. 300, §§21 and 22, is further amended to read:

2. Storage; permit. Whoever proposes to use the inland waters of this State after October 1, 1976 for the storage or curing of logs or pulpwood, or for other purposes incidental to the processing of forest products, or to transport logs or pulpwood from islands to the mainland, shall apply to the board for a permit for such use. Applications for such permits shall be in such form and require such information as the board may determine.

Within 45 days of receipt of an application, the board shall either grant the application or hold a

public hearing thereon as provided.

If the board is able to find, on the basis of the application, that the proposed use will not lower the existing quality or the classification, whichever is higher, of any waters, nor adversely affect the public rights of fishing and navigation therein, and that inability to conduct such use will impose undue economic hardship on the applicant, it shall grant the permit for a period not to exceed 3 years, with such terms and conditions as, in its judgment, may be necessary to protect such quality, standards and rights.

In the event the board deems it necessary to solicit further evidence regarding the proposed use, it shall schedule a public hearing on the application.

At such hearing the board shall solicit and receive testimony concerning the nature and extent of the proposed use and its impact on existing water quality, water classification standards and the public rights of fishing and navigation and the economic implications upon the applicant of such use. If after hearing the board determines that the proposed use will not lower the existing quality or the classification standards, whichever is higher, of any waters, nor adversely affect the public rights of fishing and navigation therein and that inability to conduct such use will impose undue economic hardship on the applicant, it shall grant the permit for a period not to exceed 3 years, with such terms and conditions, as in its judgment, may be necessary to protect such quality, standards and rights.

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

Effective June 3, 1983.

CHAPTER 376

H.P. 1182 - L.D. 1575

AN ACT to Create a Statutory Will.

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

18-A MRSA §2-514 is enacted to read: