

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 453-End

AND AT THE

FIRST SPECIAL SESSION
September 6, 1983 to September 7, 1983
Chapters 583-588

PUBLISHED BY THE DIRECTOR OF LEGISLATIVE RESEARCH
IN ACCORDANCE WITH MAINE REVISED STATUTES
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

CONTINUED

and

FIRST SPECIAL SESSION

of the

ONE HUNDRED AND ELEVENTH LEGISLATURE

1983

of Community Services may make such full and complete reports concerning its administration of weatherization and fuel assistance programs as may be required by the Legislature, the Federal Government or any agency or department thereof.

Effective September 23, 1983.

CHAPTER 483

S.P. 470 - L.D. 1434

AN ACT to Reassign Responsibilities
Within the Department of Environmental
Protection.

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

Sec. 1. 38 MRSA §342, sub-§1, as amended by PL 1977, c. 564, §134, is repealed.

Sec. 2. 38 MRSA §342, sub-§1-A is enacted to read:

1-A. Administration of department. He shall be the chief administrative officer of the Department of Environmental Protection and responsible for all administrative matters of the department.

Sec. 3. 38 MRSA §342, sub-§4, as repealed and replaced by PL 1977, c. 596, §1, is amended to read:

4. Organization of department. The commissioner, ~~subject to the approval of a majority of~~ after consultation with the Board of Environmental Protection, shall organize the department into the bureaus, divisions, regional offices and other administrative units that he deems necessary to fulfill the duties of the department and support the duties of the Board of Environmental Protection. ~~With the approval of a majority of~~ After consultation with the Board of Environmental Protection, he shall prescribe the functions of the bureaus and other administrative units to insure that the powers and duties of the board are administered efficiently so that all license applications and other business of the department may be expeditiously completed in the public interest.

Sec. 4. 38 MRSA §361, first ¶, as amended by PL 1977, c. 596, §2, is further amended to read:

The Board of Environmental Protection, as heretofore established and hereinafter in this subchapter called the "board," shall consist of 10 members appointed by the Governor, subject to review by the joint standing committee en of the Legislature having jurisdiction over energy and natural resources and to confirmation by the Legislature and the Commissioner of Environmental Protection ex officio. The Commissioner of Environmental Protection shall be a non-voting member of the board. Members of the board shall be chosen to represent the broadest possible interest and experience which can be brought to bear in the implementation of this Title and all other laws which the board is charged with the duty of administering. The members shall be appointed for a term of 4 years and until their successors are appointed and duly qualified. The Governor shall appoint one member to serve as chairman.

Sec. 5. 38 MRSA §361, 3rd ¶, as amended by PL 1971, c. 618, §9, is further amended to read:

Meetings of the board shall be held at such time and place as shall be determined by the board but not less than 2 meetings per year shall be held. The board shall in October of each year elect a secretary who need not be chosen from among the members of the board. Six members of the board shall constitute a quorum, except for the purpose of conducting any rule-making hearing.

Sec. 6. 38 MRSA §362, as amended by PL 1975, c. 771, §420, is further amended to read:

§362. Authority to accept federal funds

The board department is designated the public agency of the State of Maine for the purpose of accepting federal funds in relation to water pollution control, water resources and air pollution studies and control. The board commissioner is authorized may, subject to the approval of the Governor, to accept federal funds available for water pollution control, water resources and air pollution studies and control and meet such requirements with respect to the administration of such the funds, not inconsistent with this subchapter, as are required as conditions precedent to receiving federal funds. The Treasurer of State shall be the appropriate fiscal officer of the State to receive federal grants on account of water pollution control, water resources and air pollution studies and control, and the State Controller shall authorize expenditures therefrom as approved by the board commissioner.

Sec. 7. 38 MRSA §390-A, sub-§1, as enacted by PL 1981, c. 509, §1, is amended to read:

1. Fund purposes and administration. There is established a nonlapsing Lake Restoration and Protection Fund, from which the Board of Environmental Protection is authorized to commissioner may pay up to 25% from state appropriations of the eligible costs incurred in a lake restoration or protection project which has received federal approval and at least 50% federal funding. Eligible costs include all costs except those related to land acquisition, legal fees and debt service. All income received by the State from the United States Environmental Protection Agency for lake restoration or protection projects under the United States Code, Title 33, Section 1324, shall be deposited with the Treasurer of State to be credited to the Lake Restoration and Protection Fund. All moneys credited to that fund shall be used by the Board of Environmental Protection department for projects to improve or maintain the quality of lake waters in the State, and for no other purpose.

The Commissioner of Environmental Protection may, ~~at the direction of the board,~~ authorize the State Controller to draw his warrant for such funds as may be necessary to pay the lawful expenses of the lake restoration or protection project, up to the limits of the state and federal portions duly authorized. Any balance remaining in the fund shall continue without lapse from year to year and remain available for the purposes for which the fund is established and no other purpose.

Sec. 8. 38 MRSA §541, 4th ¶, as amended by PL 1971, c. 618, §12, is further amended to read:

The Legislature intends by the enactment of this legislation to exercise the police power of the State through the Board of Environmental Protection and the Department of Environmental Protection by conferring upon ~~said the~~ board the exclusive power to deal with the hazards and threats of danger and damage posed by ~~such those~~ transfers and related activities; to require the prompt containment and removal of pollution occasioned thereby; to provide procedures whereby persons suffering damage from ~~such those~~ occurrences may be promptly made whole; and to establish a fund to provide for the inspection and supervision of ~~such those~~ activities and guarantee the prompt payment of reasonable damage claims resulting therefrom.

Sec. 9. 38 MRSA §548, as amended by PL 1979, c. 541, Pt. A, §266, is further amended to read:

§548. Removal of prohibited discharges

Any person discharging oil, petroleum products or their by-products in the manner prohibited by section

543 shall immediately undertake to remove such that discharge to the board's satisfaction. Notwithstanding the above requirement, the board department may undertake the removal of such that discharge and may retain agents and contracts for such those purposes who shall operate under the direction of the board.

Any unexplained discharge of oil, petroleum products or their by-products within state jurisdiction or discharge of oil, petroleum products or their by-products occurring in waters beyond state jurisdiction that for any reason penetrates within state jurisdiction shall be removed by or under the direction of the board department. Any expenses involved in the removal of discharges, whether by the person causing the same, the person reporting the same or the board by itself or through its agents or contractors, shall be paid in the first instance from the Maine Coastal Protection Fund and any reimbursements due that fund shall be collected in accordance with section 551.

Sec. 10. 38 MRSA §549, as amended by PL 1979, c. 541, Pt. A, §267, is further amended to read:

§549. Personnel and equipment

The board department shall establish and maintain at such ports within the State, and other places as it shall determine, such employees and equipment as in its judgment may be necessary to carry out this subchapter. The board commissioner, subject to the Personnel Law, may employ such personnel as may be necessary to carry out the purposes of this subchapter, and shall prescribe the duties of such those employees. The salaries of such those employees and the cost of such that equipment shall be paid from the Maine Coastal Protection Fund established by this subchapter. The board department and the Maine Mining Bureau shall periodically consult with each other relative to procedures for the prevention of oil discharges into the coastal waters of the State from offshore drilling production facilities. Inspection and enforcement employees of the board department in their line of duty under this subchapter shall have the powers of a constable.

Sec. 11. 38 MRSA §551, first ¶, as repealed and replaced by PL 1977, c. 375, §10, is amended to read:

The Maine Coastal Protection Fund is established to be used by the board department as a nonlapsing, revolving fund for carrying out the purposes of this subchapter. The fund shall be limited to \$4,000,000 until July 1, 1978. Thereafter, the fund shall be limited to \$6,000,000 and the Board Department of

Environmental Protection shall collect fees in accordance with subsection 4. To this fund shall be credited all license fees, penalties and other fees and charges related to this subchapter, and to this fund shall be charged any and all expenses of the ~~board~~ department related to this subchapter, including administrative expenses, costs of removal of discharges of pollutants, and 3rd party damages covered by this subchapter.

Sec. 12. 38 MRSA §551, 2nd ¶, as amended by PL 1971, c. 618, §12, is further amended to read:

Moneys in the fund, not needed currently to meet the obligations of the ~~board~~ department in the exercise of its responsibilities under this subchapter shall be deposited with the Treasurer of State to the credit of the fund, and may be invested in such manner as is provided for by statute. Interest received on ~~such~~ that investment shall be credited to the Maine Coastal Protection Fund.

Sec. 13. 38 MRSA §551, sub-§4, ¶A, as amended by PL 1979, c. 708, is further amended to read:

A. License fees shall be determined on the basis of 1¢ per barrel of oil transferred by the licensee during the licensing period and shall be paid monthly by the licensee on the basis of records certified to the ~~board~~ department, provided that during such time as any bonds issued pursuant to ~~the~~ Private and Special ~~laws of~~ Law 1969, chapter 239, shall remain outstanding and funds made available for interest and debt retirement shall be inadequate for ~~such~~ that purpose, the license fee shall be determined on the basis of 2¢ per barrel. License fees shall be paid to the ~~board~~ department and upon receipt by it credited to the Maine Coastal Protection Fund.

Sec. 14. 38 MRSA §551, sub-§4, ¶C, as enacted by PL 1977, c. 375, §13, is amended to read:

C. All sums received by the ~~board~~ department when the balance in the fund has reached \$4,000,000 shall, after deduction of administrative expenses and sums allocated to research and development, promptly be remitted to the Treasurer of State to be held distinct from all other moneys of the State for the payment of interest and debt retirement pursuant to ~~the~~ Private and Special ~~laws of~~ Law 1969, chapter 239, section 5. When there has been no interest or debt incurred pursuant to ~~the~~ Private and Special ~~laws of~~ Law 1969, chapter 239, section 5, or upon payment of all interest and debt so incurred, the Treasurer of State shall credit to the fund all sums

received according to this subchapter.

Sec. 15. 38 MRSA §551, sub-§6, as amended by PL 1981, c. 356, §2, is further amended to read:

6. Reimbursements to Maine Coastal Protection Fund. The board department shall seek recovery to the use of the fund all sums expended therefrom, including overdrafts, for the following purposes, unless the board department finds the amount involved too small or the likelihood of success too uncertain; provided that recoveries resulting from damage due to an oil pollution disaster declared by the Governor pursuant to section 547 shall be apportioned between the Maine Coastal Protection Fund and the General Fund so as to repay the full costs to the General Fund of any bonds issued as a result of the disaster:

A. All disbursements made by the fund pursuant to subsection 5, paragraphs B, D, E and H in connection with a prohibited discharge;

B. In the case of a licensee promptly reporting a discharge as required by this subchapter, disbursement made by the fund pursuant to subsection 5, paragraphs B, D and E in connection with any single prohibited discharge including 3rd party claims in excess of \$15,000, except to the extent that the costs are covered by payments received under any federal program;

C. Requests for reimbursement to the fund if not paid within 30 days of demand shall be turned over to the Attorney General for collection; and

D. The board department may file claims with appropriate federal agencies to recover for the use of the fund all disbursement from the fund in connection with a prohibited discharge.

Sec. 16. 38 MRSA §555, as amended by PL 1981, c. 356, §3, is further amended to read:

§555. Budget approval

The board department shall submit its budget recommendations for disbursements from the fund in accordance with section 551, subsection 5, paragraphs A, C, F and H for each biennium. The budget shall be submitted in accordance with Title 5, sections 1663 to 1666. The State Controller shall authorize expenditures therefrom as approved by the board commissioner. Expenditures pursuant to section 551, subsection 5, paragraphs B, D, E and G may be made as authorized by the State Controller following approval by the board commissioner.

Sec. 17. Effective date. Section 4 of this Act shall take effect on March 1, 1984.

Effective September 23, 1983, unless otherwise indicated.

CHAPTER 484

H.P. 1260 - L.D. 1681

AN ACT to Strengthen the Maine Milk Industry.

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

Whereas, the Maine milk industry is vitally important to Maine rural life and economy; and

Whereas, the protection of the milk industry from unfair sales practices is essential to the continued well-being of the industry and the State; and

Whereas, judicial invalidation of pricing orders of the Maine Milk Commission in June, 1981, resulted in an 11-day period during which no minimum dealer and retail prices for milk were in effect in 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. 7 MRSA §2952, first ¶, as amended by PL 1979, c. 734, §6, is further amended to read:

The Maine Milk Commission, as heretofore established, shall consist of 5 members and at all times shall include within its membership the Commissioner of Agriculture, Food and Rural Resources or his designee, ex officio. In addition to the limitations of Title 5, section 18, none of the remaining 4 members of the commission shall at the time of appointment or while serving as a member of the commission, and no employee of the commission shall have any official business, other than retail purchases of milk, or