

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND ELEVENTH LEGISLATURE

SECOND SPECIAL SESSION

November 18, 1983

AND AT THE

SECOND REGULAR SESSION

January 4, 1984 to April 25, 1984

AND AT THE

THIRD SPECIAL SESSION

September 4, 1984 to September 11, 1984

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
1986

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
SECOND REGULAR SESSION
of the
ONE HUNDRED AND ELEVENTH LEGISLATURE
JANUARY 4, 1984 TO APRIL 25, 1984

14-A. Bail liens. Receiving, recording and indexing any bail lien or discharge thereof, the sum of \$5 each; and

Sec. 7. Study. In order to ensure the availability of accurate and complete criminal history record information to allow criminal justice officials to make informed decisions, the Department of Public Safety is directed to study the systems, methods and purposes for reporting and disseminating criminal history record information. The department shall submit a report, together with any suggested legislation, to the Legislature by November 1, 1984. The report shall determine the needs of the State in regard to receiving and disseminating criminal history record information, assess the current delivery system for criminal history records and make recommendations concerning the establishment and implementation of a criminal history record information system which will adequately meet the needs of the State to provide accurate and complete criminal history record information in a timely and efficient manner. The department shall specifically evaluate the desirability of establishing a computer-based information system for law enforcement agencies throughout the State. The department shall consult with the various state agencies involved in collecting, disseminating and receiving criminal history record information, including, but not limited to, local and state law enforcement agencies, sheriffs' offices, state prosecutorial agencies and the court system.

Effective July 25, 1984.

CHAPTER 796

S.P. 900 - L.D. 2418

AN ACT Relating to Enforcement of Land Use Laws.

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

Sec. 1. 4 MRSA §152, as amended by PL 1983, cc. 29, §1 and 447 and as repealed and replaced by PL 1983, c. 583, §1, is repealed and the following enacted in its place:

§152. Jurisdiction

The District Court shall have jurisdiction in the following matters:

1. Jurisdiction exercised by trial justices and municipal courts. The civil jurisdiction exercised by all trial justices and municipal courts in the State on September 18, 1961;

2. Civil actions with damages claimed which do not exceed \$30,000. Original jurisdiction, concurrent with that of the Superior Court, of all civil actions when no equitable relief is demanded and the damages claimed do not exceed \$30,000;

3. Civil actions to enforce liens. Original jurisdiction, concurrent with the Superior Court, of all civil actions to enforce liens under Title 10, chapter 603, and the court shall determine the amount pursuant to Title 10, section 3258;

4. Exclusive jurisdiction. Original jurisdiction, not concurrent with that of the Superior Court, of mental health commitment hearings under Title 34, chapter 229, mental retardation certification hearings under Title 34, chapter 229 and small claims actions under Title 14, chapter 738; and

5. Other actions. Original jurisdiction, concurrent with that of the Superior Court, of the following types of actions, and in these actions the District Court may grant equitable relief:

A. Actions for divorce, annulment of marriage or judicial separation and of proceedings under Title 19;

B. Actions to quiet title to real estate under Title 14, sections 6651 to 6658;

C. Actions to quiet title to real estate under Title 36, section 946;

D. Actions for breach of implied warranty and covenant of habitability under Title 14, section 6021;

E. Actions to foreclose mortgages under Title 14, chapter 713, subchapter VI; and

F. Actions for restitution under Title 5, section 213.

6. Land use laws. Original jurisdiction, concurrent with that of the Superior Court, to grant eq-

uitable relief in proceedings involving alleged violations of a local land use ordinance or regulation or a state land use statute or regulation, which shall include, but shall not be limited to the following: The laws pertaining to the Maine Land Use Regulation Commission, Title 12, chapter 206-A; minimum lot size law, Title 12, sections 4807 to 4807-G; shoreland zoning ordinances adopted pursuant to Title 12, sections 4811 to 4817; the Alteration of Rivers, Streams and Brooks law, Title 12, sections 7776-7780; the plumbing and subsurface wastewater disposal rules adopted by the Department of Human Services pursuant to Title 22, section 42; laws pertaining to public water supplies, Title 22, sections 2642, 2647 and 2648; local ordinances pursuant to Title 22, section 2642; local ordinances adopted pursuant to Title 30, section 1917; local building codes adopted pursuant to Title 30, sections 1917 and 2151; Title 30, chapter 215, subchapter I, automobile junkyards and subchapter X, regulation and inspection of plumbing; Title 30, section 4359, malfunctioning domestic sewage disposal units; Title 30, section 4956, the subdivision law, and local subdivision ordinances adopted pursuant to Title 30, section 1917 and subdivision regulations adopted pursuant to Title 30, section 4956; local zoning ordinances adopted pursuant to Title 30, section 1917 and in accordance with Title 30, section 4962; the Great Ponds Act, Title 38, sections 386 to 396; the Alteration of Coastal Wetlands Act, Title 38, sections 471 to 476 and 478; and the Site Location of Development Act, Title 38, sections 481 to 485 and 488 to 490.

Actions for divorce, annulment or separation may be remanded, upon agreement of the parties, from the Superior Court to the District Court in accordance with rules promulgated by the Supreme Judicial Court. An action so remanded shall remain in the District Court, which shall have exclusive jurisdiction thereafter, subject to the rights of appeal to the Superior Court as to matters of law.

The District Court shall possess the criminal jurisdiction exercised by all trial justices and municipal courts in the State on September 16, 1961, except as provided in Title 29, section 2302.

The District Court shall also possess, concurrent with the Superior Court, original jurisdiction to receive pleas of guilty in criminal cases in which the maximum term of imprisonment to which the defendant may be sentenced upon conviction of that crime is one year or more in which the defendant has in writing

waived his right to indictment by grand jury and his right to appearance and trial in the Superior Court and has indicated his intention to enter a plea of guilty to the charges pending against him. When exercising such jurisdiction, the District Court shall possess all of the powers of the Superior Court. That jurisdiction shall be exercised in the manner which the Supreme Judicial Court shall by rule provide. Any person sentenced under this section shall be entitled to the rights provided by Title 15, chapter 306.

Sec. 2. 4 MRSA §807, first ¶, as amended by PL 1983, cc. 126 and 420, is repealed and the following enacted in its place:

Unless duly admitted to the bar of this State, no person may practice law or any branch thereof, or hold himself out to practice law or any branch thereof, within the State or before any court therein, or demand or receive any remuneration for those services rendered in this State. Whoever, not being duly admitted to the bar of this State, shall practice law or any branch thereof, or hold himself out to practice law or any branch thereof, within the State or before any court therein, or demand or receive any remuneration for those services rendered in this State, shall be guilty of a Class E crime. This section shall not be construed to apply to practice before any Federal Court by any person duly admitted to practice therein; nor to a person pleading or managing his own cause in court; nor to the officer or employee of a corporation, partnership, sole proprietorship or governmental entity, who is not an attorney, but is appearing for that organization in an action cognizable as a small claim under Title 14, chapter 738; nor to a person who is not an attorney, but is representing a municipality under Title 12, section 4812-C, subsection 2; Title 30, section 3222, subsection 2; or Title 30, section 4966, subsection 1; nor to a person who is not an attorney, but is representing the Department of Environmental Protection under Title 38, section 342, subsection 7. In all proceedings, the fact, as shown by the records of the Board of Overseers of the Bar, that that person is not recorded as a member of the bar shall be prima facie evidence that he is not a member of the bar licensed to practice law in the State.

Sec. 3. 12 MRSA §4811-A, sub-§§5 and 6 are enacted to read:

5. Structure. "Structure" means anything built for the support, shelter or enclosure of persons, animals, goods or property of any kind, exclusive of

fences. Notwithstanding any provisions in a local ordinance to the contrary, all structures shall meet the set-back requirements from normal high watermark of any water body, except structures which require direct access to the water as an operational necessity, such as piers, docks and retaining walls.

6. Timber harvesting. "Timber harvesting" means the cutting and removal of trees from their growing site and the attendant operation of cutting and skidding machinery but not the construction or creation of roads. Timber harvesting does not include the clearing of land for approved construction. Within the strip extending 50 feet inland from the normal high watermark, a cleared opening or openings not greater than 30 feet in width for every 100 feet of shoreline may be created, provided that when openings are combined, there shall be no single opening along the shore wider than 60 feet, and there shall be no more than one 60-foot opening along 200 feet of shoreline.

Sec. 4. 12 MRSA §4812-C is enacted to read:

§4812-C. Code enforcement officers

1. Appointment. In every municipality, the municipal officers shall annually by July 1st appoint or reappoint a code enforcement officer, whose job may include being a local plumbing inspector or a building inspector and who may or may not be a resident of the municipality for which he is appointed. The municipal officers may appoint the planning board to act as the code enforcement officer. The municipal officers may remove a code enforcement officer for cause, after notice and hearing. This removal provision shall only apply to code enforcement officers who have completed a reasonable period of probation as established by the municipality pursuant to Title 30, section 2256. If not reappointed by a municipality, a code enforcement officer may continue to serve until a successor has been appointed and sworn.

2. Certification; authorization by municipal officers. No person may serve as a code enforcement officer who is authorized by the municipal officers to represent the municipality in District Court unless he is currently certified under Title 30, section 3222, subsection 2, as being familiar with court procedures.

Upon written authorization by the municipal officers, a certified code enforcement officer may serve civil

process on persons whom he determines to be in violation of ordinances adopted pursuant to this chapter and, if authorized by the municipal officers, may represent the municipality in District Court in the prosecution of violations of ordinances adopted pursuant to this chapter.

3. Powers and duties. The duties of the code enforcement officer shall include the following:

A. Enforce the local shoreland zoning ordinance in accordance with the procedures contained therein;

B. Collect a fee, if authorized by a municipality, for every shoreland permit issued by the code enforcement officer. The amount of any such fee shall be set by the municipality. The fee shall be remitted to the municipality;

C. Keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found and fees collected; and

D. Investigate complaints of alleged violations of local land use laws.

Sec. 5. 12 MRSA §4815, as enacted by PL 1983, cc. 306, §2, and 458, § 5, is repealed and the following enacted in its place:

§4815. Enforcement

Any person who orders or conducts any activity in violation of a municipal ordinance adopted under this chapter shall be penalized in accordance with Title 30, section 4966.

The Attorney General, the district attorney or municipal officers or their designee may enforce ordinances adopted under this chapter.

No public utility, water district, sanitary district or any utility company of any kind may install services to any new structure located in a shoreland area, as defined by section 4811, unless written authorization attesting to the validity and currency of all local permits required under this chapter has been issued by the appropriate municipal officials.

Sec. 6. 12 MRSA §7779, as enacted by PL 1979, c. 420, §1, is repealed and the following enacted in its place:

§7779. Penalties

1. Civil penalties. Any person who violates any provision of this subchapter shall be subject to the following.

A. The minimum penalty for starting construction or undertaking an activity without the required license, permit or approval shall be \$100 and the maximum penalty shall be \$10,000 for that violation.

B. The minimum penalty for violations other than those specified in paragraph A, shall be \$100 and the maximum penalty shall be \$10,000 for each violation.

C. The violator may be ordered to correct or abate the violation or violations. Where the court finds that the violation was wilful, the violator shall be ordered to correct or abate the violation unless the abatement or correction will:

(1) Result in a threat or hazard to public safety;

(2) Result in substantial environmental damage; or

(3) Result in substantial injustice.

D. The maximum penalty may exceed \$10,000, but shall not exceed \$25,000 for that violation, when it can be shown that there has been a previous conviction under this subchapter of the same party within the past 5 years.

E. In setting a penalty, the court shall consider, but shall not be limited to, the following:

(1) Prior violations by the same party;

(2) The degree of environmental damage that cannot be abated or corrected;

(3) The extent to which the violation continued following an order of the department to correct it; and

(4) The importance of setting a fine substantial enough to deter others from similar violations.

Sec. 7. 12 MRSA §7901, sub-§6 is enacted to read:

6. Violation of chapter 713, subchapter VII. A violation of chapter 713, subchapter VII, is a civil penalty, as provided in section 7779.

Sec. 8. 22 MRSA §42, sub-§3, as amended by PL 1981, c. 376, §§1-3, is further amended to read:

3. Plumbing and subsurface sewage disposal. The department shall adopt rules and ~~regulations~~ relating to plumbing and subsurface sewage disposal systems and the installation and inspection thereof consistent with Title 30, sections 3221 to 3225 and Title 32, sections 3301 to 3507; and shall hold hearings on the first Tuesday of February of each year for the purpose of considering changes in the rules and ~~regulations~~ pertaining to plumbing and subsurface sewage disposal systems and the installation and inspection thereof. These rules may regulate the location of water supply wells to provide minimum separation distances from subsurface sewage disposal systems. The department may require a deed covenant or deed restriction when determined necessary.

Any person who violates the rules and ~~regulations~~ adopted under this subsection, or who violates a municipal ordinance adopted pursuant to Title 30, section 3221, or uses a subsurface sewage disposal system not in compliance with rules applicable at the time of installation or modification ~~commits a civil violation for which a forfeiture of not less than \$100 nor more than \$1,000 may be adjudged shall be~~ penalized in accordance with the provisions of Title 30, section 4966. The department or a municipality may seek to enjoin violations of the rules and ~~regulations~~ or municipal ordinances. In the prosecution of a violation by a municipality, the court ~~may~~ shall award reasonable attorney's fees to a municipality if that municipality is the prevailing party, unless the court finds that special circumstances make the award of these fees unjust. The rules and ~~regulations~~ adopted by the department shall provide with respect to the repair and replacement of any part or parts of existing subsurface sewage disposal systems serving family dwellings inhabited by no more than 2 individual families that the local plumbing inspector may waive the site evaluation requirements, provided that the waiver will not result in viola-

tions of other regulations or ordinances adopted pursuant to the Plumbing Code. He may not waive the site evaluation requirement for disposal systems within 100 feet of any pond or river subject to shoreland zoning laws.

Sec. 9. 30 MRSÅ §2458, sub-§1, as amended by PL 1971, c. 593, §22, is further amended to read:

1. Penalties. Whoever violates any provision of this subchapter or the rules and regulation of the Department of Transportation promulgated under section 2459 shall be guilty of a misdemeanor and shall be punished by a fine of not less than \$100 nor more than \$500, or by imprisonment for not more than 90 days, or by both, penalized in accordance with the provisions of section 4966, and it shall be the duty of the State Police as well as local and county officers of the law to enforce this subchapter. Municipal officers or their designee may also enforce this subchapter. Each day that the violation continues shall constitute a separate offense.

Sec. 10. 30 MRSÅ §3222, sub-§2, as amended by PL 1979, c. 45, is further amended to read:

2. Certification. No person may hold the office of plumbing inspector unless he is currently certified as qualified by the Commissioner of Human Services. Certification of plumbing inspectors shall be in accordance with the standards set by the commissioner, and shall be for a period of 3 years, unless sooner revoked or suspended by the Administrative Court upon complaint by the commissioner on grounds of fraud, negligence, misconduct or incompetence in the performance of his duties. The commissioner may grant temporary certification for a period not to exceed 6 months. The department shall publish semiannually a list of certified plumbing inspectors.

The commissioner shall establish certification standards and a program to certify plumbing inspectors; code enforcement officers, as set forth in section 4966 and in Title 12, section 4812-C; and Department of Environmental Protection employees, set forth in Title 38, section 342, subsection 7, as being familiar with court procedures. Certification shall be for a period of 3 years unless sooner revoked or suspended by the Administrative Court upon complaint by the commissioner on grounds of fraud, negligence, misconduct or incompetence in the performance of his duties. After being certified by the commissioner under this paragraph, a plumbing inspector may serve civil process on persons who violate the plumbing and

subsurface waste water disposal rules of the department, and he may be authorized by the municipal officers to represent the municipality in District Court pursuant to section 4966.

Sec. 11. 30 MRSA §3223, sub-§1-A, as enacted by PL 1981, c. 376, §4, is amended to read:

1-A. Penalties. Any person who installs or orders the installation of any subsurface sewage disposal system without the permit required under this section ~~commits a civil violation for which a forfeiture of not less than \$100 nor more than \$1,000 may be adjudged shall be penalized in accordance with section 4966.~~

Sec. 12. 30 MRSA §3226 is enacted to read:

§3226. Right of entry on inspection

The department and any duly designated representative or employee thereof, including the local plumbing inspector, may enter any property at reasonable hours, enter any building with the consent of the property owner, occupant or agent, inspect the property or structure for compliance with the rules in force pursuant thereto or investigate alleged conditions which do not comply with the rules. Upon the request of the occupant of the premises, the department's representative or the local plumbing inspector shall present proper credentials prior to entering the premises.

Should entry be denied, entry shall not be attempted until after obtaining an order of the court.

Sec. 13. 30 MRSA §4956, sub-§4, as amended by PL 1981, c. 195, is further amended to read:

4. Enforcement. No person, firm, corporation or other legal entity may sell, lease, develop, build upon or convey for consideration, offer or agree to sell, lease, develop, build upon or convey for consideration any land in a subdivision which has not been approved by the municipal reviewing authority of the municipality where the subdivision is located and recorded in the proper registry of deeds, nor shall such person, firm, corporation or other legal entity sell or convey any land in such approved subdivision unless at least one permanent marker is set at one lot corner of the lot sold or conveyed. The term "permanent marker" includes but is not limited to the following: A granite monument, a concrete monument, an iron pin or a drill hole in ledge. No subdivision

plat or plan shall be recorded by any register of deeds which has not been approved as required. Approval for the purpose of recording shall appear in writing on the plat or plan. No public utility, water district, sanitary district or any utility company of any kind shall install services to any lot in a subdivision for which a plan has not been approved.

Any person, firm, corporation or other legal entity who sells, leases, develops, builds upon, or conveys for consideration, offers or agrees to sell, lease, develop, build upon or convey for consideration any land in a subdivision which has not been approved as required by this section shall be punished by a fine of not more than \$1,000 for each such occurrence penalized in accordance with section 4966. The Attorney General, the municipality, or the planning board of any municipality or the appropriate municipal officers may institute proceedings to enjoin the violations of this section and, if a violation is found by the court, the municipality, municipal planning board or the appropriate municipal officers may be allowed attorney fees.

All subdivision plats and plans required by this section shall contain the name and address of the person under whose responsibility the subdivision plat or plan was prepared.

Sec. 14. 30 MRSA §4966 is enacted to read:

§4966. Enforcement of land use laws and ordinances

The following provisions shall apply to enforcement of land use laws and ordinances or regulations which are administered and enforced primarily at the local level, including shoreland zoning ordinances adopted pursuant to Title 12, sections 4811 to 4817, including those which were state-imposed; the plumbing and subsurface waste water disposal rules adopted by the Department of Human Services pursuant to Title 22, section 42, including the land area of the State which is subject to the jurisdiction of the Maine Land Use Regulation Commission, laws pertaining to public water supplies, Title 22, sections 2624, 2647 and 2648; local ordinances adopted pursuant to Title 22, section 2642; local land use ordinances enacted pursuant to section 1917; local building codes adopted pursuant to sections 1917 and 2151; chapter 215, subchapter I, Automobile Junkyards and subchapter X, Regulation and Inspection of Plumbing; the subdivision law and local subdivision ordinances adopted pursuant to section 1917 and subdivision reg-

ulations adopted pursuant to section 4956; and local zoning ordinances adopted pursuant to section 1917 and in accordance with section 4962.

1. Enforcement. A municipal official, such as a municipal code enforcement officer, local plumbing inspector or building inspector, who is designated by ordinance or statute with the responsibility to enforce a particular law or ordinance set forth in this section, shall have the following powers and duties:

A. To enter any property at reasonable hours and to enter any building with the consent of the property owner, occupant or agent, to inspect the property or structure for compliance with the laws or ordinances set forth in this section;

B. To issue a summons to any person who violates a law or ordinance which the official is empowered to enforce; and

C. When specifically authorized by the municipal officers, to represent the municipality in District Court in the prosecution of alleged violations of ordinances or laws which the official is empowered to enforce.

2. Liability for violations. Any person, including, but not limited to, a landowner, his agent or a contractor who violates a provision of the laws or ordinances set forth in this section shall be liable for the penalties set forth in subsection 3.

3. Civil penalties. The following provisions shall apply to violations of the laws and ordinances set forth in this section, and all monetary penalties shall be civil penalties.

A. The minimum penalty for starting construction or undertaking a land use activity without a required permit shall be \$100, and the maximum penalty shall be \$2,500.

B. The minimum penalty for a specific violation shall be \$100, and the maximum penalty shall be \$2,500.

C. The violator may be ordered to correct or abate the violations. Where the court finds that the violation was wilful, the violator shall be ordered to correct or abate the violation unless the abatement or correction will:

(1) Result in a threat or hazard to public health or safety;

(2) Result in substantial environmental damage; or

(3) Result in a substantial injustice.

D. If the municipality is the prevailing party, it shall be awarded reasonable attorney fees, expert witness fees and costs, unless the court finds that special circumstances make the award of these fees and costs unjust. If the defendant is the prevailing party, he may be awarded reasonable attorney fees, expert witness fees and costs as provided by court rule.

E. In setting a penalty, the court shall consider, but shall not be limited to, the following:

(1) Prior violations by the same party;

(2) The degree of environmental damage that cannot be abated or corrected;

(3) The extent to which the violation continued following a municipal order to stop; and

(4) The extent to which the municipality contributed to the violation by providing the violator with incorrect information or by failing to take timely action.

F. The maximum penalty may exceed \$2,500, but shall not exceed \$25,000, when it can be shown that there has been a previous conviction of the same party within the past 2 years of the same law or ordinance.

All proceedings arising under the provisions of locally administered laws and ordinances shall be brought in the name of the municipality, and those fines shall be paid to the municipality.

Sec. 15. 38 MRSa §342, sub-§7 is enacted to read:

7. Representation in court. The commissioner may authorize certified employees of the department to serve civil process and represent the department in District Court in the prosecution of violations of those laws enforced by the department and set forth in Title 4, section 152, subsection 6. Certification of these employees shall be provided as under Title 30, section 3222, subsection 2.

Sec. 16. 38 MRSA §347, sub-§7 is enacted to read:

7. Right of entry. Employees of the Department of Environmental Protection shall have the authority to enter any property at reasonable hours, and to enter any building with the consent of the property owner, occupant or agent, to inspect the property or structure for compliance with the laws administered by the department.

Sec. 17. 38 MRSA §348, sub-§2, as enacted by PL 1977, c. 300, §9, is amended to read:

2. Restoration. The court may order restoration of any area affected by any action or inaction found to be in violation of any provision of law administered by the Department of Environmental Protection or of any order, rule, regulation, license, permit, approval or decision of the Board of Environmental Protection or decree of the court, as the case may be, to its condition prior to the violation or as near thereto as may be possible. Where the court finds that the violation was wilful, the court shall order restoration under this subsection unless the restoration will:

A. Result in a threat or hazard to public health or safety;

B. Result in substantial environmental damage;
or

C. Result in a substantial injustice.

Sec. 18. 38 MRSA §349, as amended by PL 1983, c. 566, §9, is further amended to read:

§349. Penalties

1. Criminal penalties. Notwithstanding Title 17-A, section 4-A and except as provided in subsection 4, subsection 5 or section 1306-A, any person who violates any provision of the laws administered by the department or the terms or conditions of any order, regulation, license, permit, approval or decision of the board shall be subject to a fine, payable to the State, of not more than \$25,000 for each day of such violation.

2. Civil penalties. Any person who violates any provision of the laws administered by the department or terms or conditions of any order, regulation, license, permit, approval or decision of the board

shall be subject to a civil penalty, payable to the State, of not less than \$100 nor more than \$10,000 for each day of such that violation or, if the violation relates to hazardous waste, of not more than \$25,000 for each day of the violation.

3. Falsification and tampering. Notwithstanding Title 17-A, section 4-A, any person who knowingly makes any false statement, representation or certification in any application, record, report, plan or other document filed or required to be maintained by any provision of law administered by the department, or by any rule, regulation, license, permit, approval or decision of the board, or who tampers with or renders inaccurate any monitoring devices or method required by any provision of law, or any rule, regulation, license, permit, approval or decision of the board shall, upon conviction, be subject to a fine of not more than \$10,000, or by imprisonment for not more than 6 months, or both.

4. Violations. Any person who violates any of the following provisions shall be is guilty of a Class E crime for each day of such that violation:

- A. Section 419; (high phosphorous detergent);
- ~~B. Section 391 or regulations under section 394 (Great Ponds);~~
- C. Section 423; (Discharge from watercraft);
- ~~D. Section 471; (Alteration of wetlands and sand dunes);~~
- E. Section 1306; (Waste facility);
- G. Title 12, section 4757; (Regulations for state-held wetlands); and
- H. Title 12, chapter 421 and orders thereunder; (Wetlands zoning); and.
- ~~I. Title 12, chapter 423-A and regulations thereunder (Minimum lot size);~~

Sec. 19. 38 MRSA §349, sub-§§5 and 6 are enacted to read:

5. Considerations. In setting a penalty, the court shall consider, but shall not be limited to, the following:

- A. Prior violations by the same party;

B. The degree of environmental damage that cannot be abated or corrected;

C. The extent to which the violation continued following an order of the department or board to correct it; and

D. The importance of setting a civil penalty substantial enough to deter others from similar violations.

6. Maximum civil penalty. The maximum civil penalty may exceed \$10,000 for each day of that violation, but shall not exceed \$25,000 for each day of the violation, when it can be shown that there has been a previous violation of the same law by the same party within the 5 preceding years.

Effective July 25, 1984.

CHAPTER 797

S.P. 908 - L.D. 2446

AN ACT to Clarify and Make Corrections in the Inland Fisheries and Wildlife Laws.

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

Sec. 1. 12 MRSA §7001, sub-§32, as enacted by PL 1979, c. 420, §1, is amended to read:

32. Resident. "Resident" means a citizen of the United States who has been domiciled in this State continuously during the 3 months next prior to the date on which he applies for any license or permit under chapter 707, or an alien who has been so domiciled for one year. No person ~~shall~~ may be considered a resident if he has not:

- A. If registered to vote, registered in Maine;
- B. If licensed to drive a motor vehicle, made application for a Maine motor vehicle operator's license;
- C. If owning a motor vehicle or vehicles located within the State, registered each such vehicle in Maine; and