

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWELFTH LEGISLATURE

FIRST REGULAR SESSION

December 5, 1984 to June 20, 1985

Chapters 1-384

PUBLISHED BY THE REVISOR OF STATUTES IN ACCORDANCE WITH
MAINE REVISED STATUTES ANNOTATED, TITLE 3, SECTION 163-A,
SUBSECTION 4.

J.S. McCarthy Co., Inc.
Augusta, Maine
1986

PUBLIC LAWS
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4. Violation. The posting of written political material under this section is not a violation of Title 21, section 1575-A Title 21-A, section 31, subsection 3, or Title 21, section 1579, subsection 7 Title 21-A, section 674, subsection 1, paragraph C.

Effective September 19, 1985.

CHAPTER 162

S.P. 414 - L.D. 1144

AN ACT to Amend the Department of
Environmental Protection Laws.

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

Sec. 1. 4 MRSA §152, sub-§6, as enacted by PL 1983, c. 796, §1, is amended to read:

6. Land use laws. Original jurisdiction, concurrent with that of the Superior Court, to grant equitable 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 7776 to 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; laws pertaining to the discharge of wastes, Title 38, sections 413, 414, 417, 418 and 420; 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; and the Oil Discharge Prevention and Pollution Control laws, Title 38, sections 543, 545, 545-A and 560.

Sec. 2. 38 MRSA §349, sub-§1, as amended by PL 1983, c. 796, §18, is repealed and the following enacted in its place:

1. Criminal penalties. Any person who violates any provisions of the laws administered by the department or the terms or conditions of any order, rule, license, permit, approval or decision of the board is guilty of a Class E crime and may be punished accordingly, except notwithstanding Title 17-A, section 1301, subsection 1, paragraph C, or subsection 3, paragraph E, the fine for such a violation shall not exceed \$25,000 for each day of the violation.

This subsection does not apply to actions subject to the criminal penalties set forth in section 1306-A.

Sec. 3. 38 MRSA §349, sub-§4, as amended by PL 1983, c. 796, §18, is repealed.

Sec. 4. 38 MRSA §353, sub-§3, as amended by PL 1983, c. 743, §6, is further amended to read:

3. License fee. A license fee shall be paid prior to the issuance of any license or permit. If a license fee is paid prior to board or commissioner action on the application, the department shall refund the license fee if the board or commissioner denies the application or if the application is withdrawn by the applicant.

Sec. 5. 38 MRSA §390-A, sub-§1, as amended by PL 1983, c. 483, §7 and c. 566, §12, is repealed and the following enacted in its place:

1. Fund purposes and administration. There is established a nonlapsing Lake Restoration and Protection Fund, from which the department may pay an amount equal to the local share from state appropriation of the eligible costs incurred in a lake restoration or protection project. Eligible costs in-

clude all costs except those related to land acquisition, legal fees and debt service. All money credited to that fund shall be used by the 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 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 money 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 for no other purpose.

Sec. 6. 38 MRSA §451-A, sub-§1, as amended by PL 1983, c. 566, §26, is further amended to read:

1. Power to grant variances. The Board of Environmental Protection ~~shall~~ may grant a variance from any statutory water pollution abatement time schedule to any municipality or quasi-municipal entity, hereinafter called the "municipality," upon application by it. The board ~~shall~~ may grant a variance only upon a finding that:

A. Federal funds for the construction of municipal waste water treatment facilities are not available for the project;

B. The municipality has demonstrated that it has completed preliminary plans acceptable to the Department of Environmental Protection for the treatment of municipal wastes and for construction of that portion of the municipal sewage system intended to be served by the planned municipal treatment plant when that plant first begins operations; and

C. Beginning on October 1, 1976, the municipality shall collect, from each discharger into its sewage system and each discharger not connected to the sewage system which has signed an approved agreement with the municipality pursuant to subsection 2, a fee sufficient to equal their proportionate share of the actual current cost of operating the sewage system for which preliminary plans have been completed and approved pursuant to paragraph B. Actual current costs shall include but not be limited to preliminary plans, final design plans, site acquisition, legal fees, interest fees, sewer system maintenance and rehabilitation and other administrative costs. A municipality may provide, when permitted under the

federal construction grant program, that in lieu of such annual fees paid by dischargers, the municipality may apportion an appropriate amount from general revenues to cover that share of fees to be paid by dischargers.

The funds collected or apportioned pursuant to this paragraph and interest collected thereon shall be invested and expended pursuant to Title 30, chapter 241.

Any funds paid by a discharger or discharger not connected to the sewage system pursuant to this paragraph may be credited to the account of the discharger if the municipality is subsequently reimbursed by the federal construction grant program. The credit arrangement shall be determined by agreement between the municipality and the discharger.

Variances shall be issued for a term certain not to exceed 3 years, and may be renewed, except that no variance shall run longer than the time specified for completion of the municipal waste treatment facility. Upon notice of the availability of federal funds, the municipality shall present to the Department of Environmental Protection for approval an implementation schedule for designing, constructing and placing the waste collection and treatment facilities in operation.

Variances may be conditioned upon reasonable and necessary terms relating to appropriate interim measures to be taken by the municipality to maintain or improve water quality.

Sec. 7. 38 MRSA §482, sub-§2, as amended by PL 1983, c. 819, Pt. A, §63, is further amended to read:

2. Development which may substantially affect the environment. "Development which may substantially affect the environment," in this Article called "development," means any state, municipal, quasi-municipal, educational, charitable, commercial or industrial development, including subdivisions, which occupies a land or water area in excess of 20 acres, or which contemplates drilling for or excavating natural resources, on land or under water where the area affected is in excess of 60,000 square feet, or which is a mining activity, or which is a hazardous activity, or which is a structure; but excluding state highways, state aid highways, borrow pits for sand, fill or gravel, of less than 5 acres or when regu-

lated by the Department of Transportation, and such borrow pits entirely within the jurisdiction of the Maine Land Use Regulation Commission under, chapter 206-A, and those activities regulated by the Department of Marine Resources under Title 12, section 6072.

No person shall may construct or cause to be constructed or operate or cause to be operated, or in the case of a subdivision sell, offer for sale, or cause to be sold, any development requiring approval under section 483 without first having obtained approval for such construction, operation or sale from the Board of Environmental Protection.

Sec. 8. 38 MRSA §532, first ¶, as amended by PL 1983, c. 812, §292, is further amended to read:

There shall be 5 members, hereinafter in this subchapter called Commissioners of the New England Interstate Water Pollution Control Commission from the State of Maine, as authorized by Title 5, section 12004, subsection 12. One commissioner shall be the Commissioner of the Department of Human Services and one the Chairman of the Maine Board Commissioner of Environmental Protection or his designee. The term of any such commissioner shall terminate at the time he ceases to hold said state office and his successor in that office shall be his successor as commissioner on this commission. The Governor shall appoint 3 more commissioners who shall be citizens of the State, one to represent municipal interests, one to represent industrial interests and one to represent the public generally. The term of the last 3 said commissioners shall be for a period of 3 years and he shall hold office until his successor shall be appointed and qualified. The terms of each of the initial 5 members shall begin at the date of the appointment, provided the said compact shall then have been executed by the Governor of this State as prescribed in section 531; otherwise they shall begin upon the effective date of the compact in accordance with section 537.

Sec. 9. 38 MRSA §603-A, sub-§2, ¶¶A and B, as enacted by PL 1983, c. 504, §10, are amended to read:

A. The sulfur content for liquid fossil fuels is as follows.

(1) In the Central Maine, Downeast, Aroostook County and Northwest Maine Air Quality Control Regions, no person may use any liquid fossil fuel with a sulfur content greater than 2.5% by weight any time after

November 1, 1973. In the Metropolitan Portland Air Quality Control Region outside the Portland Peninsula Air Quality Control Region, no person may use any liquid fossil fuel with a sulfur content greater than 2.5% by weight any time after June 1, 1975.

(2) In the Portland Peninsula Air Quality Control Region, no person may use any liquid fossil fuel with a sulfur content greater than 1.5% by weight any time after November 1, 1975.

(3) In the Portland Peninsula Air Quality Control Region, no person may use any liquid fossil fuel with a sulfur content greater than 1.0% by weight any time after November 1, 1985.

B. The sulfur content for solid fossil fuels is as follows:

(1) 1.2 pounds sulfur per million British Thermal Units calculated as a calendar quarter average for sources in the Central Maine, Downeast, Aroostook County, Northwest Maine Air Quality Control Regions and that portion of the Metropolitan Portland Air Quality Region outside the Portland Peninsula Air Quality Region. A calendar quarter shall be composed of the months as follows: (1) January, February, March; (2) April, May, June; (3) July, August, September; and (4) October, November, December; and

(2) 0.72 pounds sulfur per million British Thermal Units calculated as a calendar quarter average for sources in the Portland Peninsula Air Quality Region. A calendar quarter shall be composed of the months as follows: (1) January, February, March; (2) April, May, June; (3) July, August, September; and (4) October, November, December; and.

(3) 0.48 pounds sulfur per million British Thermal Units calculated as a calendar quarter average for sources in the Portland Peninsula Air Quality Region after November 1, 1985. A calendar quarter shall be composed of the months as follows: (1) January, February, March; (2) April, May, June; (3) July, August, September; and (4) October, November, December.

Sec. 10. 38 MRSA §1319-C, sub-§2, as enacted by PL 1981, c. 478, §7, is repealed.

Sec. 11. 38 MRSA §1319-D, first ¶, as enacted by PL 1981, c. 478, §7, is amended to read:

The Maine Hazardous Waste Fund is established to be used by the department as a nonlapsing, revolving fund for carrying out the department's responsibilities under this subchapter. This fund shall not exceed \$600,000. All fees, penalties, interest and other charges under this subchapter shall be credited to this fund. This fund shall be charged with the expenses of the department related to this subchapter, including costs of removal or abatement of discharges and costs of the inspection or supervision of hazardous waste activities and hazardous waste handlers.

Sec. 12. 38 MRSA §1319-E, sub-§1, as amended by PL 1983, c. 342, §6, is further amended to read:

1. Money disbursed. Money in the Maine Hazardous Waste Fund may be disbursed by the department for the following purposes, but for no other:

A. Costs incurred in the removal or abatement of an unlicensed discharge or threatened discharge of hazardous waste. Whenever practical, the department shall offer the responsible party the opportunity to remove or abate the discharge or threatened discharge;

B. Notwithstanding paragraph A, disbursements to remove discharges of hazardous waste, which are not sudden and which involve costs exceeding \$10,000, may only be expended in accordance with an allocation approved by the Legislature;

C. Costs incurred for the purchase of necessary hazardous waste and waste oil testing and, response, inspection and monitoring equipment and supplies, response and compliance personnel and training of response personnel in accordance with an allocation approved by the Legislature; and

D. Amounts necessary to reimburse municipalities as required by section 1305-A, subsection 3-; and

E. Costs incurred in the inspection or supervision of hazardous waste activities and hazardous waste handlers.

For the purposes of this subsection, "sudden" means an unexpected or abrupt discharge which occurs after September 1, 1981.

Effective September 19, 1985.

CHAPTER 163

H.P. 370 - L.D. 525

AN ACT to Amend the Municipal Development District Law.

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

Sec. 1. 30 MRSA §4862, sub-§1, as enacted by PL 1977, c. 397, is amended to read:

1. Captured assessed value. "Captured assessed value" means the valuation amount by which the current assessed value of the development a tax increment financing district exceeds the original assessed value of the district. If the current assessed value is equal to or less than the original there is no captured assessed value.

Sec. 2. 30 MRSA §4862, sub-§4, as enacted by PL 1977, c. 397, is amended to read:

4. Financial plan. "Financial plan" means a statement of the costs and sources of revenue required to accomplish the development program. The statement shall contain cost estimates for the development program, the estimates of captured assessed values, the portion of the captured assessed values to be applied to the development program and resulting tax increments in each year of the program, the amount of bonded indebtedness to be incurred, other sources of anticipated revenues and the duration of the program. The statement shall also contain For a development program for a tax increment financing district, the statement shall also contain estimates of captured assessed values of the district, the portion of the captured assessed values to be applied to the development program and resulting tax increments in each year of the program and a statement of the estimated impact of tax increment financing on all