

# 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.

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

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**PUBLIC LAWS**  
OF THE  
**STATE OF MAINE**

AS PASSED AT THE  
FIRST REGULAR SESSION

of the  
ONE HUNDRED AND TWELFTH LEGISLATURE

1985

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Buses, integrally constructed, with a carrying capacity of 40 or more passengers, operated by a motor carrier holding an operator's permit issued by the Bureau of State Police may be used for school activities other than conveying children to and from home and school.

Effective September 19, 1985.

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## CHAPTER 201

S.P. 549 - L.D. 1466

### AN ACT to Clarify Certain Aspects of Mineral Exploration, Development and Disclosure.

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

Sec. 1. 12 MRSA c. 201-A, sub-c. II, as amended, is repealed.

Sec. 2. 12 MRSA c. 201-A, sub-c. III is enacted to read:

#### SUBCHAPTER III

#### MINING ON STATE LANDS

#### §549. Jurisdiction

The Maine Geological Survey and the agencies having jurisdiction over state-owned lands shall have jurisdiction, as set forth in this subchapter, over all state-owned lands for the purpose of mineral development and mining on that land. The Maine Geological Survey and the agencies having jurisdiction over state-owned lands may make such rules as each deems proper with respect to the authority delegated pursuant to this subchapter.

#### §549-A. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Development. "Development" means all of the methods used in the preparation of a known and presumed economically extractable ore deposit for mining.

2. Director of the survey. "Director of the survey" means the Director of the Maine Geological Survey.

3. Exploration. "Exploration" means an examination of an area for the purpose of discovering the presence of minerals with techniques which include all of the manual, mechanical, electronic or chemical methods of determining the presence, size and quality of a mineral deposit.

4. Explosives. "Explosives" means explosive materials which are used to explore, develop or mine a mineral deposit.

5. Machinery. "Machinery" means equipment or machinery, exclusive of vehicles, which is used to explore, develop or mine a mineral deposit.

6. Minerals. "Minerals" means all naturally occurring mineral deposits, including hydrocarbons and peat, but excluding sand, gravel and water.

7. Mining. "Mining" means all of the extractive and beneficiative processes necessary to remove and prepare a mineral deposit for market.

8. Ore. "Ore" means any mineral or an aggregate of minerals which can be extracted from the earth economically.

9. Person. "Person" means individuals, partnerships, corporations and other entities.

10. Royalty. "Royalty" means the amount paid to the State for the right to remove minerals from state land, including minimum and preproduction payments.

11. State lands. "State lands" means all lands owned or held in trust by the State or in which the State holds an interest, including inland and tidal submerged lands and waters.

§549-B. Exploration permits, exploration claims and mining leases

1. Authority to explore. Any individual over 18 years of age or other person may enter upon state lands, including lands held under specific trust in-

struments when the trust is consistent with mineral development, on receipt of an exploration permit from the director of the survey for the purpose of exploration, unless otherwise indicated in this subchapter. An exploration permit shall be issued upon payment of a fee of \$20 and shall apply to state lands only. An exploration permit shall bear a number and be dated on the date of issue of the permit and shall expire at midnight on the next June 30th. The holder of an exploration permit is entitled to a renewal of his permit upon expiration of the permit, upon making application to the director of the survey on or before June 30th, including payment of the prescribed fee, which renewal shall take effect on July 1st and bear the same number as the expired permit. Prospectors' permits in effect on June 30, 1985, shall remain in effect as exploration permits until June 30, 1986.

If machinery or explosives are to be used for exploration on state lands, the methods to be employed and the amount of explosives to be allowed shall first be approved by the director of the survey and the director of the agency having jurisdiction over the state land. The use of machinery or explosives shall be approved only where it will be done in harmony with the activities of the agency having jurisdiction over the state land and will not result in environmental harm.

2. Exploration for and mining of hydrocarbons. The director of the survey and the Director of the Bureau of Public Lands may promulgate rules governing exploration and mining of hydrocarbons on all lands within the jurisdiction of the State, public and private, in order to prevent the waste of hydrocarbons and to protect correlative rights and natural resources. The directors may promulgate rules on all lands in the State to specify the size of the area of exploration, the amount charged for exploration permits and exploration claims, the duration of those permits and claims and other matters related to the exploration and mining of hydrocarbons on state lands.

3. Location of exploration claim and maintenance of rights of possession. Any person or corporation which has secured an exploration permit may locate one or more exploration claims by defining the boundary lines of the claim or claims. No exploration claim may be smaller than 20 acres, except in cases where only a smaller area is available in a parcel of state-owned land. The location or record of any ex-

ploration claim shall be construed to include all surface found within the surface boundary lines, and all ledges throughout their entire vertical depth, but shall not include any portion of the ledges beyond the end and sidelines of the exploration claim or timber or growth on the exploration claim. As nearly as circumstances permit, an exploration claim shall be staked out in the following manner:

A. By erecting a post or other reasonably permanent monument at each of the corners of the exploration claim. Every post or monument shall stand not less than 4 feet above the ground, shall not be less than 4 inches in diameter and shall bear the following information: The name of the locator; the number of his exploration permit; the date of the staking; and, if the exploration claim is staked on behalf of another person, the name of the other person and the number of his exploration permit;

B. By plainly marking the trees with paint and by trimming the underbrush along the boundary lines of the exploration claim to indicate clearly the outlines of the exploration claim. Where there are no trees or underbrush, by piling stones or placing pickets at reasonable intervals along the boundary lines of the exploration claim; or

C. By establishing post or buoy markers to witness exploration claim corners which fall in a body of water, by placing posts on dry land and marking on the posts exact distances and directions to over-water exploration claim corners or by such other methods as the director of the survey may by regulation establish.

Any person who has located and recorded any exploration claim or claims shall, subject to this subchapter, have the right of possession of the premises covered by that exploration claim or claims, for the purpose of conducting exploration activities on those premises. The right of possession shall be alienable in the same manner as real estate. No alienation or transfer of the rights of possession conferred by a located and recorded exploration claim may be effective until the transferor has notified the director of the survey of the transfer and has received an acknowledgment by the director of the survey in writing of receipt of the notification. The director of the survey shall make an acknowledgment within 30 days of the receipt of the notice. Without the express prior

written consent of the director of the survey and the agency of the State having jurisdiction over the state land, granted for good cause, the exploration claim shall in no way interfere with conservation, recreation, harvesting timber, leasing campsite lots or other activities of the agency having jurisdiction.

4. Recording of exploration claim. No person may have the right of possession of any exploration claim until the exploration claim has been recorded with the director of the survey. The explorer who first records with the director of the survey a validly-staked exploration claim or claims shall be deemed the claim holder of record for the purposes of this subchapter. The record shall contain:

A. The name of the claimant;

B. A general description of the minerals or metals sought;

C. The date of location and a description of the exploration claim as follows:

(1) A reference, using magnetic bearings and distances, to the natural object, permanent monument or survey corner of the state-owned parcel as will identify the claim; and

(2) A description, using magnetic bearings and distances, of each sideline and corner of the exploration claim; and

D. A United States Geological Survey quadrangle base map and an aerial photograph of a scale that shows with reasonable accuracy the outline location and corners of the exploration claim in relation to the state-owned parcel and prominent natural objects or permanent structural features so that the exploration claim may be located on the ground by the director of the survey or his representatives.

5. Fees and terms of exploration claim. The fees and terms of exploration of any claim shall be as follows.

A. The fee for recording, renewing, transferring or changing the size of a claim is \$100, which shall be paid to the director of the survey.

B. The term of the exploration claim shall be for one year, renewable for 5 years from the ini-



tial date of recording by written notice to the director of the survey before June 30th. For claims recorded after April 1st and before June 30th, the first renewal notice shall be due on the 2nd June 30th following. By the end of the 5-year period, any title to the claim shall lapse, unless a mining lease has been issued by the State under this subchapter. The director of the survey may, upon application and for good cause, grant an extension for an additional period not to exceed 2 years. Upon lapse or filing of notice of abandonment of a claim, no person holding the claim immediately prior to the date of the lapse of abandonment, or his representative, partner, affiliate or leasing associate, may relocate on the same area for a period of 60 days.

C. In addition to the recording fee, a rental fee shall be levied from the date of recordation of the claim as follows:

<u>First year</u>	<u>\$ .25 per acre</u>
<u>2nd year</u>	<u>\$ .75 per acre</u>
<u>3rd year</u>	<u>\$ 1.50 per acre</u>
<u>4th year</u>	<u>\$ 2.50 per acre</u>
<u>5th year</u>	<u>\$ 5.00 per acre</u>
<u>6th year</u>	<u>\$20.00 per acre</u>
<u>7th year</u>	<u>\$30.00 per acre</u>

The rental fee payment for the first year shall be due on the date of recordation of the claim. The rental fee payment for the 2nd year and for each year the claim is in effect shall be due on the June 30th which precedes the year for which the payment is due and shall be paid to the director of the survey. For claims recorded after April 1st and before June 30th, the 2nd rental fee payment shall be due on the 2nd June 30th following.

D. An affidavit of investigatory and exploratory work shall be filed each year with the director of the survey on June 30th. At the time of filing that affidavit, the claimant shall demonstrate to the director that investigatory work has been performed on that claim at a rate of at

least \$5 per acre during the year ending June 30th. For claims recorded after April 1st and before June 30th, the first affidavit of investigatory and exploratory work shall be filed on the 2nd June 30th following. All work done shall be described in the affidavit and shall include work which tends to reveal such characteristics of the material sought as length, width, depth, thickness, tonnage and mineral or metal content, or, with respect to nonmetallic minerals, other physical characteristics of the deposit relating directly to the commercial exploitation of the deposit and such other information relating to the exploration work as the director of the survey may require. This information may be shared with other governmental agencies, but shall not constitute records available for public inspection or disclosure pursuant to Title 1, section 408, during the period of time in which the claim is in effect.

E. The failure to comply with any of the requirements of this subsection shall operate as a forfeiture of the claim or claims. Written notice of the forfeiture shall be sent by registered or certified mail to the claimant's last known address. Any claimant who is aggrieved may file a written petition for a hearing before the director of the survey within 14 days after notice of forfeiture has been given. If the petition for a hearing is filed with the director of the survey within the 14-day period, the director of the survey shall, within 30 days, grant a hearing on the forfeiture and give the claimant 10 days' notice of the time and place of the hearing. For good cause, the director of the survey may extend the time for filing the petition. If the claimant is aggrieved by the decision of the director of the survey resulting from the hearing, he may, within 30 days thereafter, appeal to the Superior Court filing a claimant therefor. The court shall fix a time and place for hearing and cause of notice of the hearing to be given to the director of the survey and, after hearing, the court may affirm or reverse the decision of the director of the survey and the decision of the court shall be final. During the pendency of all proceedings under this paragraph, no person may lay claim to the area of dispute. The director of the survey may perform the duties of this paragraph personally or through his designee.

F. Within 6 months of the lapse or termination of a validly located exploration claim or claims, the owner of the claim or claims shall provide to the director one copy of all factual data acquired during exploration of that claim or claims. The factual data shall include, but not be limited to, all geologic maps, drill logs, assay or other analytical data, geochemical maps, geophysical data and metallurgical or other laboratory tests, but shall not include interpretive reports derived from that data.

6. Land use ruling. Any person with a recorded exploration claim shall make application to the director of the agency having jurisdiction over the state lands on which the claim is located for a ruling on the question of whether mining operations can be carried on consistent with any prior or proposed other use by the State or any agency or instrumentality of the State. Such a ruling, that mining operations can be carried on, shall not be made without consulting the director of the survey. No mining lease may be issued under this subchapter without a land use ruling which answers the question in this subsection in the affirmative. A public hearing shall be held prior to any ruling required under this subsection. The ruling shall be made within 180 days of the date of the application and when obtained shall be binding and irrevocable for such period of time as the applicant and the State may agree.

7. Mining lease. Mining leases may be applied for and granted as follows.

A. Any person with a valid recorded exploration claim in accordance with this subchapter may make application for a mining lease to the director of the agency having jurisdiction over the state lands on which the mining lease is sought. The application shall be accompanied by a report from a certified geologist or mining engineer containing all information of a geologic, engineering and operational nature which is required by the director of the survey or the director of the agency having jurisdiction over the state lands on which the mining lease is sought to properly evaluate the application and an accurate survey of the property boundaries certified by a registered surveyor and evidence of ability to finance the proposed mining operations.

B. The director of the agency having jurisdiction over these state lands shall hold a hearing for the purpose of hearing evidence on whether to

grant or deny a mining lease to mine under this section. The hearing shall be held within 90 days of receipt of the application and notice of the date, time and place shall be given to the applicant and public notice shall be made by causing publication of the notice twice in a newspaper of general circulation in the proposed locality or, if none, in the state paper. The date of first publication shall be at least 10 days and the last publication shall be at least 3 days before the date of the hearing.

C. A decision in accordance with this subsection shall be issued within 120 days of the date of the hearing.

D. The director of the agency having jurisdiction over the state lands, with the consent of the director of the survey, may issue a mining lease subject to such terms and conditions as the directors may determine.

E. If a lease is issued, the lessee shall be required to provide a bond in an amount determined by the director of the agency having jurisdiction over the state-owned lands to be necessary to reclaim the area mined and to protect against damage that may be caused to any property located outside the leased area by the lessee's mining operations or, in lieu of a bond, other security determined by the director of the agency having jurisdiction over the state-owned lands to provide the same protection as a bond.

8. Common and undivided interests. The director of the survey and the Director of the Bureau of Public Lands, acting jointly, may, by regulation, establish procedures for the filing of exploration claims and issuance of exploration permits and leases covering state-owned public lands, including public reserved lands, which are comprised of state-owned common and undivided interests. The regulations may condition the issuance of an exploration permit or mining lease and the filing of an exploration claim upon the consent of a majority of the private common and undivided ownership of the parcel of land to which the exploration permit, exploration claim or mining lease relates.

Any permit or lease issued under this section shall extend only to the common and undivided interest of the State. Any partition occasioned by a negative ruling under subsection 6 or 7 shall be conducted

with reasonable expedition. In any partition or location of public reserved land, the Bureau of Public Lands may accept a partition of the surface estate and continue as a cotenant in all or a portion of the mineral estate.

9. Royalty. Royalty payments shall be made as follows.

A. The holder of a lease to mine shall make royalty payments annually or more frequently if so specified in the lease.

B. The amount of royalty payments, including minimum royalties and preproduction payments, together with the other terms and conditions of the lease, shall be set jointly by the director of the survey and the director of the agency having jurisdiction over the state lands. The royalty rate set shall reasonably relate to applicable royalty rates generally prevailing.

10. Disposition of fees and royalties. All fees and royalties accruing to the survey under this subchapter shall be paid into a separate account to be established by the Treasurer of State to be used for salaries and other expenses incurred in the administration of this subchapter, subject to and to the extent permitted by section 553, subsection 3, paragraph E. The account shall not lapse, but shall continue from year to year.

11. Rights-of-way. Any person who has located an exploration claim and has been issued a mining lease in accordance with this subchapter may, with the consent of the director of the agency having jurisdiction over those state lands and consistent with the law, have the right of access across any lands owned or controlled by the State to and from that location. The holder of a mining lease may be issued a permit giving him authority to open, construct, put in, maintain and use ditches, tunnels, pipes, conduits, flumes and other works through, over and upon that land for drainage and passage of water, together with the right to construct dams, provided that no such water flows on land of others, in connection with the working of his mine to bring water to the mine necessary or convenient for its operation with such conditions and restrictions as may be imposed.

12. Mining under bodies of water. Where any mineral is situated under or in the bed of a stream or lake, and for the efficient working of the mineral

deposit, it is necessary to divert the water of that stream within the boundaries of public land, or drain any lake, the director of the agency having jurisdiction over these state-owned lands may permit the diversion or drainage to be done, subject to such provisions, for the benefit of any persons who are entitled to the use of the water of that stream or lake in its natural state, as to him may seem just and expedient.

13. Annual reports. Any person with a mining lease engaged in mine development or mining under this subchapter shall, in the month of June following the year the operation was carried on, pay all applicable fees, rentals and royalties and file an annual report with the director of the survey and director of the agency having jurisdiction over the state-owned land setting forth:

- A. The location of the operation;
- B. The quality and grade of mineral products or ores produced;
- C. The amount of royalty which has accrued on material extracted;
- D. The number of persons ordinarily employed at operation below ground and above ground; and
- E. Any other information, relating to the mining lease, mine development or mining, the director of the bureau and the director of the agency having jurisdiction over the state-owned lands may require by regulation.

This information may be shared with other government agencies, but shall not constitute records available for public inspection or disclosure pursuant to Title 1, section 408.

14. Termination. In the event that any explorer, claimant or lessee violates any of this subchapter or any rule, the director of the survey or the director of the agency having jurisdiction over the state-owned lands shall notify the explorer, claimant or lessee, as the case may be, of the alleged violation and of the nature of the alleged violation, by sending the notice by registered or certified mail to him at his last known address. If the violation is not remedied within 30 days after the date of mailing the notice, the permit, claim or lease of the violator in existence at the time of the

violation may be terminated by the State through the director of the survey or the director of the agency having jurisdiction over the state-owned lands by giving written notice of termination in the same manner specified for notice of violation. For cause, the State, through the director of the survey or the director of the agency having jurisdiction over the state-owned lands, may extend such further time for compliance as it may determine. Any person who is aggrieved may file a written petition for a hearing before the State within 30 days of the date of the giving of written notice of termination by the State. The hearing shall take place within 30 days of receipt of the petition and a decision shall be rendered by the State within 60 days following the final adjournment of the hearing. Appeals from the State's decision shall be pursuant to the Maine Rules of Civil Procedure as they apply to appeals from rulings of public agencies.

15. Injunctions against violation. Whenever it appears that any person is violating or threatening to violate this subchapter or any rule or order issued pursuant to this subchapter, the State may seek an injunction against that person in the Superior Court of the county in which the office of the director of the survey and the director of the agency having jurisdiction over the state-owned lands is located or of any county where the violation occurs or is threatened, or in the county in which the defendant resides or in which any defendant resides if there is more than one defendant, to restrain the person from continuing the violation or from carrying out the threat of violation. In any such action, the court shall have jurisdiction to grant to the State, without bond or other undertaking, such prohibitory or mandatory injunctions as the facts may warrant, including temporary restraining orders and preliminary injunctions.

§549-C. Compliance with regulatory laws

Nothing in this subchapter may be deemed to relieve any explorer or mining lessee from the obligation to comply with all applicable environmental or other regulatory laws and rules of the State.

Sec. 3. 12 MRSA c. 201-A, sub-c. IV is enacted to read:

SUBCHAPTER IV

INFORMATION ON MINING EXPLORATION

§550. Annual exploration registration

Annual registration shall be required as provided in this section.

1. Registration. Any person conducting mineral exploration where the total exploration expenses incurred in a calendar year exceed \$25,000 on private, leased or otherwise acquired lands within the State must register with the director. Registration shall be valid for the fiscal year and must be renewed annually.

2. Information. Registration shall include the following information:

A. The name and address of the person conducting the exploration;

B. The name and address of the parent and any subsidiaries or domestic affiliates of the corporation engaged in exploration activities in this State; and

C. The names of counties where exploration is expected to occur.

§550-A. Notice of intent to file

Intent to file shall be required as provided in this section.

1. Anticipated filing, notices of intent to file. Companies anticipating to file for a permit under Title 38, Article 6 to mine a metallic mineral deposit on a site larger than 20 acres on state land or privately-owned land shall file a notice of intent to file with the director at least 6 months prior to the date when an application for a site location permit will be filed.

Companies shall publish the notice of intent in a daily or weekly newspaper having general circulation in the municipality in which the deposit is located, on the earliest date practicable following the filing of the notice with the director, and shall repeat the publication of the notice at weekly intervals for a total of 4 successive weeks.

2. Information. Notice of intent to file shall include:

A. The name and address of the applicant;



B. The name and address of the parent and any subsidiary or domestic affiliates of the corporation engaged in exploration activities in this State;

C. The location of the intended mining site; and

D. The ores to be extracted from the intended mining site.

Effective September 19, 1985.

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## CHAPTER 202

H.P. 572 - L.D. 843

AN ACT Concerning Striped Bass.

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

12 MRSA §6555, as repealed and replaced by PL 1983, c. 250, is amended to read:

§6555. Striped bass; method of taking

It shall be unlawful to fish for or take striped bass in the coastal waters, except by hook and line or, between sunrise and sunset, by use of a spear.

It shall be unlawful to take or possess striped bass which are less than ~~16~~ 24 inches fork length.

~~No more than 4 striped bass less than 24 inches fork length may be taken in any one day.~~

Effective September 19, 1985.

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## CHAPTER 203

H.P. 588 - L.D. 858

AN ACT to Clarify Sentences Permissible for a Crime Committed by a Parolee.

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