

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND TWELFTH LEGISLATURE

SECOND REGULAR SESSION
January 8, 1986 to April 16, 1986

SECOND SPECIAL SESSION
May 28, 1986 to May 30, 1986

AND AT THE

THIRD SPECIAL SESSION
October 17, 1986

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

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

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
SECOND REGULAR SESSION
of the
ONE HUNDRED AND TWELFTH LEGISLATURE
1985

perform the act with respect to which the violation occurred.

Sec. 41. 36 MRSA §5311, sub-§2, as amended by PL 1979, c. 378, §47, is repealed.

Sec. 42. 36 MRSA §5312, as amended by PL 1977, c. 694, §733, is repealed.

Sec. 43. 36 MRSA §5312-A, as amended by PL 1977, c. 694, §734, is repealed.

Sec. 44. 36 MRSA §5313, as amended by PL 1979, c. 541, Pt. B, §51, is repealed.

Sec. 45. 36 MRSA §§5314 and 5315, as enacted by P&SL 1969, c. 154, §F, are repealed.

Sec. 46. 36 MRSA §5331, as amended by PL 1983, c. 480, Pt. A, §68, is repealed.

Sec. 47. 39 MRSA §57-C, sub-§2, as enacted by PL 1985, c. 372, Pt. A, §23, is amended to read:

2. Due date. The assessment imposed by this section is due on or before the 60th last day of the 2nd month after the close of the calendar quarter.

Sec. 48. Effective dates. Sections 25 and 26 of this Act shall become effective for leases entered into on or after July 1, 1986. Section 34 of this Act shall become effective for tax years beginning on or after January 1, 1986. Sections 27 and 35 of this Act shall become effective for tax years beginning on or after January 1, 1987.

Effective July 16, 1986, unless otherwise indicated.

CHAPTER 692

S.P. 926 - L.D. 2313

AN ACT to Clarify the Authority of Harbor Masters.

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

Whereas, it is desirable that coastal municipalities regulate activity in their harbors and provide

an orderly means by which moorings are assigned and located; and

Whereas, many coastal municipalities have enacted ordinances regulating activity in their harbors and providing for an orderly means by which moorings are assigned and located; and

Whereas, a recent Superior Court decision has cast doubt on the authority of municipalities to enact such ordinances; and

Whereas, an immediate clarification of the authority of municipalities to enact these ordinances is necessary prior to the approaching boating season; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 38 MRSA §1, as amended by PL 1985, c. 531, §2, is repealed and the following enacted in its place:

§1. Appointment; compensation

The municipal officers of a town, on request by any person desiring mooring privileges or regulation of mooring privileges for boats or vessels, shall annually appoint a harbor master who shall be subject to all the duties and liabilities of that office as prescribed by state law, regulations adopted by the municipal officers and municipal ordinances. In case of the failure or refusal of the harbor master to perform these duties, he commits a civil violation for which a forfeiture of \$25 shall be adjudged, for the benefit of the town, for each intentional neglect or refusal to attend the duties. The municipal officers may establish his compensation and may, for cause by them declared in writing, after due notice to the officer and hearing, if requested, remove him and appoint another in his stead.

The municipal officers may prohibit a harbor master from making arrest or carrying a weapon. Any law enforcement officer vested with the authority to carry

a weapon and make arrests shall have the authority to enforce the provisions of this subchapter.

Sec. 2. 38 MRSA §7 is enacted to read:

§7. Relation to other laws

Nothing in this subchapter may be construed to be a limitation on the authority of municipalities to enact ordinances to regulate the assignment or placement of moorings and other activities in their harbors. These ordinances may include, but need not be limited to: A process for assigning mooring privileges and determining the location of moorings; a waiting list for the assignment of mooring privileges; a fee schedule; construction standards for moorings; time limits on the mooring of vessels; a process for appeals from decisions of the harbor master; and provisions which establish a harbor commission or committee to administer the ordinance and oversee the duties of the harbor master. Regulations adopted by the municipal officers under section 2 shall remain in effect unless the municipality's legislative body enacts an ordinance pertaining to the same matter pursuant to the Constitution of Maine, Article VIII, Part 2, and Title 30, section 1917.

A municipal ordinance which addresses the assignment of mooring privileges must provide and reserve a minimum number of moorings for nonresidents which shall be a number not less than 10% of the number provided for residents. When the number of resident moorings is less than 10, but more than 5, at least one nonresident mooring shall be provided. When the number of resident moorings is 5 or less, nonresident moorings need not be required. The period of issuance for resident and nonresident moorings shall be the same. Subsequent to that period, the municipality shall make any resident or nonresident moorings not granted during the issuance period available to residents or nonresidents.

All existing municipal ordinances dealing with the subjects of this section currently in effect and operation on the effective date of this section are declared to be valid and shall continue in effect until rescinded, amended or changed according to municipal ordinance.

Sec. 3. Study order. The Department of Conservation shall conduct a study concerning all local and statewide issues raised by this bill. The department

shall consult with and seek the advice of the following organizations or parties:

1. The Department of Inland Fisheries and Wildlife;
2. The Department of Environmental Protection;
3. The Department of Marine Resources;
4. The Maine Municipal Association;
5. The Maine Harbor Master Association;
6. The United States Army Corp. of Engineers;
7. The Environmental Protection Agency;
8. The United States Coast Guard;
9. The Maine Marine Industries Association;
10. The Marine Resources Advisory Council;
11. Private boating interests, both resident and nonresident; and
12. The Department of the Attorney General.

The study shall cover all major points of view expressed by those organizations or parties and how they were reconciled in reaching the study's conclusions. Agencies disagreeing with the recommended legislation shall be invited by the Department of Conservation to submit minority reports and legislation. The study with supporting legislation shall be reported to the Legislature by January 1, 1987.

Sec. 4. Repeal. All sections of this Act shall be repealed on April 1, 1987.

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

Effective April 15, 1986.

CHAPTER 693

H.P. 1567 - L.D. 2217

AN ACT to Implement Certain Recommendations
of the State Compensation Commission.