

# MAINE STATE LEGISLATURE

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

AS PASSED BY THE  
ONE HUNDRED AND THIRTEENTH LEGISLATURE  
FIRST REGULAR SESSION

December 3, 1986 to June 30, 1987

Chapters 1-542

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

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Twin City Printery  
Lewiston, Maine  
1987

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**PUBLIC LAWS**

OF THE

**STATE OF MAINE**

AS PASSED AT THE  
FIRST REGULAR SESSION  
of the  
ONE HUNDRED AND THIRTEENTH LEGISLATURE  
1987

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10. Modification or termination. An order for parental rights and responsibilities with respect to a child may, upon petition of either spouse, be modified or terminated as circumstances require. The parties shall be referred to mediation as under subsection 4.

The relocation, or intended relocation, of a child resident in this State to another state by a parent, when the other parent is a resident in this State and there exists an award of shared or allocated parental rights and responsibilities concerning the child, is a substantial change in circumstances.

Sec. 3. 19 MRSA §752, sub-§12, as enacted by PL 1983, c. 813, §5, is amended to read:

12. Modification of orders; compulsory process. Upon the motion of one or both of the parents; any person granted parental rights and responsibilities with respect to a child under this section; the Department of Human Services; or any blood relative of, or any person standing in loco parentis to, the minor child, the court may alter its order concerning parental rights and responsibilities with respect to a minor child as circumstances require. The parties shall be referred to mediation as under subsection 4.

The relocation, or intended relocation, of a child resident in this State to another state by a parent, when the other parent is a resident in this State and there exists an award of shared or allocated parental rights and responsibilities concerning the child, is a substantial change in circumstances.

In execution of the powers given it under this Title, the court may employ any compulsory process which it deems proper, by execution attachment or other effectual form, on which costs shall be taxed as in other actions.

Effective September 29, 1987.

## CHAPTER 180

H.P. 945 — L.D. 1268

### AN ACT to Clarify and Amend the Treatment of Overboard Effluent Discharges into the Waters of the State.

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

Whereas, over 25% of the State's shellfish habitat is adversely impacted by domestic sewage, with 9,000 of the State's 49,000 acres of mussel and clam habitat completely closed to all harvesting of shellfish due to severe contamination from sewage pollution and another 3,000 acres partially closed; and

Whereas, another 1,400 acres are open only in the

winter when summer residences are unoccupied; and

Whereas, this closure represents an enormous loss to the State's economy; and

Whereas, effluent "overboard" waste discharges from single-family residences and groups of residences have resulted in a substantial amount of this shellfish habitat closure; and

Whereas, there are approximately 3,000 existing overboard discharges making it difficult for the Department of Environmental Protection to properly monitor them and ensure their compliance with license requirements; and

Whereas, permission to discharge sewage "overboard" into the State's rivers and coastal waters was originally granted to existing homeowners because their lots were inadequate for traditional in-ground septic treatment or there was no centralized municipal sewage treatment available to these existing homeowners to upgrade their untreated "straight pipes;" and

Whereas, in recent years, new overboard discharge permits have been granted, at a rate of approximately 300 per year, for new construction with no existing need, in some cases to landowners who have no immediate intention to build and for increasing amounts of effluent; and

Whereas, finding new methods of treating and reducing discharge of residential sewage into the State's coastal and freshwater areas is vital to the continued economic viability of traditional water-based industries and to economic growth from tourism; 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 §352, sub-§4, TABLE I, 22nd, 23rd and 24th lines, as repealed and replaced by PL 1985, c. 746, §14, are amended to read:

413, Waste Discharge license					
A. Residential	5.00	45.00	15.00	30.00	10.00
B. Commercial	10.00	200.00	90.00	400.00	160.00

Sec. 2. 38 MRSA §414, sub-§2-A is enacted to read:

2-A. Relicensing. The relicensing of an existing licensed waste discharge prior to or after the expiration of the term of the existing license is subject to all of the requirements of this chapter. For the purposes of this chapter, the term "relicense" includes, without limitation, the terms, "renewal," "renew," "reissue" and "extend."

Sec. 3. 38 MRSA §451-A, sub-§7, as amended by PL 1983, c. 566, §29, is repealed.

Sec. 4. 38 MRSA §464, sub-§4, ¶A, as enacted by PL 1985, c. 698, §15, is amended to read:

A. Notwithstanding section 414-A, the board shall not issue a water discharge license for any of the following discharges:

(1) Direct discharge of pollutants to waters having a drainage area of less than 10 square miles, except that discharges into these waters which were licensed prior to January 1, 1986, shall be allowed to continue only until practical alternatives exist;

(2) New direct discharge of domestic pollutants to tributaries of Class-GPA waters;

(3) Any discharge into a tributary of GPA waters which, by itself or in combination with other activities, causes water quality degradation which would impair the characteristics and designated uses of downstream GPA waters or causes an increase in the trophic state of those GPA waters;

(4) Discharge of pollutants to waters of the State which imparts color, taste, turbidity, toxicity, radioactivity or other properties which cause those waters to be unsuitable for the designated uses and characteristics ascribed to their class; and

(5) Discharge of pollutants to any water of the State which violates sections 465, 465-A and 465-B, except as provided in section 451; causes the "pH" of fresh waters to fall outside of the 6.0 to 8.5 range; causes the "pH" of estuarine and marine waters to fall outside of the 7.0 to 8.5 range; or causes fish for human consumption to be injurious to human health as determined by the United States Food and Drug Administration under the procedures established by United States Code, Title 21, section 342 or as determined by the Department of Human Services. The Department of Human Services shall establish a protocol for determining risk in these situations. The protocol shall be promulgated as a rule in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375; and

(6) New discharges of domestic pollutants to the surface waters of the State which are not conveyed and treated in municipal or quasi-municipal sewage facilities. "New discharge" means any overboard discharge which is licensed after the effective date of this section. For purposes of licensing, the board shall treat an increase in the licensed volume or quantity of an existing discharge or an expansion in the months during which the discharge will take place as a new discharge of domestic pollutants.

Notwithstanding the provisions of this subparagraph, an increase in the volume or quantity of

domestic pollutants in a licensed discharge of domestic pollutants emanating from an existing commercial or industrial business is not prohibited so long as, in addition to all other provisions of applicable law, all the following conditions are met:

(a) The board finds that, based on the past record of compliance by the licensee with all requirements of its existing discharge licenses, the licensee is likely to comply with the requirements of any subsequent license governing the increased discharge. The board shall not make this finding if there have been significant, numerous or repeated violations of any standard, limit or condition of the existing licenses;

(b) The licensee agrees, as a license condition, to retain qualified employees or independent consultants to ensure that the overboard discharge system is meeting all requirements of the license and to test, monitor and maintain the system. The board shall require, as a license condition, that the licensee test the effluent on a weekly basis to ensure that the license requirements are being met and that the licensee promptly submit reports of these tests to the department; and

(c) The board finds that all requirements of paragraph G have been met with respect to the proposed increase in the overboard discharge.

Sec. 5. 38 MRSA §464, sub-§4, ¶G is enacted to read:

G. The board shall not license, relicense or allow any transfer of any license for any overboard discharge licensed or in existence prior to the effective date of this paragraph, unless the board finds that the discharge meets all waste discharge licensing requirements of state law.

(1) The board may not find that the discharge meets the requirements of best practicable treatment pursuant to section 414-A for purposes of relicensing, unless it finds that the applicant has:

(a) Fully investigated all alternatives to relocate or consolidate existing discharge pipes, including connection to a municipal or quasi-municipal sewage treatment system and has documented to the board why such an alternative is not available;

(b) Fully investigated and implemented all technologically proven alternative methods of waste water disposal consistent with the Maine State Plumbing Code which will not result in an overboard discharge, as long as those methods will cause more than a minimal reduction in the impact on the water quality of the receiving waters;

(c) Fully investigated and implemented all technologically proven methods of reducing the volume

and quantity of pollutants discharged overboard in order to improve effluent quality and decrease the environmental impact of the discharge so long as the methods will cause more than a minimal reduction in the volume and quality of pollutants discharged; and

(d) Shown that the discharge will not adversely affect aquatic life or cause or contribute to the new or expanded closure of a shellfish area by the Department of Marine Resources.

(2) The applicant is responsible for submitting to the board all information necessary to make the findings and determinations required by this section.

(3) Beginning on the effective date of this section, no overboard discharge license may have a term of more than 5 years. All existing licenses with expiration dates occurring in 1988 and 1989 shall expire on the date stated in the license. All other existing licenses shall expire on the same day and month stated in the existing license, but on a new year, determined by the following schedule:

<u>Current Expiration Date</u>	<u>New Date</u>
<u>1990, 1991</u>	<u>1989</u>
<u>1992, 1993</u>	<u>1990</u>
<u>1994, 1995</u>	<u>1991</u>
<u>1996, 1997</u>	<u>1992</u>
<u>1998</u>	<u>1993</u>

(4) At the time of relicensing and at each subsequent relicensing of an overboard discharge, the board shall impose all conditions necessary to meet the requirements of this section and all other relevant statutory provisions.

**Sec. 6.** 38 MRSA §466, sub-§§9-A and 9-B are enacted to read:

**9-A. Overboard discharge.** “Overboard discharge” means discharge to the surface waters of the State of domestic pollutants not conveyed to and treated in municipal or quasi-municipal sewerage treatment facilities.

**9-B. Quasi-municipal.** “Quasi-municipal” means any form of ownership and management by a governmental unit embracing a portion of a municipality, a single municipality or several municipalities which is created by law to deliver public waste water treatment services, but which is not a general purpose governmental unit.

**Sec. 7. Allocation.** The following funds are allocated from the Maine Environmental Protection Fund to carry out the purposes of this Act.

<u>1987-88</u>	<u>1988-89</u>
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ENVIRONMENTAL  
PROTECTION,  
DEPARTMENT OF

Bureau of Water Quality Control

Positions	(3)	(3)
Personal Services	\$75,681	\$82,090
All Other	12,900	9,450
Capital Expenditures	2,235	

Total	\$90,816	\$91,540
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Provides funds to carry relicensing responsibilities under the new provisions for overboard discharges. A Civil Engineer I and 2 Environmental Services Specialist II positions are established.

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

Effective June 1, 1987.

## CHAPTER 181

H.P. 276 — L.D. 359

### AN ACT Concerning Interdepartmental Coordination of Services to Children and Families.

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

**Sec. 1.** 34-B MRSA §1214 is enacted to read:

**§1214. Committee for the Interdepartmental Coordination of Services to Children and Families**

**1. Establishment.** The Committee for the Interdepartmental Coordination of Services to Children and Families is established.

**2. Purpose.** It is the intent of the Legislature to encourage the coordination of policies and programs for Maine children and families.

**3. Membership.** The committee shall be composed of 4 members: The Commissioner of Corrections; Commissioner of Educational and Cultural Services; Commissioner of Human Services; and Commissioner of Mental Health and Mental Retardation.

**4. Goals of the committee.** The goals of the committee shall be:

A. To encourage a statewide system of coordinated services, which are responsive to the current needs of children and families and which are delivered by a partnership of public, private and nonprofit state level and community based agencies, and to promote access to services by all children and their families who are in need of these services;

B. To evaluate on a continuing basis the allocation of resources to ensure the availability of quality services delivered in a coordinated and efficient manner