

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.

Twin City Printery
Lewiston, Maine
1987

PUBLIC LAWS

OF THE

STATE OF MAINE

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

Effective September 29, 1987.

CHAPTER 368

H.P. 1273 — L.D. 1740

**AN ACT to Improve Enforcement Procedures
under the Land Use Regulation Law.**

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

Whereas, the Law Court has recently ruled that the current \$500 per day penalty specified in law is the maximum penalty for violations of the land use regulation laws regardless of the extent or nature of environmental damage resulting from the violation; and

Whereas, the existing penalties for violations of the land use conservation laws do not provide a sufficient deterrent to potential violators; 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:

12 MRSA §685-C, sub-§8, as amended by PL 1977, c. 694, §235-A, is further amended to read:

8. Enforcement, inspection and penalties for violations. Standards, rules, regulations and orders issued by the commission pursuant to this chapter shall have the force and effect of law. No development may be undertaken, except in conformance with this chapter, the standards, rules, regulations and orders enacted or issued pursuant to this chapter, and any real estate or personal property existing in violation of such shall be a nuisance. For the purposes of inspection and to assure compliance with standards, orders and permits issued or adopted by the commission, authorized commission staff or consultant personnel may conduct such investigations, examinations, tests and site evaluations deemed necessary to verify information presented to it, and may obtain access to any lands and structures regulated pursuant to this chapter.

~~A violation of any provision of this chapter or the rules promulgated hereunder is punishable by a fine of up to but not more than \$500 for each day of the violation.~~

Any person who violates any provision of this chapter, or the terms or conditions of any standards, rules, permits or orders adopted or issued pursuant to this chapter, is subject to a civil penalty, payable to the State, of not more than \$10,000 for each day of the violation.

In addition to the other penalties provided, the commission may, in the name of the State of Maine, institute any appropriate action, injunction or other proceeding to prevent, restrain, correct or abate any violation hereof or ~~of the orders or of the standards; or rules or regulations promulgated hereunder.~~ This action may include, but is not limited to, proceedings to revoke or suspend any commission permit or approval, taken either before the commission itself in accordance with Title 5, section 10004, before the Administrative Court in accordance with Title 4, sections 1152 to 1157, or, notwithstanding the provisions of Title 4, section 1151, subsection 2, or Title 5, section 10051, before the Superior Court as part of an enforcement action brought by the commission.

In addition to any such penalties or remedies provided in this subsection, the court may order restoration of any area affected by any action or inaction found to be in violation of any of the provisions of this chapter or of any order, standard, rule or permit of the commission, or any decree of the court, to the condition of such area prior to the violation. When such restoration is not practicable, the court may order other actions to be taken by the person charged with the violation which are in mitigation of the damage caused by the violation.

A person who willfully or knowingly falsifies any statement contained in the certification required, a permit application or other information required to be submitted to the commission shall be punished by a fine of up to but not more than \$500 in violation of this chapter and subject to the penalties of this chapter.

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

Effective June 19, 1987.

CHAPTER 369

S.P. 497 — L.D. 1514

**AN ACT to Amend the Laws Governing Diagnostic
Evaluations of Juveniles for Juvenile
Court Proceedings.**

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

15 MRSA §3309-B is enacted to read:

§3309-B. Limitations on diagnostic evaluations in a secure detention facility

The court shall not order a juvenile to undergo a diagnostic evaluation at a secure detention facility unless the juvenile meets the requirements of section 3202-A, subsection 4, paragraphs C and D.

Effective September 29, 1987.