

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

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

E. Procedures for dissemination of records.

2. Grants and property. The commissioner may accept grants and property decreed forfeit by any court of competent jurisdiction.

3. Contracts or agreements. The commissioner may enter into contracts and agreements with municipal, county and state law enforcement agencies to accomplish the goal of the bureau and carry out the rules, policies and practices of the board.

§2957. Confidentiality

Notwithstanding any other provisions of law, the investigative records of the bureau shall be and are declared to be confidential and all meetings of the board, as well as meetings of the bureau shall not be subject to Title 1, sections 401 to 410.

Effective September 29, 1987.

CHAPTER 412

H.P. 1315 — L.D. 1794

AN ACT Dealing with the Authority of Harbor Masters.

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Sec. 1. 38 MRSA §1, as amended by PL 1985, c. 531, §2 and as repealed and replaced by PL 1985, c. 692, §§1 and 4, is repealed and the following enacted in its place: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 appoint a harbor master for a term of not less than one year, who shall be subject to all the duties and liabilities of that office as prescribed by state law and regulations adopted by the municipal officers and municipal ordinances. If the harbor master refuses 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 to the duties. The municipal officers may establish his compensation and, 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 has the authority to enforce this subchapter.

Sec. 2. 38 MRSA §2, as amended by PL 1965, c. 242, is further amended to read:

§2. Rules for channel lines; enforcement

The municipal officers of all maritime towns and plantations shall and the county commissioners in the case of maritime unorganized townships may make rules and regulations, with suitable provision for enforcement, for the keeping open of convenient channels for the passage of vessels in the harbors and waterways of the towns or townships for which they act, and shall may establish the boundary lines of such those channels and assign suitable portions of their harbors and other coastal and tidal waters within their jurisdiction for anchorages.

Such rules and regulations as may be made by such those municipal officers or county commissioners shall be enforced and carried out by the harbor master of said that town or unorganized township, who may appoint a deputy, to act in case of his absence or disability, his deputy, if any, or any other law enforcement officer of the State or any political subdivision thereof of the State.

The harbor master may appoint deputies who, under his direction, shall enforce and carry out the rules and regulations of this section.

Sec. 3. 38 MRSA §3 is repealed and the following enacted in its place:

§3. Mooring sites; harbor master compensation

In all harbors wherein channel lines have been established by the municipal officers, as provided in section 2, and in all other coastal and tidal waters and harbors where mooring rights of individuals are claimed to be invaded and protection is sought of the harbor master, he shall assign and indicate only to the master or owner of boats and vessels the location which they may occupy for mooring purposes and shall change the location of those moorings from time to time when the crowded condition of that harbor, the need to conform to section 6 or other conditions render the change desirable.

Whenever practicable, the harbor master shall assign mooring privileges in those waters where individuals own the shore rights to a parcel of land, are masters or owners of a boat or vessel and are complainants, and shall locate suitable mooring privileges therefor for boats and vessels, temporarily or permanently, as the case may be, fronting their land, if so requested, but not to encroach upon the natural channel or channels established by municipal officers; provided that not more than one mooring may be assigned to any shorefront parcel of land under this privilege. Notwithstanding section 11, persons who, prior to January 1, 1987, owned shore rights of at least 100 feet of frontage regardless of the size of the lot shall have mooring privileges assigned according to this section. The limitation of one mooring assigned under this privilege shall not prevent the owner of a shore front parcel from receiving additional mooring assignments under the allocation system for all other residents.

The municipal officers shall fix the compensation of the harbor master for those services rendered.

Sec. 4. 38 MRSA §4 is repealed and the following enacted in its place:

§4. Neglecting to remove or replace moorings

In case of the neglect or refusal of the master or owner of any boat or vessel to remove his mooring or to replace it by one of different character, when so directed by the harbor master, that harbor master shall cause the entire mooring to be removed or the buoy removed and the chain dropped to the bottom or shall make such change in the character of the mooring as required, and collect from the master or owner of that boat or vessel the sum of \$100 for either of those services rendered and the necessary expenses.

Before removing a mooring or a buoy, a harbor master shall notify the master or owner, if ownership can be determined, by mail at his last known address of the action desired of him, the fact that the mooring will be removed and the fine. If the matter is not settled to his satisfaction within 2 weeks, the harbor master may take the action provided for in this section.

Sec. 5. 38 MRSA §5, as amended by PL 1977, c. 696, §331, is repealed and the following enacted in its place:

§5. Removal of vessels obstructing anchorage

A harbor master, upon complaint to him by the master, owner or agent of any vessel, shall cause any other vessel or vessels obstructing the free movement or safe anchorage of that vessel to remove to a position to be designated by him and to cause, without any complaint being made to him, any vessels anchoring within the channel lines as established by the municipal authorities, as provided in section 2, to remove to such anchorage as he may designate. Whoever neglects or refuses to obey the orders of the harbor master is guilty of a Class E crime.

If that vessel has no crew on board or if the master or other person in charge neglects or refuses to move such vessel as directed by the harbor master, the harbor master may put a suitable crew on board and move that vessel to a suitable berth at a wharf or anchorage at the cost and risk of the owners of the vessel and shall charge \$100, to be paid by the master or owner of that vessel, which charge, together with the cost of the crew for removing that vessel the harbor master may collect by civil action.

Sec. 6. 38 MRSA §7, 2nd and 3rd ¶¶, as enacted by PL 1985, c. 692, §§2 and 4, are repealed and the following enacted in their place:

If a municipality receives more applications for mooring privileges on state-owned lands that are controlled by its rules or ordinances than there are mooring spaces, the municipality shall assign spaces as they become available from a waiting list in the order in which names were placed on the list, except as provided in this paragraph. If there are applicants who are nonresidents who wish

to moor a vessel whose principal use is noncommercial and less than 10% of the moorings are currently assigned to persons fitting this description, then the mooring shall be assigned to the first such person on the list. If there are applicants who are nonresidents who wish to moor a vessel whose principal use is commercial and less than 10% of the assigned moorings are currently assigned to persons fitting this description, then the mooring shall be assigned to the first such person on the list. If both nonresident noncommercial and nonresident commercial assignments are below 10% and there are both types of applicants on the waiting list, the available space shall be assigned to an applicant in the category that is the farthest below 10%.

The burden of proof in determining residence and the principal use of a vessel shall be upon the applicant.

It is not a requirement of this section that a person lose a current mooring assignment to meet the objectives of this section. Each year, persons with mooring assignments shall report to the harbor master their anticipated residency status for the next year and whether they anticipate the principal use of their boat to be commercial or noncommercial. The harbor master shall update the percentage of mooring holders in each category from this data.

Waiting lists in effect at the time that this section becomes law may continue in effect, but persons shall be selected from these lists in accordance with the allocation provisions of this section. If, at the time a person applies for a mooring there is no waiting list, this person may be assigned a mooring without regard to the allocation provision of this section.

Moorings shall not be transferred. Assignments shall not be rented unless the provision for rental was part of the agreement when the mooring was assigned.

Shore front property owners shall be assigned mooring privileges as established in section 3.

Assignment of these mooring privileges does not confer any right, title or interest in submerged or intertidal lands owned by the State. To the extent that there is any inconsistency between this subchapter and any law which establishes or otherwise provides for a port authority, board of harbor commissioners or similar authority for any coastal waters of the State, that inconsistency shall be resolved in favor of this subchapter.

If the mooring fee charged to nonresidents exceeds \$20 a year, the fee charged shall be reasonable in relation to the costs involved in providing that mooring and shall not exceed 5 times the amount charged to residents.

This section shall be construed broadly in order to accomplish the distribution of moorings to nonresidents as specified in this section.

Sec. 7. 38 MRSA §§8, 9, 10 and 11 are enacted to read:

§8. Waiting list

Whenever there are more applicants for a mooring assignment than there are mooring spaces available, the harbor master or other town official shall create a waiting list. The town officials shall work out a reasonable procedure for persons to add their names to this list. The procedure shall be posted in a public place. The list shall be considered a public document under the freedom of access law.

§9. Abandonment of watercraft

No person may bring into or maintain in the harbor any derelict watercraft, watercraft for salvage, or abandon any watercraft in the harbor without a permit from the harbor master or, if there is no harbor master, the appropriate municipal official. Whoever does so without permit is guilty of a Class E crime. Watercraft which are to be salvaged by firms licensed by the State to do salvage work shall be excluded from this section. The municipal board or commission entrusted with harbor management shall be the sole determiner as to what constitutes a watercraft that is derelict and what constitutes a watercraft that is abandoned.

§10. Harbor master liability

In addition to the immunities from liability and the limitations and defenses provided under the Maine Tort Claims Act, Title 14, sections 8103, 8111 and 8112, a harbor master who, in the performance of his statutory duties as set forth in sections 4 and 5, causes any damage to property or any injury to a person shall not be liable for damage or injury, unless the damage or injury is a direct result of the gross negligence, recklessness or intentional misconduct of the harbor master.

§11. Definitions

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

1. Municipal resident. "Municipal resident" means any person who occupies a dwelling within the municipality for more than 180 days in a calendar year. A municipality may by ordinance include other persons in the definition of resident.

2. Parcel of land. "Parcel of land" means the larger of the minimal buildable lot size in the municipality or 20,000 square feet and, in either case, including 100 feet of shoreline frontage.

3. Watercraft. "Watercraft" means any type of vessel, boat, barge, float or craft used or capable of being used as a means of transportation on water other than a seaplane.

Sec. 8. **Effective date.** This Act shall take effect on April 1, 1988.

Effective April 1, 1988.

CHAPTER 413

S.P. 618 — L.D. 1819

AN ACT to Provide a Mechanism for Allocations of the State Ceiling on Private-activity Bonds.

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

Whereas, the Maine Revised Statutes, Title 10, section 363, as enacted by Public Law 1985, chapter 594, and amended by Public Law 1987, chapter 3, makes a partial allocation of the state ceiling on private-activity bonds to some issuers, but leaves a portion of the state ceiling unallocated and does not provide sufficient allocations for certain types of issues of private-activity bonds, particularly student-loan bonds, which may require an allocation prior to the effective date of this Act if not enacted on an emergency basis; and

Whereas, if such bond issues must be delayed due to lack of available state ceiling, the rates and terms under which such bonds may be issued may be adversely affected, resulting in increased costs to beneficiaries, including students, or even unavailability of financing for student loans; 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. 10 MRSA §361, sub-§2, as enacted by PL 1985, c. 594, §1, is amended to read:

2. Carryforward. "Carry-forward Carryforward" means that portion of the state ceiling for any calendar year which is unallocated to specific bond issues during that calendar year and which is available to be carried forward to be used in later years under applicable federal law the United States Code, Title 26.

Sec. 2. 10 MRSA §361, sub-§6, as enacted by PL 1985, c. 594, §1, is amended to read:

6. Tax-exempt bond. "Tax-exempt bond" means a bond the interest on which is exempt from federal taxation not included in the gross income of the owners for federal income tax purposes pursuant to the United States Code, Title 26, Section 103.