

# 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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The Department of Marine Resources shall not issue or renew a wholesale seafood license as set forth in Title 12, section 6851; a shellfish transportation license as set forth in Title 12, section 6855; or a shellfish certificate as set forth in Title 12, section 6856, for the purpose of dealing in mahogany quahogs without proof of certification by the State Tax Assessor, as required by this chapter. The Department of Marine Resources shall make available to the State Tax Assessor any licensing information necessary to implement this section.

in the preamble, this Act shall take effect when approved, except that section 7 of this Act shall take effect on December 31, 1987.

Effective June 29, 1987, unless otherwise indicated.

**CHAPTER 514**

S.P. 601 — L.D. 1764

§4715. Dealer reports of purchases and payment of taxes

**AN ACT to Enhance Local Control of Community Growth and Strengthen Maine's Land Use Laws.**

Every dealer shall keep, as a part of his permanent records, a record of all mahogany quahogs purchased at point of first sale. These records shall be open for inspection by the State Tax Assessor at all times. Every dealer shall, on or before the 10th day of each month, render a report to the State Tax Assessor, stating the number of bushels purchased by him during the preceding calendar month, on forms to be furnished by the State Tax Assessor, and, at the same time, shall pay to the State Tax Assessor the tax of \$1.20 per bushel on all mahogany quahogs reported as purchased. If it appears to the State Tax Assessor from inspection of records or otherwise that an additional tax is due or overpayment of tax has been made, additional assessments or refunds shall be made by the State Tax Assessor to the dealer.

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

Whereas, providing for a strong partnership between State Government and local government to improve land use planning efforts is essential; and

Whereas, adequate technical and financial resources are not currently available to municipalities for comprehensive planning efforts, development of land use ordinances and enforcement of land use laws; and

Whereas, the conservation of diversity and abundance of Maine's outstanding scenic, wildlife, fisheries, recreational and other natural resources is essential to Maine's quality of life; and

§4716. Review

Whereas, the vitality of Maine's natural resource-based industries through reservation of working harbors for marine-related industries, preservation of access to the coast, and prevention of prime agricultural and forest land loss is essential to the economic well-being of Maine citizens; and

The joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs shall review the program established in this chapter and shall make its report, including any necessary legislation, to the First Regular Session of the 114th Legislature.

**Sec. 11. Appropriation.** The following funds are appropriated from the General Fund to carry out the purposes of this Act:

Whereas, growth must be managed to accommodate needed residential, commercial and industrial development that provides long-term, high quality employment for Maine's citizens; and

	<u>1987-88</u>	<u>1988-89</u>
<u>MARINE RESOURCES,</u>		
<u>DEPARTMENT OF</u>		
Bureau of Marine Sciences		
All Other	(\$3,000)	(\$3,000)
Deallocates funds needed to fund data processing of mahogany quahog tax reports by the Bureau of Taxation.		

Whereas, the cost of providing new infrastructure and public services, a community's ability to provide services to its residents and the availability of affordable housing in all Maine communities are issues of pressing concern to all Maine citizens; and

FINANCE, DEPARTMENT OF

Whereas, certain gaps in Maine land use laws exist which require immediate remedy to avoid further development beyond the review of state and local agencies; and

Bureau of Taxation		
All Other	\$3,000	\$3,000
Provides funds for data processing of mahogany quahog tax reports.		

Whereas, growth pressures throughout the State are creating a substantial burden on state, local and natural resources and threaten the quality of life of all Maine citizens; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Con-

stitution 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. 12 MRSA §682, sub-§2, as repealed and replaced by PL 1971, c. 544, §28-B, is amended to read:**

2. Subdivision. A subdivision is a division of an existing parcel of land into 3 or more parcels or lots within any 5-year period, whether this division is accomplished by platting of the land for immediate or future sale, or by sale of the land by metes and bounds or by leasing.

No sale or leasing of any lot or parcel shall ~~may~~ be considered a subdivision if such lot or parcel is not less than 40 acres in size, except ~~where~~ when the intent of such conveyance is to avoid the objectives of this statute or if such lots are located wholly or partly within any area within 250 feet of a lake or pond greater than 10 acres in area or any body of water with a drainage area greater than 50 square miles and when such lots have a lot depth to shore frontage ratio greater than 5 to 1 in which case the commission shall review the subdivision. When 3 or more lots of 40 or more acres are created a plan must be filed with the registry of deeds and the State Tax Assessor.

**Sec. 2. 30 MRSA §4956, sub-§1, as amended by PL 1983, c. 458, §10, is further amended to read:**

1. Defined. A subdivision is the division of a tract or parcel of land into 3 or more lots within any 5-year period, which period begins after September 22, 1971, whether accomplished by sale, lease, development, buildings or otherwise, provided that a division accomplished by devise, condemnation, order of court, gift to a person related to the donor by blood, marriage or adoption, unless the intent of such gift is to avoid the objectives of this section, or by transfer of any interest in land to the owner of land abutting thereon, shall not be considered to create a lot or lots for the purposes of this section.

In determining whether a tract or parcel of land is divided into 3 or more lots, the first dividing of such tract or parcel, unless otherwise exempted herein, shall be considered to create the first 2 lots and the next dividing of either of said first 2 lots, by whomever accomplished, unless otherwise exempted herein, shall be considered to create a 3rd lot, unless both such dividings are accomplished by a subdivider who shall have retained one of such lots for his own use as a single family residence for a period of at least 5 years prior to such 2nd dividing. Lots of 40 or more acres shall not be counted as lots, except where such lots are located wholly or partly within any shoreland zone in which case municipal review may be required by the municipality, provided that the average lot depth to shore frontage ratio is greater than 5 to one. Where 3 or more lots of 40 or more acres are developed, a plan must be filed with the registry of deeds

and the municipal authority responsible for reviewing subdivisions.

For the purposes of this section, a tract or parcel of land is defined as all contiguous land in the same ownership, provided that lands located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof.

A "densely developed area" is defined as any commercial, industrial or compact residential area of 10 or more acres with an existing density of at least one principal structure per 2 acres. A principal structure is defined as any building other than one which is used for purposes wholly incidental or accessory to the use of another building on the same premises.

**Sec. 3. Maine Commission on Land Conservation and Economic Development established.** There is established the Maine Commission on Resource Conservation and Economic Development. The commission shall be composed of 9 members. The President of the Senate shall appoint 3 members and the Speaker of the House shall appoint 6 members. The members shall be drawn from the Joint Standing Committee on Energy and Natural Resources and the Joint Standing Committee on Taxation. The commission shall select a chairman from its membership.

The commission shall conduct a study of the relationship between the well-being of the State's environment, the rapid growth in land use pressures, the quality of life for Maine's citizens and stable, long-term economic development. The commission shall review the findings and recommendations of recent studies on state and local growth management problems. The commission shall hold public hearings in all regions of the State to solicit public input. The commission shall report its findings and recommendations to the Second Regular Session of the 113th Legislature by February 15, 1988.

Commission members shall be reimbursed for all expenses and shall be compensated pursuant to the Maine Revised Statutes, Title 3, section 2. The Executive Director of the Legislative Council shall convene the first meeting of the commission no later than 60 days following the effective date of this Act.

The commission may also request staff assistance from the Legislative Council. The Executive Director of the Legislative Council shall provide assistance in the administration of commission members' compensation and expenses, personnel payroll and benefits. The commission may request staff support from the State Planning Office, the State Development Office and the Department of Environmental Protection. These offices and the department shall provide assistance, if so requested.

**Sec. 4. Appropriation.** The following funds are ap-

propriated from the General Fund to carry out the purposes of this Act.

1987-88

## LEGISLATURE

Commission on Land Conservation and  
Economic Development

Personal Services \$ 4,950  
All Other 5,050

Total \$10,000

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

Effective June 29, 1987.

## CHAPTER 515

H.P. 1309 — L.D. 1787

### AN ACT to Revise the Harassment Law.

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

Sec. 1. 5 MRSA c. 337-A is enacted to read:

#### CHAPTER 337-A

#### PROTECTION FROM HARASSMENT

##### §4651. Definitions

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

1. Court. "Court" means any District Court or Superior Court.

2. Harassment. "Harassment" means any repeated act of intimidation, harassment, physical force or threat of physical force whether or not performed under color of law, directed against any person, family or their property or advocate with the intention of causing fear or intimidation or to deter free exercise or enjoyment of any rights or privileges secured by the Constitution of Maine and the United States Constitution. This definition does not include any act protected by the constitutional guarantee of free speech.

3. Law enforcement agency. "Law enforcement agency" means the State Police, a sheriff's department or a municipal police department.

##### §4652. Filing of petition

Proceedings under this chapter shall be filed, heard

and determined in the District Court or Superior Court of the division or county in which either the plaintiff or the defendant resides. If the plaintiff has left the plaintiff's residence to avoid abuse, the plaintiff may bring an action in the division or county of the plaintiff's previous residence or new residence.

##### §4653. Commencement of proceedings

1. Filing. Any person who has been a victim of harassment may seek relief by filing a sworn petition in an appropriate court alleging that abuse.

2. Assistance. The court shall provide separate forms with a summons and clerical assistance to assist either party to proceed under this chapter in completing and filing a petition or other necessary documents. This assistance shall not include legal advice or assistance in drafting legal documents.

3. Fees. No fee may be charged for forms or filing of a petition. A plaintiff may apply for the right to proceed in forma pauperis.

##### §4654. Hearings

1. Full hearing. Within 21 days of the filing of a petition, a hearing shall be held at which the plaintiff shall prove the allegation of harassment by a preponderance of the evidence.

2. Temporary orders. The court may enter any temporary orders, authorized under subsection 4, without written or oral notice to the defendant or his attorney if:

A. It appears clearly from an affidavit accompanying the petition that:

(1) Before the defendant or his attorney can be heard, the plaintiff may be in immediate and present danger of physical abuse from the defendant or may suffer extreme emotional distress as a result of the defendant's conduct;

(2) Either the plaintiff has or has not contacted any law enforcement officials concerning the alleged harassment; and

(3) The plaintiff has provided sufficient information to substantiate the alleged harassment;

B. When reasonable, the plaintiff or the court has made reasonable efforts to give written or oral notice to the defendant or his attorney that the plaintiff is seeking a temporary order; and

C. The court provides written reasons for entering a temporary order.

3. Emergency relief. Emergency relief shall be available as follows.