

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND THIRTEENTH LEGISLATURE

FIRST SPECIAL SESSION

October 9, 1987 to October 10, 1987

SECOND SPECIAL SESSION

October 21, 1987 to November 20, 1987

and the

SECOND REGULAR SESSION

January 6, 1988 to May 5, 1988

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
1988

PUBLIC LAWS

OF THE

STATE OF MAINE

AS PASSED AT THE
FIRST AND SECOND SPECIAL SESSIONS
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ONE HUNDRED AND THIRTEENTH LEGISLATURE
1987

B. "Principal" has the same meaning as defined in Title 20-A, section 1, subsection 21.

C. "Student" means any elementary or secondary student enrolled in an elementary or secondary school as defined in Title 20-A, chapter 1.

D. "Tobacco use" includes smoking, which means carrying or having in one's possession a lighted cigarette, cigar, pipe or other object giving off or containing any substance giving off smoke, and the use of smokeless tobacco.

2. Prohibition. Except as provided in subsections 3 and 4, no student or school employee is allowed to use tobacco in the buildings or on the grounds of any elementary or secondary school while school is in session.

3. Exceptions. Tobacco use may be permitted in classrooms only as part of a bona fide demonstration during a class lesson, with prior notice being given to the school's administrator.

4. Employees. School employees are prohibited from tobacco use in school buildings or on school grounds, except that a local school board may establish a designated smoking area or areas in accordance with section 1580-A, subsection 3, and employees may reopen collective bargaining negotiations in accordance with section 1578-A, subsection 4, for the purpose of bargaining for smoking areas. Any school employee smoking area shall be located away from areas frequented by students.

5. Public. Tobacco use by any member of the public, other than an employee or student, in school buildings and on school grounds shall be governed by section 1578-A.

6. Enforcement. The principal of the elementary or secondary school, or the principal's designee, shall enforce the law prohibiting and restricting tobacco use under this section.

Effective August 4, 1988.

CHAPTER 688

S.P. 907 — L.D. 2362

AN ACT to Require Testing for Dioxin and Toxic Metals at Energy Recovery Facilities.

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

38 MRS A §590-B is enacted to read:

§590-B. Testing at resource recovery facilities

1. Testing; first 2 years of commercial operation. The board shall require testing at each resource

recovery facility burning municipal solid waste at least once in every 6-month period during the first 2 years of commercial operation for the presence of dioxin and heavy metals, including, but not limited to, lead, cadmium and chromium in the emissions of the facility. The cost of these tests shall be paid by the applicant or permittee.

2. Testing after first 2 years of licensure. After the facility has been in operation and licensed for 2 years, the board shall require testing for dioxin and heavy metals, including, but not limited to, lead, cadmium and chromium in the emissions of the facility at a frequency determined by the board by rule. The cost of these tests shall be paid by the applicant or permittee.

A. The rules adopted by the board under this section shall establish a system of monitoring the overall air emission performance of these types of facilities employing surrogate measures of combustion efficiency and other parameters which, in the judgment of the board, may affect the creation of dioxin emissions and the emission of heavy metals. The board shall provide for minimum acceptable operating conditions as indicated by the surrogate measures. Failure to achieve and maintain these conditions shall result in testing for dioxin and heavy metals as indicated by the surrogate measures.

B. Scheduling of tests required by this subsection shall reflect the operating conditions which originally required the testing to ensure the greatest protection of public health and the environment. Seasonal differences in waste stream composition and atmospheric and climatic conditions shall be taken into account in conducting the tests.

C. The board shall adopt rules under this section on or before January 1, 1989.

3. Public and local participation. The municipal officers, or their designees, of the municipality within which the facility is located or, in the case of a facility located within an unorganized territory or plantation, the county commissioners, or their designees, may conduct an independent review of any testing protocol, test results and their interpretations and any standards or assumptions upon which the test protocol or results are based, which items are required by this section.

The review authorized in this subsection may make use of the services of independent consultants and may include, without limitation, review of the testing protocol, test results and their interpretations and any standards or assumptions upon which the test protocol or results are based. The cost of each such review shall be paid by the applicant or permittee in an amount not to exceed \$1,000 per test.

4. Authority for further tests. The board shall have the authority to make such further tests for compliance

as the board deems necessary and may reinstate a license when tests indicate compliance.

Effective August 4, 1988.

CHAPTER 689

S.P. 821 — L.D. 2143

AN ACT to Expand and Clarify the Jurisdiction of the Maine State Pilotage Commission.

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

Sec. 1. 38 MRSA §86-A, as enacted by PL 1985, c. 389, §33, is repealed and the following enacted in its place:

§86-A. Jurisdiction over coastal waters and rivers

This subchapter applies to all Maine coastal waters and navigable waters with the exception of:

1. Piscataqua River. The Piscataqua River;

2. Maine State Pilotage Commission. Those waters specifically exempted by the Maine State Pilotage Commission; or

3. Portland harbor. Those waters specifically governed by the Board of Harbor Commissioners for the Harbor of Portland.

Sec. 2. **Report.** The Maine State Pilotage Commission shall enter into discussions with the New Hampshire Port Authority, the United States Coast Guard and the United States Navy concerning the issues of assuring safe navigation of the Piscataqua River and licensing of Maine pilots. The commission shall submit a report to the Joint Standing Committee on Business Legislation of the First Regular Session of the 114th Legislature by March 1, 1989.

Effective August 4, 1988.

CHAPTER 690

H.P. 1567 — L.D. 2134

AN ACT to Clarify the Laws Relating to Atlantic Salmon Conservation.

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

Sec. 1. 12 MRSA §6001, sub-§§17-B and 48-A are enacted to read:

17-B. Fork length. "Fork length" means the greatest dimension between the most anteriorly project-

ing part of the head and the apex of the V formed by the caudal fin. The measurement is a straight line and is not taken over the curve of the body.

48-A. Total length. "Total length" means the greatest dimension between the most anteriorly projecting part of the head and the farthest tip of the caudal fin when the caudal rays are squeezed together. The measurement is a straight line and is not taken over the curve of the body.

Sec. 2. 12 MRSA §6255, sub-§5, as repealed and replaced by PL 1985, c. 703, §4, is amended to read:

5. Tags. Any Atlantic salmon taken from inland or coastal waters, ~~designated in subsection 2,~~ shall be immediately tagged with a tag bearing the license number of the person who caught the fish or shall be tagged as provided in section 6256, subsection 6. ~~Five of these tags shall be issued with each Atlantic salmon license; except that only one tag shall be issued with a license issued under subsection 3, paragraph B, subparagraphs (2) and (3). It is unlawful for any person to possess, sell, give away, accept as a gift, offer for transportation or transport an Atlantic salmon which has not been lawfully tagged; while fishing in the waters described in subsection 2.~~

Sec. 3. 12 MRSA §6255, sub-§6, ¶¶B to D, as enacted by PL 1983, c. 680, §3, are amended to read:

B. Tagged with a New Brunswick, Quebec, Nova Scotia or Newfoundland-Labrador Atlantic salmon tag if imported from New-Brunswick those Canadian provinces;

C. Identified by a sales receipt less than 24 hours old; or

D. For wholesale and retail seafood dealers, a bill of sale indicating numbers of fish purchased, dates of purchase and point of origin of all fish purchased; or

Sec. 4. 12 MRSA §6255, sub-§6, ¶E is enacted to read:

E. Tagged as provided in section 6256, subsection 6.

Sec. 5. 12 MRSA §6256, sub-§1, as enacted by PL 1985, c. 703, §5, is amended to read:

1. Time period. Within 12 hours, except as provided in subsection 4, the person who killed the salmon shall present the salmon for registration. The salmon shall be registered at the first open salmon registration station on the route taken by the person killing the fish.

Sec. 6. 12 MRSA §6256, sub-§4, ¶A, as enacted by PL 1985, c. 703, §5, is repealed.

Sec. 7. 12 MRSA §6256, sub-§5, as enacted by PL 1985, c. 703, §5, is repealed.