

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
and
SECOND REGULAR SESSION
of the
ONE HUNDRED AND THIRTEENTH LEGISLATURE
1987

separately for each political party on paper of a distinctive color: White for the party which cast the greatest number of votes for Governor at the last gubernatorial election; yellow for the 2nd highest; blue for the 3rd highest; and green for the 4th highest. The Secretary of State shall choose a distinctive color for ballots for any other political party.

Effective August 4, 1988.

CHAPTER 798

H.P. 1470 — L.D. 1981

AN ACT to Replace the Sales Tax with an Excise Tax on Jet Fuel Used by Turbine-Powered Aircraft Providing Commercial Air Service in Maine.

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

Sec. 1. 36 MRSA §1760, sub-§8, ¶B, as amended by PL 1983, c. 852, §2, is further amended to read:

B. Internal combustion engine fuel, as defined in section 2902, bought and used for the purpose of propelling jet or turbojet engine aircraft ~~in international flights~~; and

Sec. 2. 36 MRSA §2903, sub-§1, as enacted by PL 1983, c. 852, §4, is amended to read:

1. Excise tax levied. Except as provided in subsection 2, an excise tax is levied and imposed at the rate of 14¢ per gallon upon internal combustion engine fuel sold or used within this State, including these sales when made to the State or any political subdivision thereof, for any purpose whatsoever, except the internal combustion engine fuel sold or used in such form and under such circumstances as shall preclude the collection of this tax by reason of the laws of the United States, or sold wholly for exportation from the State, or brought into the State in the ordinary standardized equipment fuel tank attached to and forming a part of a motor vehicle and used in the operation of that vehicle within the State, except that the rate shall be 3.4¢ per gallon upon internal combustion engine fuel, as defined in section 2902, bought or used by any person, association of persons, firm or corporation for the purpose of propelling jet or turbojet engine aircraft, not for international flights, and except that no tax may be levied upon internal combustion engine fuel, as defined in section 2902, bought or used by any person, association of persons, firm or corporation for the purpose of propelling jet or turbojet engine aircraft, for international flights, or sold wholly for exportation from the State, or brought into the State in the fuel tanks of an aircraft, or on or after July 1, 1983, sold in bulk to any political subdivision of the State. On the same fuel only one tax shall be paid to the State, for which tax the distributor first receiving the fuel in the

State shall be primarily liable to the State, except when that fuel has been sold and delivered to a licensed exporter wholly for exportation from the State, or to another distributor in the State, in which case the purchasing distributor shall be primarily liable to the State for the tax.

Internal combustion fuel, as defined in section 2902, which is held by retailers at the close of March 31, 1983, shall be subject to the 14¢ per gallon tax rate. Retailers, as defined in section 1752, subsection 10, shall be liable for the difference between the 14¢ per gallon tax rate and the 9¢ per gallon tax rate in effect prior to April 1, 1983. Payment shall be made to the State Tax Assessor before May 15, 1983, and it shall be accompanied by the appropriate completed form described by the State Tax Assessor.

Effective August 4, 1988.

CHAPTER 799

H.P. 1652 — L.D. 2260

AN ACT to Promote Solid Waste Research.

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

Whereas, a critical shortage of landfill space exists; and

Whereas, landspreading represents a viable option for some forms of sludge which are currently landfilled; and

Whereas, certain operational, health and environmental concerns must be resolved to achieve a successful landspreading program; 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. 5 MRSA §12004, sub-§7, ¶A, sub-¶14 is enacted to read:

(14)	Board of Trustees, Sludge and Residuals Utilization Research Foundation	Expenses Only	38 MRSA §1382
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Sec. 2. 38 MRSA c. 13-C is enacted to read:

CHAPTER 13-C

SLUDGE AND RESIDUALS UTILIZATION RESEARCH

§1380. Foundation established; purpose

The Maine Sludge and Residuals Utilization Research Foundation is established to promote, conduct, facilitate and fund research into sludge and residuals utilization. The foundation shall determine research needs and priorities and develop valid, objective scientific information to be used by the private sector, state agencies, communities and public interest groups to solve utilization problems and address environmental concerns. In addition, the foundation shall operate a clearinghouse for information on the beneficial uses of sludge and residuals and any health or environmental consequences. The clearinghouse shall be a repository of information, available to sludge generators, state agencies and the public, that is continually updated to reflect current knowledge in all aspects of sludge and residuals recycling.

The foundation shall exist as a not-for-profit corporation with a public purpose and the foundation's exercise of the powers which this chapter confers shall be deemed an essential governmental function.

§1381. Definitions

Unless the context otherwise indicates, the following terms have the following meanings.

1. Foundation. "Foundation" means the Maine Sludge and Residuals Utilization Research Foundation.

2. Generator. "Generator" means any producer of sludge or residuals.

3. Sludge or residuals. "Sludge" or "residuals" means industrial waste water treatment plant sludge, vegetable and fish processing wastes, municipal waste water and sludge, ash from wood-fired boilers and other similar waste materials.

4. Trustee. "Trustee" means a board member of the Maine Sludge and Residuals Utilization Research Foundation.

§1382. Board of trustees

Members of the board of trustees shall be appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over natural resources and to confirmation by the Legislature. The board of trustees shall consist of 7 members as follows: one member from the Department of Environmental Protection; one member from the Department of Agriculture, Food and Rural Resources; one member from an environmental interest group; one member from the Maine Waste Water Control Association; one member from the Maine Municipal Association; one member representing users of sludge or residuals; and one member representing generators of sludge and residuals.

Each member shall serve a term of 3 years and may

be reappointed to additional terms; except that, of those members appointed and confirmed in the organizational year, 2 shall serve for terms of one year, 2 shall serve for terms of 2 years and 3 shall serve for terms of 3 years.

The Governor shall appoint a successor to fill a vacancy for an unexpired term from the same representational group as was represented by the predecessor trustee.

The members shall elect a chairman, vice-chairman and treasurer at the first meeting of every fiscal year. A quorum shall consist of 4 members. The members shall serve without compensation, but shall be reimbursed for expenses incurred in the performance of their duties, except that state employees serving as members shall not be compensated by the foundation for these expenses. The board shall meet at least 4 times per year.

§1383. Powers and duties

The foundation has the powers and duties to:

1. Contracts for research. Enter into contracts with any federal, state, local or private entity for the purpose of conducting sludge and residuals utilization research or the administration of the foundation;

2. Administrative services. Select and employ administrative and management services to administer funds, call for research proposals and apply for grants as directed by the trustees;

3. Suit. Sue or be sued in its own name;

4. Real and personal property. Purchase, receive, hold, lease or acquire by foreclosure and operate, manage, license and sell, convey, transfer, grant or lease real and personal property, together with such rights and privileges as may be incidental and appurtenant to the use of those rights, including, but not limited to, any real or personal property acquired by the foundation from time to time in the satisfaction of debts or enforcement of obligations;

5. Expenditures and obligations regarding real and personal property. Make all expenditures and incur any obligations reasonably required in the exercise of sound business principles to secure possession of, preserve, maintain, insure and improve real and personal property or interests in those properties acquired by the foundation;

6. Encumbrance of property. Mortgage, pledge or otherwise encumber any property right or thing of value acquired as security for the payment of any part of the purchase price, pursuant to subsection 4 or 5;

7. Contracts and liabilities. Make other contracts, including contracts for services and incur liabilities for any of the purposes authorized in the contract;

8. Cooperation with agencies and organizations.

Cooperate with and avail itself of the services of governmental agencies and the University of Maine System; and cooperate with, assist and encourage organizations, local or regional, private or public, in the investigation of sludge and residuals utilization issues; and

9. Bylaws. Adopt bylaws consistent with this chapter for the governance of its affairs, to have the general powers accorded corporations under Title 13-A, section 202, and to do all other things necessary or convenient to carry out the lawful purposes of the foundation.

§1384. Limitation of powers

The foundation, notwithstanding section 1383, has no power or authority to enter into contracts, obligations or commitments of any kind on behalf of the State or any of its agencies, nor shall it have the power of eminent domain or any other power not provided to business corporations generally. Evidences of indebtedness of the foundation shall not in any way be a debt or liability of the State or constitute a pledge of the faith and credit of the State.

§1385. Prohibited interests of officers, directors and employees

No officer, trustee or employee of the foundation or their spouses or dependent children may receive any direct personal benefit from the activities of the foundation in assisting any private entity. This provision does not prohibit corporations or other entities with which an officer or trustee is associated by reason of ownership or employment from participating in the research or other activities with the foundation, provided that that ownership or employment is made known to the board and the officer or trustee abstains from voting on matters relating to the participation of these entities.

§1386. Donations to the State

The State, through the Governor, may accept donations, bequests, devises, grants or other interests of any nature on behalf of the foundation and transfer funds, property or other interests to the foundation.

§1387. Annual report; audit

The foundation shall provide an annual report and an independent audit of its activities to the Governor, the Legislature, its corporators and members. The report shall include, without limitation, a description of all planned research, current research, research completed in the previous year and all clearinghouse activities. The foundation shall be subject to such further audit and review as deemed necessary by the Governor or the Legislative Council at the expense of the State.

§1388. Dissolution of foundation

Upon dissolution of the foundation, the corporators shall cause, after paying or making provision for the pay-

ment of all liabilities of the foundation, all of the remaining assets of the foundation to be transferred to the State.

§1389. Funding

1. Funds not to lapse. Any appropriated state funds shall continue from year to year and shall not lapse. Funds shall be expended for the purposes defined in this chapter.

2. Independent funding share. Beginning January 1, 1990, at least 50% of the foundation's annual budget shall be supported by revenues derived from private, federal or local sources. Revenues derived from other state agencies shall not be counted toward the requirements of this subsection.

3. Certification; annual report. The foundation shall include in its annual report, certification that the requirements of this section have been met.

§1390. Liability

The foundation is a governmental entity for the purposes of Title 14, chapter 741.

Sec. 3. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

1988-89

MAINE SLUDGE AND RESIDUALS UTILIZATION RESEARCH FOUNDATION

All Other \$50,000

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

Effective April 28, 1988.

CHAPTER 800

H.P. 1875 — L.D. 2567

AN ACT to Amend the Endangered Species Act.

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

Sec. 1. 12 MRSA §7754, sub-§§2 and 3 are enacted to read:

2. Habitat. For species designated as endangered or threatened under this subchapter the commissioner may, by rule, pursuant to Title 5, chapter 375, identify areas currently or historically providing physical or biological features essential to the conservation of the species and which may require special management considerations.