

# MAINE STATE LEGISLATURE

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**LAWS**  
OF THE  
**STATE OF MAINE**

AS PASSED BY THE  
ONE HUNDRED AND FOURTEENTH LEGISLATURE  
**FIRST REGULAR SESSION**

December 7, 1988 to July 1, 1989

Chapters 1 - 502

THE GENERAL EFFECTIVE DATE FOR  
NON-EMERGENCY LAWS IS  
SEPTEMBER 30, 1989

PUBLISHED BY THE REVISOR OF STATUTES  
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,  
TITLE 3, SECTION 163-A, SUBSECTION 4.

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J.S. McCarthy Company  
Augusta, Maine  
1989

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**PUBLIC LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED AT THE**  
**FIRST REGULAR SESSION**

**of the**  
**ONE HUNDRED AND FOURTEENTH LEGISLATURE**

**1989**

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## CHAPTER 18

S.P. 125 - L.D. 210

**An Act Concerning the Use of Deadly Force  
by Correctional Officers and Law  
Enforcement Officers**

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

Whereas, the existing law poses serious obstacles to a corrections officer or law enforcement officer in using deadly force against a person confined in a maximum security facility operated by the Maine Department of Corrections, when the officer reasonably believes that deadly force is necessary to prevent an escape from custody; and

Whereas, it is necessary to change the law in order to increase the protection afforded the public; 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. 17-A MRSA §2, sub-§5-A** is enacted to read:

5-A. "Corrections officer" has the same meaning as in Title 25, section 2805, subsection 2, paragraph C.

**Sec. 2. 17-A MRSA §107, sub-§5,** as amended by PL 1979, c. 512, §23, is further amended to read:

5. Except where otherwise expressly provided, a corrections officer or law enforcement officer in a facility where persons are confined, pursuant to an order of a court or as a result of an arrest, is justified in using deadly force against such persons under the circumstances described in subsection 2. He The officer or another individual responsible for the custody, care or treatment of those persons is justified in using a reasonable degree of nondeadly force when and to the extent he the officer or the individual reasonably believes it necessary to prevent any other escape from such a facility custody or to enforce the rules and regulations of the facility.

**Sec. 3. 17-A MRSA §107, sub-§5-A** is enacted to read:

5-A. A corrections officer or law enforcement officer is justified in using deadly force against a person confined in the Maine State Prison or the Maine Correctional Institution - Warren when the officer reasonably believes that deadly force is necessary to prevent an escape from custody. The officer shall make reasonable efforts to advise the person that if the attempt to escape does not stop immediately,

deadly force will be used. This subsection does not authorize any corrections officer or law enforcement officer who is not employed by a state agency to use deadly force.

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

Effective March 27, 1989.

## CHAPTER 19

S.P. 76 - L.D. 66

**An Act to Adopt New Life Safety Requirements  
for Adult Boarding Care Facilities**

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

**Sec. 1. 22 MRSA §7912,** as amended by PL 1985, c. 819, Pt. C, §§3, 4, is repealed.

**Sec. 2. 22 MRSA §7912-A** is enacted to read:

§7912-A. Nonambulatory and mobile nonambulatory residents; permanently disabled

Except as provided in section 7911, a boarding care facility which has 8 or fewer beds may not have residents who are nonambulatory or mobile nonambulatory except as follows:

1. General requirements. The Department of Human Services may permit up to 2 beds in the facility for nonambulatory or mobile nonambulatory residents if the following conditions are met.

A. The facility conforms to the residential board and care occupancy section for small facilities of the National Fire Protection Association Life Safety Code, chapter 21, as adopted by the State Fire Marshal. If there is an interconnected smoke detection system and a direct exit from the bedroom, the requirement for construction type or a sprinkler system may be waived.

B. There are no more than 2 mobile nonambulatory or one nonambulatory and one mobile nonambulatory residents. Any facility housing more than one nonambulatory resident must meet the requirements of subsection 2.

C. All nonambulatory and mobile nonambulatory residents shall be housed on the first floor of the facility with direct egress to a common corridor with 2 exits leading directly to the exterior of the facility.

D. Facilities with 7 and 8 beds shall be ramped to grade at both exits referred to in paragraph C. Facilities with 6 or fewer beds shall be ramped to grade at one exit. Facilities with 6 or fewer beds shall

be ramped to grade at one exit. Facilities with 6 or fewer beds with a nonambulatory resident shall be ramped to grade at both exits.

E. There shall be at least one staff person available on the premises of the facility when any resident is present. Additional staff may be required at night at the direction of the Office of the State Fire Marshal.

F. If a facility with 7 or 8 beds is of new construction, any doorway in the path of egress for a nonambulatory or mobile nonambulatory resident shall be at least 36 inches in width. If the facility is of existing construction, any doorway in the path of egress for a nonambulatory or mobile nonambulatory resident shall be at least 34 inches in width; and

2. Requirements when number of nonambulatory or mobile nonambulatory residents exceed limits. Boarding care facilities may provide services to more residents who are nonambulatory or mobile nonambulatory than allowed under subsection 1 if, in addition to those requirements:

A. The structure meets all the requirements of the residential board and care occupancy section for small facilities of the National Fire Protection Association Life Safety Code, chapter 21. The structure shall be of protected wood frame construction unless it is provided with either a National Fire Protection Association Standard No. 13 or a Life Safety sprinkler system. Additional staff may be required at the direction of the Office of the State Fire Marshal; and

B. A physician certifies that the nonambulatory resident does not require nursing care. This certification is required at least annually.

See title page for effective date.

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## CHAPTER 20

H.P. 75 - L.D. 106

**An Act to Allow Additional Veterans to be Eligible for Veterans' Preference for State Positions**

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

**5 MRSA §7054, sub-§1, ¶C**, as enacted by PL 1985, c. 785, Pt. B, §38, is amended to read:

C. "Veteran" means a person, ~~male or female~~, who served on full-time active duty, exclusive of active duty for training, in the Armed Forces of the United States ~~and who does not receive a nondisability retirement pension for Armed Forces service.~~

See title page for effective date.

## CHAPTER 21

S.P. 97 - L.D. 116

**An Act to Amend the Law Regarding the State Forest Nursery**

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

**Sec. 1. 12 MRSA §8701, sub-§1**, as amended by PL 1983, c. 819, Pt. A, §37, is further amended to read:

1. Establishment; purpose. The director may establish and lease within the State one or more forest nurseries, ~~the maintenance of which shall be paid for from the appropriation for that purpose.~~ The object of these nurseries is to furnish ~~at cost~~ forest tree seedlings, transplants and shrub material for use in planting the present and potential forest lands within the State. ~~Christmas tree planting stock may be grown in the event that the director determines that additional stock is needed to sustain the Christmas tree industry in the State. The Christmas tree planting stock shall be sold at competitive market prices.~~

**Sec. 2. 12 MRSA §8701, sub-§3**, as amended by PL 1983, c. 819, Pt. A, §38, is repealed.

**Sec. 3. Application.** This Act applies to any lease entered into by the State after January 1, 1989.

See title page for effective date.

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## CHAPTER 22

H.P. 111 - L.D. 148

**An Act Relating to Destroyed Permanent or Seasonal Structures in the Unorganized Territories**

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

**Sec. 1. 12 MRSA §685-B, sub-§2-A** is enacted to read:

2-A. Priority for processing. Applications to replace destroyed seasonal or permanent structures shall be given top priority for processing when hardship can be demonstrated by the applicant provided that:

A. The dimensions of the new structure are not greater than the preexisting structure; and

B. The new structure will not adversely affect surrounding uses and resources.

**Sec. 2. 12 MRSA §685-B, sub-§7**, as amended by PL 1973, c. 569, §11, is further amended to read: