

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.

J.S. McCarthy Company
Augusta, Maine
1989

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION

of the
ONE HUNDRED AND FOURTEENTH LEGISLATURE

1989

(1) The Penobscot Nation shall also have the right to exercise exclusive jurisdiction separate and distinct from the State over criminal offenses against a person or property for which the maximum potential term of imprisonment is less than one year and the maximum potential fine does not exceed \$5,000 and which are committed on the Penobscot Indian Reservation by a member of the Penobscot Nation against another member of the Penobscot Nation or against the property of another member of the Penobscot Nation.

(a) This subparagraph is repealed on September 30, 1995. Before that date, the Penobscot Nation and the Department of the Attorney General may each submit written reports to the joint standing committee of the Legislature having jurisdiction over judiciary concerning the effect of this subparagraph;

(2) The Passamaquoddy Tribe shall have the right to exercise exclusive jurisdiction separate and distinct from the State over criminal offenses against a person or property for which the maximum potential term of imprisonment is less than one year and the maximum potential fine does not exceed \$5,000 and which are committed on the Passamaquoddy Indian Reservation by a member of the Passamaquoddy Tribe against another member of the Passamaquoddy Tribe or against the property of another member of the Passamaquoddy Tribe.

(a) This subparagraph is repealed on September 30, 1995. Before that date, the Passamaquoddy Tribe and the Department of the Attorney General may each submit written reports to the joint standing committee of the Legislature having jurisdiction over judiciary concerning the effect of this subparagraph;

Sec. 2. Effective date; certification. This Act shall take effect October 1, 1990, provided that this Act shall not be effective unless, within 60 days of the adjournment of the Legislature, the Secretary of State receives written certification by the Governor and Council of the Passamaquoddy Tribe that the Tribe has agreed to the provisions of this Act pursuant to the Maine Indian Claims Settlement Act of 1980, United States Public Law 96-420, copies of which shall be submitted by the Secretary of State to the Secretary of the Senate and the Clerk of the House of Representatives.

Effective October 1, 1990, unless otherwise indicated.

CHAPTER 170

H.P. 433 - L.D. 598

An Act Concerning Game Wardens' Authority to Stop and Search Vehicles

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

12 MRSA §7053, sub-§2, ¶D, as enacted by PL 1979, c. 420, §1, is repealed.

See title page for effective date.

CHAPTER 171

S.P. 440 - L.D. 1193

An Act Relating to Historic and Archaeological Preservation

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

Sec. 1. 27 MRSA §373-A, sub-§3-A is enacted to read:

3-A. Landowner. "Landowner" means any person, corporation, partnership, organization or other legal entity, including a municipality, county or other political subdivision of the State, an agency of the Federal Government and any quasi-governmental entity, which owns or controls a site.

Sec. 2. 27 MRSA §375, sub-§§2 and 3, as enacted by PL 1981, c. 55, §7, are amended to read:

2. Penalty. Violation of this chapter is a civil violation for which a forfeiture of not less than \$50 nor more than \$1,000 shall be adjudged. The unlawful excavation for any one day shall constitute a separate violation. The Director of the Maine Historic Preservation Commission, in the name of the people of this State through the Attorney General, may in addition to other remedies provided bring an action or for an injunction to restrain a violation of this chapter or to enjoin future unlawful excavation, seeking one or more of the following remedies:

A. To restrain a violation of this chapter;

B. To enjoin future unlawful excavation; or

C. To direct the violator to restore the site to the condition that existed prior to the unlawful excavation or to ameliorate the effects of the unlawful excavation.

3. Prosecution. The Attorney General, upon receiving notification of a violation of this section from the Director of the Maine Historic Preservation Commission, is authorized to file a complaint against the person named in the

District Court or the Superior Court of the district or county in which the person resides, or in the district or county in which the violation occurred.

Sec. 3. 33 MRSA §1551, sub-§1-A is enacted to read:

1-A. Owner. "Owner" means any person, corporation, partnership, organization or other legal entity, including a municipality, county or other political subdivision of the State, an agency of the Federal Government and any quasi-governmental entity, which owns or controls historic property.

See title page for effective date.

CHAPTER 172

S.P. 99 - L.D. 118

An Act to Amend the Law Concerning Insurance Cancellation Control

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

Whereas, this Act corrects certain ambiguities in the present law; and

Whereas, it is important to resolve these ambiguities as soon as possible; 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. 24-A MRSA §2009-A is enacted to read:

§2009-A. Cancellation and nonrenewal of surplus lines coverage

1. Notice. Cancellation and nonrenewal by an insurer of surplus lines coverage subject to this chapter shall not be effective unless received by the named insured at least 14 days prior to the effective date of cancellation or, when the cancellation is for nonpayment of premium, at least 10 days prior to the effective date of cancellation. A postal service certificate of mailing to the named insured at the insured's last known address shall be conclusive proof of receipt on the 5th calendar day after mailing.

2. Exemption. Cancellation and nonrenewal by an insurer of surplus lines coverage subject to this chapter shall not be subject to sections 2908 and 3007.

Sec. 2. 24-A MRSA §2908, sub-§5, ¶A, as enacted by PL 1985, c. 671, §1, is amended to read:

A. Cancellation Except for workers' compensation insurance, cancellation shall not be effective prior to 10 days after receipt by the insured of a notice of cancellation. Notice of cancellation of workers' compensation insurance shall be subject to Title 39, section 23, subsection 1. The notice shall state the effective date of and the reason or reasons for cancellation.

Sec. 3. 24-A MRSA §2908, sub-§§6 and 9, as enacted by PL 1985, c. 671, §1, are amended to read:

6. Any insured who has received a notice of an insurer's intent to cancel a policy may, within 45 days of the receipt of the notice, request a hearing before the superintendent. The purpose of this hearing shall be limited to establishing the existence of the proof or evidence given by the insurer in its notice of cancellation. The burden of proof of the reason for cancellation shall be upon the insurer. The superintendent shall have the authority to order that a policy remain in effect both pending and, if the superintendent finds in favor of the insured, subsequent to a hearing. If the superintendent finds in favor of the insurer at a hearing, the superintendent may order the policy to remain in force for 14 days to allow the insured to obtain other coverage.

9. This section applies to all contracts of casualty insurance, except surplus lines contracts, delivered or issued for delivery in this State, both before and after the effective date of this section. Provisions in this section relating to nonrenewal of policies shall take effect 30 days after the effective date of this section.

Sec. 4. 24-A MRSA §2915, first ¶, as amended by PL 1979, c. 347, §3, is further amended to read:

No notice of cancellation of a policy shall be effective unless received by the named insured at least 20 days prior to the effective date of cancellation, or, ~~where~~ when the cancellation is for nonpayment of premium, at least 10 days prior to the effective date of cancellation. In the event the policy is an automobile physical damage policy, like notice of cancellation shall also be given to any other person mentioned in the loss payable clause. A ~~post office department~~ postal service certificate of mailing to the named insured at ~~his~~ the insured's last known address shall be conclusive proof of receipt on the ~~3rd~~ 5th calendar day after mailing.

Sec. 5. 24-A MRSA §2920, as amended by PL 1979, c. 347, §7, is further amended to read:

§2920. Hearing before superintendent

Any named insured who has received a statement of reason for cancellation, or of reason for an insurer's intent not to renew a policy, may, within 30 days of the receipt of a statement of reason, request a hearing before the Superintendent of Insurance. The purpose of this hearing shall be limited to establishing the existence of the proof or evidence given by the insurer in its reason for cancellation or intent not