

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

**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**

---

2. Exceptions. Notwithstanding subsection 1, during the pendency of an investigation, a complaint or investigative record may be disclosed:

A. To department employees designated by the commissioner;

B. To designated complaint officers of the appropriate board or commission;

C. By a department employee or complaint officer designated by the commissioner when, and to the extent, deemed necessary to facilitate the investigation;

D. To other state or federal agencies when the files contain evidence of possible violations of laws enforced by those agencies;

E. When, and to the extent, deemed necessary by the commissioner to avoid imminent and serious harm. The authority of the commissioner to make such a disclosure shall not be delegated;

F. Pursuant to rules which shall be promulgated by the department, when it is determined that confidentiality is no longer warranted due to general public knowledge of the circumstances surrounding the complaint or investigation and when the investigation would not be prejudiced by the disclosure; and

G. To the person investigated on request. The commissioner may refuse to disclose part or all of any investigative information, including the fact of an investigation, when the commissioner determines that disclosure would prejudice the investigation. The authority of the commissioner to make such a determination shall not be delegated.

3. Attorney General records. The provision or disclosure of investigative records of the Department of the Attorney General to a departmental employee designated by the commissioner or to a complaint officer of a board or commission does not constitute a waiver of the confidentiality, provided under Title 5, section 200-D, of those records for any other purposes. Further disclosure of those investigative records shall be subject to the discretion of the Attorney General.

4. Violation. A person who knowingly or intentionally makes a disclosure in violation of this section commits a civil violation for which a forfeiture not to exceed \$1,000 may be adjudged.

See title page for effective date.

## CHAPTER 174

H.P. 88 - L.D. 123

### An Act to Clarify Laws Pertaining to the Enforcement of Forestry Fire Control Laws

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

**Sec. 1. 12 MRSA §8901, sub-§2, ¶¶F and G, as enacted by PL 1979, c. 545, §3, are amended to read:**

**F. Have the authority to set backfires to control forest fires; and**

**G. Carry out such other duties as the director prescribes; and**

**Sec. 2. 12 MRSA §8901, sub-§2, ¶H is enacted to read:**

**H. Have rights of access to all lands within the State to carry out the duties they are authorized by law to administer and enforce. Entry into private property under this paragraph is not a trespass. This paragraph does not authorize entry into any building or structure.**

**Sec. 3. 12 MRSA §8907 is enacted to read:**

#### **§8907. Uniform citations**

**1. Form. The director may establish a statewide, uniform Maine Forest Service citation form. Prior to its use, the form must be approved by the Chief Judge of the District Court.**

**2. Citation books. The director shall issue the form established under subsection 1 in books with citations in not less than quadruplicate. The director may provide citation books to other law enforcement agencies and officers for their use in the enforcement of chapters 807 and 809. The director may not require other agencies to use this form.**

**3. Form requirements. The form must include a statement that signing the citation does not constitute an admission of guilt and that refusal to sign the form after having been ordered by a law enforcement officer to do so constitutes a separate offense which is a Class E crime.**

**4. Disposition; prohibited act. The director is responsible for the disposition of all Maine Forest Service citation forms. Except in accordance with law and as provided for in an applicable official policy or procedure of the Maine Forest Service, no ranger or other public employee may dispose of an official citation form.**

**5. Lawful complaint. A Maine Forest Service citation form may be filed in a court having jurisdiction and shall constitute a lawful complaint to commence any criminal prosecution or civil violation proceedings if:**

**A. The form is duly sworn to and otherwise satisfies the requirements of the general laws of this State, in respect to the form of a complaint; and**

**B. The form charges an offense.**

6. Lawful summons. A Maine Forest Service citation, when served upon a person by a law enforcement officer, functions as a summons to appear in court. Any person who fails to appear in court after having been served with a summons is guilty of a Class E crime.

7. Refusal to sign; prohibited act. Any person who refuses to sign a citation after having been ordered to do so by a law enforcement officer is guilty of a Class E crime.

**Sec. 4. 12 MRSA §9301**, as enacted by PL 1979, c. 545, §3, is amended to read:

**§9301. Hazard clearance**

Any municipal or private dump within the State established and maintained for the disposal of solid waste, rubbish or debris of any nature as defined in Title 38, section 1303, which might facilitate either the origin or spread of forest fires shall be operated under the following preventive measures: A strip 10 feet wide cleared to mineral soil shall be constructed on all sides of the dump; a water supply, the suitability of which shall be determined by the forest ranger and town forest fire warden, may be substituted for the cleared strip along any portion of the perimeter; and all grass, weeds, slash, brush and debris and other inflammable material shall be removed for a distance of 100 feet in all directions outside the cleared mineral soil strip. Live trees need not be removed, except that green branches of conifers and dead branches of all trees shall be pruned to a height of 10 feet above the ~~ground~~ ground. Dead snags of all trees shall be removed. During periods of high forest fire hazard if a municipal dump is burning, municipal officers shall maintain a ~~watchman~~ watchkeeper at such dumps and owners and operators of private dumps shall do the same.

**Sec. 5. 12 MRSA §9321, sub-§6**, as enacted by PL 1979, c. 545, §3, is repealed and the following enacted in its place:

6. Penalty. Notwithstanding section 9701, any person who engages in out-of-door burning in violation of subchapter IV, article II, or who fails to comply with any stated permit condition or restriction, commits a Class E crime. In addition, if the State proves that while in violation, that person's out-of-door fire resulted in fire suppression costs to municipal or State Government, the court, as part of any sentence imposed, may order restitution up to \$2,000, pursuant to Title 17-A, chapter 54, to be paid to the government entities incurring the suppression costs.

**Sec. 6. 12 MRSA §9322, sub-§2**, as amended by PL 1981, c. 698, §81, is further amended to read:

2. Exemptions. This section shall ~~does~~ not apply to the use of portable stoves which are fueled by propane gas, gasoline or sterno-~~or~~; to recreational fires kindled when the ground is covered with snow; or to residential use of outdoor grills and fireplaces for recreational purposes, such as preparing food.

**Sec. 7. 12 MRSA §9601**, as enacted by PL 1979, c. 545, §3, is repealed and the following enacted in its place:

**§9601. Spark arresters**

1. Illegal operation. A person is guilty of illegal operation of power-driven equipment if that person knowingly:

A. Operates power-driven equipment in, through or within 1,000 feet of forest lands without an approved spark arrester;

B. Requires the operation of power-driven equipment in, through or within 1,000 feet of forest lands without an approved spark arrester; or

C. Permits the operation of power-driven equipment owned by that person in, through or within 1,000 feet of forest lands without an approved spark arrester.

For the purposes of this section, "power-driven equipment" means vehicles, tools or other equipment with an internal combustion engine, but does not include boat motors.

Notwithstanding section 9701, any person who violates this subsection commits a Class E crime. In addition, if the State proves that while in violation of this section, fires resulting from that person's power-driven equipment resulted in fire suppression costs to municipal or State Government, the court, as part of any sentence imposed, may order restitution up to \$2,000, pursuant to Title 17-A, chapter 54, to be paid to the government entities incurring the suppression costs.

2. Approved spark arresters. Spark arresters shall be approved by the director if judged effective to prevent the escape of sparks, carbon deposits or other substances likely to cause fires. The director may permit the use of spark arresters certified by the United States Forest Service, Department of Agriculture.

**Sec. 8. 12 MRSA §9601-A**, as enacted by PL 1983, c. 104, is amended to read:

**§9601-A. Prohibition on sale of equipment without spark arresters**

No person may sell or offer to sell any internal combustion all-terrain vehicle, chain saw or skidder in this State that has not been provided with a spark arresting device approved by the director. This prohibition shall ~~shall~~ does not apply to casual sales as defined in Title 36, section 1752.

**Sec. 9. 12 MRSA §9706, 2nd ¶**, as enacted by PL 1979, c. 545, §3, is repealed.

**Sec. 10. 38 MRSA §599, sub-§3, ¶¶H and I**, as repealed and replaced by PL 1983, c. 504, §7, are amended to read:

H. Burning for hazardous abatement purposes such as, but not limited to, the burning of grass fields; ~~and~~

I. Burning for the containment or control of spills of gasoline, kerosene, heating oil or similar petroleum product: and

read: **Sec. 11. 38 MRSA §599, sub-§3, ¶J** is enacted to

J. The burning of brush and demolition debris at municipal solid waste disposal facilities.

**Sec. 12. 38 MRSA §599, sub-§4, ¶A**, as repealed and replaced by PL 1983, c. 504, §7, is amended to read:

A. Residential use of outdoor grills and fireplaces for recreational purposes such as preparing food: and

**Sec. 13. 38 MRSA §599, sub-§4, ¶B**, as repealed and replaced by PL 1983, c. 504, §7, is repealed.

See title page for effective date.

## CHAPTER 175

### H.P. 552 - L.D. 749

#### An Act to Protect the Identity of Complainants Concerning Health Care Facilities and Providers and Certain Financial Information for the Maine Managed Care Insurance Plan Demonstration

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

**Sec. 1. 5 MRSA §9057, sub-§6**, as enacted by PL 1987, c. 714, §1, is amended to read:

**6. Confidential information.** Information may be disclosed which is confidential pursuant to Title 22, chapters 958-A and 1071 and ~~section~~ sections 7703 and 1828; and Title 34-A, except for information, the disclosure of which is absolutely prohibited under Title 34-A, section 3003. Disclosure may be only for the determination of issues involving unemployment compensation proceedings relating to a state employee, state agency personnel actions and professional or occupational board licensure, certification or registration.

A. For the purpose of this subsection, "hearing officer" means presiding officer, judge, board chairman, arbitrator or any other person deemed responsible for conducting a proceeding or hearing subject to this subsection. In the case of the Civil Service Appeals Board, the presiding officer shall be the entire board. "Employees of the agency" means employees of a state agency or department or members, agents or employees of a board who are directly related to and whose official duties involve the matter at issue.

B. The confidential information disclosed pursuant to this subsection is subject to the following limitations:

(1) The hearing officer determines that introduction of the confidential information is necessary for the determination of an issue before the hearing officer;

(2) During the introduction of confidential information, the proceeding is open only to the hearing officer, employees of the agency, parties, parties' representatives, counsel of record and the witness testifying regarding the information, and access to the information is limited to these people. Disclosure is limited to information directly related to the matter at issue;

(3) Witnesses shall be sequestered during the introduction of confidential information, except when offering testimony at the proceeding;

(4) The names or identities of reporters of confidential information or of other persons shall not be disclosed, except when disclosure is deemed necessary and relevant by the hearing officer; and

(5) After hearing, the confidential information is sealed within the record and shall not be further disclosed, except upon order of court.

**Sec. 2. 22 MRSA §1828** is enacted to read:

#### §1828. Records; disclosure

**1. Confidential information.** The following provisions apply to records that are made, acquired or retained by the department in connection with the administration of the Medicaid program and the licensing or certification of hospitals, nursing homes and other medical facilities and entities.

A. Except as provided in Title 5, section 9057 and in subsections 2 and 3, confidential information may not be released without a court order or a written release from the person whose privacy interest is protected by this section.

B. "Confidential information" means any information which directly or indirectly identifies:

(1) Any person who makes a complaint to the department;

(2) A resident or a recipient of services of any facility or provider licensed or certified by the department;