

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
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deorganization procedure approved at the hearing is not different from the one provided to the commission under section 7205, the local deorganization committee shall notify the commission that the voters approved the procedure as presented by the committee.

3. Commission review. The commission shall review the deorganization procedure. If it is different from the procedure presented to the commission under section 7205, the commission shall send a copy of its comments on the amended procedure to the local deorganization committee, the municipal officers and the executive director who shall forward the comments to the joint standing committee of the Legislature having jurisdiction over state and local government matters.

§7208. Approval by the Legislature

Any municipality which has approved a deorganization procedure under section 7207 shall request and must obtain approval by the Legislature before seeking approval by the voters of the municipality under section 7209.

§7209. Final approval by the voters

If the Legislature approves the deorganization, the question concerning deorganization shall be presented to the voters of the municipality in the next general election to be held in November. The election shall be called, advertised and conducted according to section 2528 or 2551.

1. Question posed to voters. The municipal clerk shall prepare the ballots on which the following question shall appear:

"Shall the (name of municipality) be deorganized?"

2. Requirements for approval. The voters shall indicate their opinion on this question by a cross or check mark placed against the word "Yes" or "No." Before becoming effective, the deorganization must be approved by at least 2/3 of the voters voting in the general election and the total number of votes cast for and against deorganization at the election must equal or exceed 50% of the total number of votes cast in the municipality for Governor at the last gubernatorial election.

3. Declaration of results. The municipal officers shall declare the result of the vote. The municipal clerk or the assessors of plantations shall file a certificate of the election result with the Secretary of State within 10 days of the election.

§7210. Process for municipalities with a population of 50 or fewer

Municipalities with a population of 50 or fewer may follow the entire process established in this chapter. Following voter approval to pursue the process of deorganization under section 7203, subsection 2, municipalities with a population of 50 or fewer may request the commission to develop the deorganization procedure for the municipality. Municipalities which request the commission to develop the

deorganization procedure are subject to sections 7202; 7203, except subsection 3; 7204; 7208; and 7209.

1. Approval by voters. The commission shall notify the municipal officers that a deorganization procedure has been developed. The municipal officers shall immediately call and hold a public hearing and municipal meeting as provided in section 7207 for the purpose of presenting information to the voters with respect to deorganization and any alternatives to deorganization prepared by the commission for a municipality. If a majority of the voters approve the deorganization procedure at the municipal meeting, the municipality shall request and must obtain approval by the Legislature as described in section 7208 and approval by the municipal voters under section 7209.

§7211. Calling of meeting if officers refuse

If the municipal officers refuse to call any municipal meeting required by this chapter, a meeting may be called as provided in section 2521, subsection 4.

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

Effective June 2, 1989.

CHAPTER 217

H.P. 1039 - L.D. 1450

An Act Concerning the Location of Lobster Trap Vents

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

Whereas, lobster trap vents are required in lobster traps to allow undersized lobsters to escape the traps; and

Whereas, the current law specifies where those lobster trap vents must be located in the lobster trap; and

Whereas, more flexibility can be allowed in the current law regarding the location of those vents and still allow undersized lobsters to escape easily; and

Whereas, many lobster traps will have to be rebuilt or discarded if the law is not changed; and

Whereas, failure to make this change quickly will result in unnecessary economic hardship to the lobster industry; 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:

12 MRSA §6433, sub-§1, ¶E, as repealed and replaced by PL 1979, c. 353, §1, is amended to read:

E. A gap caused by separating both ends of 2 laths 1 3/4 inches (44.5 mm.) on the top of the parlor section next to the middle bow or supporting frame and directly over the parlor head; or

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

Effective June 2, 1989.

CHAPTER 218

S.P. 61 - L.D. 44

An Act to Establish a Supreme Judicial Court Sentence Review Mechanism Relative to Sentences Involving Terms of Imprisonment of One Year or More

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

Sec. 1. 15 MRSA §2141, as amended by PL 1979, c. 13, §8, is repealed.

Sec. 2. 15 MRSA §2142, as amended by PL 1979, c. 541, Pt. A, §141, is repealed.

Sec. 3. 15 MRSA §2143, as amended by PL 1977, c. 510, §7, is repealed.

Sec. 4. 15 MRSA §2144, as amended by PL 1977, c. 510, §8, is repealed.

Sec. 5. 15 MRSA c. 306-A is enacted to read:

CHAPTER 306-A

SUPREME JUDICIAL COURT SENTENCE REVIEW

§2151. Application to the Supreme Judicial Court by defendant for review of certain sentences

In cases arising in the District Court or the Superior Court in which a defendant has been convicted of a criminal offense and sentenced to a term of imprisonment of one year or more, the defendant may, except in any case in which a different term of imprisonment could not have been imposed, apply to the Supreme Judicial Court, sitting as the Law Court, for review of the sentence.

§2152. Sentence Review Panel of the Supreme Judicial Court

There shall be a Sentence Review Panel of the Supreme Judicial Court to consider applications for leave to

appeal from sentence, and no appeal of the sentence may proceed before the Supreme Judicial Court unless leave to appeal is first granted by the panel. The Sentence Review Panel shall consist of 3 justices of the Supreme Judicial Court to be designated from time to time by the Chief Justice of the Supreme Judicial Court. No justice may sit or act on an appeal from a sentence imposed by that justice. Leave to appeal shall be granted if any one of the 3 panelists votes in favor of granting leave. If leave to appeal is denied, the decision of the panel shall be final and subject to no further review.

§2153. Procedure for application

The time for filing an application for leave to appeal and the manner and any conditions for the taking of the appeal shall be as the Supreme Judicial Court shall by rule provide.

§2154. Purposes of sentence review by Supreme Judicial Court

The general objectives of sentence review by the Supreme Judicial Court are:

1. Sentence correction. To correct a sentence which is excessive in length, having regard to the nature of the offense, the character of the offender and the protection of the public interest;

2. Promote respect for law. To promote respect for law by correcting abuses of the sentencing power and by increasing the fairness of the sentencing process;

3. Rehabilitation. To facilitate the possible rehabilitation of an offender by reducing manifest and unwarranted inequalities among the sentences of comparable offenders; and

4. Sentencing criteria. To promote the development and application of criteria for sentencing which are both rational and just.

§2155. Factors to consider by Supreme Judicial Court

In reviewing a criminal sentence, the Supreme Judicial Court is authorized to consider:

1. Propriety of sentence. The propriety of the sentence, having regard to the nature of the offense, the character of the offender and the protection of the public interest; and

2. Manner in which sentence was imposed. The manner in which the sentence was imposed, including the sufficiency and accuracy of the information on which it was based.

§2156. Relief

1. Substitution of sentence or remand. If the Supreme Judicial Court determines that relief should be granted, it may: