

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
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ONE HUNDRED AND FOURTEENTH LEGISLATURE

1989

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

Effective June 15, 1989.

CHAPTER 322

H.P. 1061 - L.D. 1483

An Act to Make General Assistance More Available to Homeless People and Clarify the Definition of Need

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

Sec. 1. 22 MRSA §4301, sub-§1, as enacted by PL 1983, c. 577, §1, is amended to read:

1. Basic necessities. "Basic necessities" means food, clothing, shelter, fuel, electricity, nonelective medical services as recommended by a physician, nonprescription drugs, telephone where it is necessary for medical reasons and any other commodity or service determined essential by the overseer in accordance with the municipality's ordinance and this chapter.

Sec. 2. 22 MRSA §4304, sub-§3, as enacted by PL 1983, c. 577, §1, is amended to read:

3. Emergencies. In any case when an applicant is unable, due to illness, disability, lack of transportation, lack of child care or other good cause, to apply in person for assistance or unable to appoint a duly authorized representative, the overseer shall accept an application by telephone subject to verification by mail and a visit to the applicant's home with the consent of the applicant. Municipalities may arrange with emergency shelters for the homeless to presume eligible for municipal assistance persons to whom the emergency shelter provides shelter services.

Sec. 3. 22 MRSA §4308, first ¶, as repealed and replaced by PL 1985, c. 489, §§5 and 14, is amended to read:

In order to receive assistance from any municipality, the applicant or a duly authorized representative must make written application to the overseer, except as provided in section 4304, subsection 3, and except that in an emergency the application may be made verbally and assistance shall be granted temporarily. Further assistance shall be granted upon completion of a written application and determination of eligibility.

See title page for effective date.

CHAPTER 323

H.P. 1086 - L.D. 1508

An Act to Regulate Water Flowage over Dams

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

Sec. 1. 38 MRSA §840, sub-§1, as amended by PL 1987, c. 402, Pt. A, §205, is further amended to read:

1. Power. The board may on its own motion and shall at the request of the owner, lessee or person in control of a dam, the Commissioner of Inland Fisheries and Wildlife, the Commissioner of Marine Resources, or upon receipt of petitions from the lesser of at least 25% or 50 of the littoral or riparian proprietors, conduct an adjudicatory hearing for the purpose of establishing a water level regime and, if applicable, minimum flow requirements for the body of water impounded by any dam that is neither:

A. Licensed by the Federal Energy Regulatory Commission;

B. Authorized under the Federal Power Act, Section 23;

C. Used to store water for a downstream facility licensed by the Federal Energy Regulatory Commission or authorized under the Federal Power Act, Section 23, provided that the owner of the downstream facility possessed a majority ownership of the upstream dam as of January 1, 1983; nor

D. Operating with a permit setting water levels issued under the ~~great ponds laws, sections 391 to 394; the alteration of coastal wetlands laws, sections 471 to 478; protection of natural resources laws, sections 480-A to 480-S;~~ the site location of development laws, sections 481 to 490; the small hydroelectric generating facilities laws, sections 631 to 636; the land use regulation laws, Title 12, sections 681 to 689; ~~the stream alteration laws, sections 425 to 430;~~ or any other statute regulating the construction or operation of dams.

Sec. 2. 38 MRSA §840, sub-§4, as enacted by PL 1983, c. 417, §6, is amended to read:

4. Evidence. At the hearing, the board shall solicit and receive testimony, as provided by Title 5, section 9057, for the purpose of establishing a water level regime and, if applicable, minimum flow requirements for the body of water. The testimony shall be limited to:

A. The water levels necessary to maintain the public rights of access to and use of the water for navigation, fishing, fowling, recreation and other lawful public uses;

B. The water levels necessary to protect the safety of the littoral or riparian proprietors and the public;

C. The water levels and minimum flow requirements necessary for the maintenance of fish and wildlife habitat and water quality;

D. The water levels necessary to prevent the excessive erosion of shorelines;

E. The water levels necessary to accommodate precipitation and run off of waters;

F. The water levels necessary to maintain public and private water supplies;

G. The water levels and flows necessary for any ongoing use of the dam to generate or to enhance the downstream generation of hydroelectric or hydromechanical power; and

H. The water levels necessary to provide flows from any dam on the body of water to maintain public access and use, fish propagation and fish passage facilities, fish and wildlife habitat and water quality downstream of the body of water.

Sec. 3. 38 MRSA §840, sub-§5, as amended by PL 1987, c. 118, §11, is further amended to read:

5. **Order.** Based on the evidence solicited at the hearing, the board shall, within 80 days after the hearing, make written findings and issue an order to the owner, lessee or person in control of the dam establishing a water level regime for the body of water impounded by the dam and, if applicable, minimum flow requirements for the dam. The order shall, insofar as practical, require the maintenance of a stable water level, but shall include provision for variations in water level to permit sufficient draw down of the body to accommodate precipitation and run off of surface waters, minimum flow requirements and to otherwise permit seasonal and other necessary fluctuations in the water level of the body of water in order to protect public health, safety and welfare and the public and private resources identified in subsection 4. The board shall cause a copy of the order to be delivered to the owner, lessee or person in control of the dam, the municipal officers of any municipality in which the dam or the body of water it impounds is located and each petitioner, if any, and shall cause a copy of the order to be filed in the registry of deeds in the county where the dam is located.

See title page for effective date.

CHAPTER 324

H.P. 1106 - L.D. 1539

An Act to Amend the Law Relating to Court Security

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

4 MRSA §17, sub-§15, as amended by PL 1987, c. 776, §2, is further amended to read:

15. Provide for court security. Plan and implement arrangements for safe and secure court premises to ensure

the orderly conduct of judicial proceedings. This includes the authority to contract for the services of qualified deputy sheriffs and other qualified individuals as needed on a per diem basis to perform court security-related functions and services. "Qualified deputy sheriffs and other qualified individuals" means those individuals who hold valid certification as law enforcement officers, as defined by the Maine Criminal Justice Academy, pursuant to Title 25, chapter 341, to include successful completion of such additional training in court security as provided by the academy or equivalent training. When under such contract and then only for the assignment specifically contracted for, the qualified deputy sheriffs or other qualified individuals shall have the same duties and powers throughout the counties of the State as sheriffs have in their respective counties. Qualified deputy sheriffs performing these contractual services shall continue to be employees of the counties in which they are deputized. ~~The persons~~ Other qualified individuals performing such contractual services shall not be considered employees of the State for any purpose, provided that the other qualified individuals shall be treated as employees of the State for purposes of the Maine Tort Claims Act and the Workers' Compensation Act. They shall be paid a reasonable per diem fee plus reimbursement of their actual, necessary and reasonable expenses incurred in the performance of their duties, consistent with policies established by the State Court Administrator. Notwithstanding any other provision of law, such plans, arrangements and files involving court security matters are confidential. Nothing in this section precludes dissemination of such information to another criminal justice agency.

See title page for effective date.

CHAPTER 325

H.P. 1179 - L.D. 1634

An Act to Revise the Asbestos Certification Law

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

Sec. 1. 38 MRSA §1272, sub-§2, as enacted by PL 1987, c. 448, §1-C, is amended to read:

2. Asbestos abatement activity. "Asbestos abatement activity" means activity involving the removal, renovation, enclosure, repair, encapsulation, handling, transportation or disposal of friable asbestos-containing materials in an amount greater than ~~40~~ 3 square feet or ~~40~~ 3 linear feet.

Sec. 2. 38 MRSA §1272, sub-§6, as enacted by PL 1987, c. 448, §1-C, is amended to read:

6. Asbestos abatement worker. "Asbestos abatement worker" means ~~an employee of an any worker performing~~ asbestos abatement contractor engaged in asbestos abatement activity under the supervision of an asbestos abatement project supervisor for any employer.