

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

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

9-B MRSA §241, sub-§6 is enacted to read:

6. Returned check charges. No financial institution authorized to do business in this State may assess a returned check charge or similar charge against a depositor for the cost of processing a check deposited in that financial institution after receipt by that depositor from another party and returned for insufficient funds by the institution on which it was drawn, except in accordance with this subsection. The charge shall not exceed \$2 per returned check, but if the check is deposited in the same institution on which it is drawn, there shall be no charge assessed against the depositor. This subsection is repealed July 1, 1991.

See title page for effective date.

CHAPTER 427

S.P. 610 - L.D. 1704

An Act to Amend the Definition of Labels in the Beverage Container Deposit Law

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

Sec. 1. 32 MRSA §1865, sub-§1, as enacted by PL 1975, c. 739, §16, is amended to read:

1. Labels. Except as provided under subsection 2, the refund value and the word "Maine" or the abbreviation "ME" shall be clearly indicated on every refundable beverage container sold or offered for sale by a dealer in this State, by embossing, stamping, labeling or other method of secure attachment to the beverage container. The refund value shall not be indicated on the bottom of the container. Metal beverage containers shall be embossed or stamped on the top of the container.

Sec. 2. 32 MRSA §1865, sub-§2, as enacted by PL 1975, c. 739, §16, is amended to read:

2. Brand name. Glass beverage containers having a refund value of not less than 5¢ ~~prior to the effective date of this chapter~~ and having a brand name permanently marked thereon, shall not be required to ~~indicate the refund value under~~ comply with the provisions of subsection 1.

See title page for effective date.

CHAPTER 428

S.P. 419 - L.D. 1130

An Act Dealing with Removal of Dislodged Lobster Gear

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

12 MRSA §6434, as enacted by PL 1977, c. 661, §5, is repealed and the following enacted in its place:

§6434. Molesting lobster gear

No person may raise, lift, transfer, possess or in any manner molest any lobster trap, warp, buoy or car except as provided in this section.

1. Permitted activities. Lobster traps, warps, buoys and cars may be raised, lifted, transferred, possessed or otherwise molested by the following:

A. A marine patrol officer;

B. The licensed owner;

C. Any person having written permission from the licensed owner; and

D. Any person authorized by rule pursuant to subsection 2.

2. Promulgation of rules required. The commissioner shall promulgate rules, no later than January 1, 1990, authorizing the removal of traps, warps, buoys or cars that are washed up above the mean low tide mark or are otherwise abandoned or lost.

3. Prohibition. Traps, warps, buoys or cars may not be used for fishing by any person other than the licensed owner unless with written permission from the licensed owner.

See title page for effective date.

CHAPTER 429

H.P. 1125 - L.D. 1568

An Act to Regulate Development Along Certain Water Bodies

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

Sec. 1. 30-A MRSA §4404, sub-§§12 and 13, as enacted by PL 1989, c. 104, Pt. A, §45 and Pt. C, §10, are amended to read:

12. Ground water. The proposed subdivision will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water; ~~and~~

13. Flood areas. The subdivider will determine, based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, whether the subdivision is in a flood-prone area.

If the subdivision, or any part of it, is in such an area, the subdivider shall determine the 100-year flood elevation and flood hazard boundaries within the subdivision. The proposed subdivision plan must include a condition of plat approval requiring that principal structures in the subdivision will be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation; and

Sec. 2. 30-A MRSA §4404, sub-§14 is enacted to read:

14. River, stream or brook. Any river, stream or brook within or abutting the proposed subdivision has been identified on any maps submitted as part of the application. For purposes of this section, "river, stream or brook" has the same meaning as in Title 38, section 480-B, subsection 9.

See title page for effective date.

CHAPTER 430

H.P. 813 - L.D. 1125

An Act to Amend the Natural Resources Protection Act

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

Sec. 1. 12 MRSA §685-B, sub-§1, ¶C, as amended by PL 1987, c. 769, Pt. A, §49, is further amended to read:

C. No person may commence any construction or operation of any development without a permit issued by the commission.

The commission may waive the requirement of a hearing for any person having received approval by the Board of Environmental Protection pursuant to the Site Location of Development Law, Title 38, sections 481 to 488.

Approval by the commission that the proposed development meets the requirements of subsection 4, and of the land use standards and rules adopted by the commission shall be a sufficient basis to support, but shall not require, a finding by the administering agency that the development meets the requirements of the Site Location of Development Law, Title 38, sections 481 to 488; the Minimum Lot Size Law, sections 4807 to 4807-G; ~~the Wetlands Law, Title 38, sections 471 to 478; the Great Ponds Law, Title 38, chapter 3, subchapter 1, article 1-A; or the Stream Alteration Law, Title 38, chapter 3, subchapter 1, article 2-A~~ or the natural resource protection laws, Title 38, chapter 3, subchapter 1, article 5-A; and the rules adopted with respect to any of such statutes, as any of such statutes, rules or regulations may apply. Disapproval by the commission shall be a sufficient basis to support, but shall not require, a finding by

the administering agency that the proposed development does not meet the requirements of the Site Location of Development Law, Title 38, sections 481 to 488; the Minimum Lot Size Law, sections 4807 to 4807-G; ~~the Wetlands Law, Title 38, sections 471 to 478; the Great Ponds Law, Title 38, section 422; or the Stream Alteration Law, Title 38, chapter 3, subchapter 1, article 2-A~~ or the natural resource protection laws, Title 38, chapter 3, subchapter 1, article 5-A; and the rules adopted with respect to any of such statutes, as any of such statutes, rules or regulations may apply.

The commission may establish standards within which authority may be delegated to its staff; to approve with reasonable conditions or deny applications submitted hereunder. Any person aggrieved by a decision of the staff shall have the right to a review of ~~such~~ that decision by the commission members.

The commission shall establish coordination and assistance procedures for all land use permits issued by agencies of the State for proposed development within the unorganized townships and plantations. ~~Such~~ Those procedures shall, to the extent practicable, ensure: The availability to the public of necessary information concerning ~~such~~ those land use permits; the provision of assistance to applicants in obtaining ~~such~~ those permits from ~~such~~ state agencies; the coordination of application procedures, time schedules, application forms and similar requirements so as to reduce delay and duplication of effort by applicants and the issuing agencies. ~~Such~~ State permit issuing agencies shall cooperate with the commission in the development and effectuation of ~~such~~ coordination and assistance procedures.

Sec. 2. 12 MRSA §685-B, sub-§4, ¶A, as amended by PL 1985, c. 819, Pt. A, §19, is further amended to read:

A. Adequate technical and financial provision has been made for complying with the requirements of the state's air and water pollution control and other environmental laws, and those standards and regulations adopted with respect thereto, including without limitation the Site Location of Development Law, Title 38, sections 481 to 488, the Minimum Lot Size Law, sections 4807 to 4807-G, ~~the Wetlands Law, Title 38, sections 471 to 478, the Great Ponds Law, Title 38, chapter 3, subchapter 1, article 1-A, and the Stream Alteration Law, Title 38, chapter 3, subchapter 1, article 2-A~~ and the natural resource protection laws, Title 38, chapter 3, subchapter 1, article 5-A, for solid waste disposal, for controlling of offensive odors and for the securing and maintenance of sufficient healthful water supplies; and

Sec. 3. 38 MRSA §480-B, sub-§§2 and 4, as enacted by PL 1987, c. 809, §2, are amended to read:

2. Coastal wetlands. "Coastal wetlands" means all tidal and subtidal lands, including all areas below any identifiable debris line left by tidal action; all areas with vegeta-