

# 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.

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J.S. McCarthy Company  
Augusta, Maine  
1989

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**PUBLIC LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED AT THE**  
**FIRST REGULAR SESSION**

**of the**  
**ONE HUNDRED AND FOURTEENTH LEGISLATURE**

**1989**

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hunters and landowners. This program and any subsequent revisions to the program shall be submitted to the joint standing committee of the Legislature having jurisdiction over fisheries and wildlife matters prior to implementation. The program shall foster public use of private land for hunting and fishing and shall promote high standards of courtesy, respect and responsibility by hunters and anglers for private lands and prevent abuse of private lands by hunters and anglers.

**Sec. 2. Report to Legislature.** The commissioner shall report to the Legislature, no later than January 15, 1991, on the progress of this program, together with any suggestions for improvement or expansions to the program. This report shall contain a summary of what other states have done to develop good relationships between hunters and landowners and a review of those activities, with recommendations as to whether those activities would be effective in this State.

**Sec. 3. Allocation.** The following funds are allocated from Dedicated Revenue to the Department of Inland Fisheries and Wildlife to carry out the purposes of this Act.

1989-90 1990-91

INLAND FISHERIES AND WILDLIFE,  
DEPARTMENT OF

Office of the Commissioner -  
Inland Fisheries and Wildlife

All Other \$5,000 \$5,000

Provides funds for anticipated operational costs to develop and implement a landowner relations program.

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

Effective June 22, 1989.

**CHAPTER 442**

**H.P. 855 - L.D. 1187**

**An Act to Amend the Overboard Discharge Laws**

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

**Sec. 1. 38 MRS §411-A** is enacted to read:

§411-A. State contribution to residential overboard discharge replacement projects

**1. General authority.** Subject to the availability of funds under section 411, the department shall pay a portion of the expense of a pollution abatement construction project which results in the elimination of an overboard discharge to the waters of the State where that elimination is required

under section 414-A, subsection 1-B. The costs eligible for payment under this program include the costs that the department requires for abandonment of the overboard discharge and the design, engineering and construction costs of the replacement system. Grants made under this section may be made directly to the owners of the overboard discharge and may also be made to sanitary and sewer districts which have agreed to establish operation and maintenance programs for holding tanks within their boundaries.

**2. Cost-share.** The department shall determine the portion of project expenses which are eligible for grants under this section as follows.

**A.** The department shall pay 90% of the costs of a project which results in the removal of a year-round residential overboard discharge.

**B.** The department shall pay 50% of the costs of a project which results in the removal of a commercial overboard discharge.

**C.** The department shall pay 25% of the costs of a project which results in the removal of a seasonal residential overboard discharge.

For the purposes of this section and section 414-A, seasonal residential overboard discharge means an overboard discharge from a human habitation which is occupied for less than 6 months in any calendar year.

**3. Priority.** The department shall utilize grants made under this section to eliminate sources of contamination to shellfish harvesting areas and to eliminate public nuisance conditions.

**4. Reimbursement.** The department shall utilize grants under this section to reimburse individuals for the costs of removing any overboard discharge, subject to the provisions of subsection 2, when:

**A.** The removal occurred after June 1, 1987, and prior to the effective date of this section;

**B.** The removal resulted in the elimination of sources of contamination to shellfish areas or public nuisance conditions; and

**C.** The removal was the direct result of an unsuccessful licensing application under former section 464, subsection 4, paragraph G.

**Sec. 2. 38 MRS §414, sub-§3-A** is enacted to read:

**3-A. Inspection of overboard discharges.** The department shall inspect all licensed overboard discharges a minimum of twice each calendar year. The department shall assess all costs of inspection, including personnel costs and necessary laboratory analyses, to the license holder. No assessment under this section may exceed \$100 annually. All revenues received under this subsection shall be credited to the Maine Environmental Protection Fund. The depart-

ment may retain private contractors to undertake the inspections required under this subsection.

**Sec. 3. 38 MRSA §414-A, sub-§1-B** is enacted to read:

**1-B. Relicensing of overboard discharges.** The following provisions shall govern the relicensing of overboard discharges.

A. The board shall find that the discharge meets the requirements of best practicable treatment under this section for purposes of relicensing, when it finds that there are no technologically proven alternative methods of waste water disposal consistent with the Maine State Plumbing Code which will not result in an overboard discharge.

B. For the purposes of this subsection, the department shall not require the installation or use of waste water holding tanks as a "technologically proven alternative method of waste water disposal" except in the following cases:

(1) Seasonal residential overboard discharges which are located on the mainland or on any island connected to the mainland by vehicle bridge or by scheduled car ferry service; and

(2) All overboard discharges located within the boundaries of a sanitary or sewer district when the district has agreed to service and maintain the holding tank at an annual fee that does not exceed those fees charged to other similar users of the district's services who are physically connected to the sewers of the district.

C. The board shall issue a conditional permit to any applicant denied a license for an overboard discharge under this subsection. The term of the permit shall extend until 6 months after the department offers a grant to the applicant for the costs of replacing the overboard discharge under the provisions of section 411-A.

D. The board shall limit to a maximum of 5 years the term of any overboard discharge license, including relicensings, issued after June 1, 1987. All licenses in existence on June 1, 1987, with expiration dates occurring in 1989 or 1990, shall expire on the date stated in the license. All other licenses in existence on June 1, 1987, shall expire on the same day and month stated in the existing license but in a new year, determined by the following schedule:

<u>Current Expiration Date</u>	<u>New Date</u>
<u>1991, 1992</u>	<u>1990</u>
<u>1993, 1994</u>	<u>1991</u>
<u>1995, 1996</u>	<u>1992</u>
<u>1997, 1998</u>	<u>1993</u>

E. At the time of each relicensing of an overboard discharge, the board shall impose all conditions necessary to meet the requirements of this section and all other relevant laws.

**Sec. 4. 38 MRSA §464, sub-§4, ¶A**, as amended by PL 1987, c. 419, §10, is further amended to read:

A. Notwithstanding section 414-A, the board shall not issue a water discharge license for any of the following discharges:

(1) Direct discharge of pollutants to waters having a drainage area of less than 10 square miles, except that discharges into these waters which were licensed prior to January 1, 1986, shall be allowed to continue only until practical alternatives exist;

(2) New direct discharge of domestic pollutants to tributaries of Class-GPA waters;

(3) Any discharge into a tributary of GPA waters which, by itself or in combination with other activities, causes water quality degradation which would impair the characteristics and designated uses of downstream GPA waters or causes an increase in the trophic state of those GPA waters;

(4) Discharge of pollutants to waters of the State which imparts color, taste, turbidity, toxicity, radioactivity or other properties which cause those waters to be unsuitable for the designated uses and characteristics ascribed to their class;

(5) Discharge of pollutants to any water of the State which violates sections 465, 465-A and 465-B, except as provided in section 451; causes the "pH" of fresh waters to fall outside of the 6.0 to 8.5 range; causes the "pH" of estuarine and marine waters to fall outside of the 7.0 to 8.5 range; or causes fish for human consumption to be injurious to human health as determined by the United States Food and Drug Administration under the procedures established by United States Code, Title 21, section 342 or as determined by the Department of Human Services. The Department of Human Services shall establish a protocol for determining risk in these situations. The protocol shall be promulgated as a rule in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375; and

(6) New discharges of domestic pollutants to the surface waters of the State which are not conveyed and treated in municipal or quasi-municipal sewage facilities. "New For the purposes of this subparagraph, "new discharge" means any overboard discharge

~~which is licensed after the effective date of this section was not licensed as of June 1, 1987, except those discharges which were in continuous existence for the 12 months preceding June 1, 1987, as demonstrated by the applicant to the board with clear and convincing evidence. For purposes of licensing, the board shall treat an increase in the licensed volume or quantity of an existing discharge or an expansion in the months during which the discharge will take place as a new discharge of domestic pollutants.~~

~~Notwithstanding the provisions of this subparagraph, an increase in the volume or quantity of domestic pollutants in a licensed discharge of domestic pollutants emanating from an existing commercial or industrial business or from an existing state or federal facility is not prohibited so long as, in addition to all other provisions of applicable law, all the following conditions are met:~~

~~(a) The board finds that, based on the past record of compliance by the licensee with all requirements of its existing discharge licenses, the licensee is likely to comply with the requirements of any subsequent license governing the increased discharge. The board shall not make this finding if there have been significant, numerous or repeated violations of any standard, limit or condition of the existing licenses;~~

~~(b) The licensee agrees, as a license condition, to retain qualified employees or independent consultants to ensure that the overboard discharge system is meeting all requirements of the license and to test, monitor and maintain the system. The board shall require, as a license condition, that the licensee test the effluent on a weekly basis to ensure that the license requirements are being met and that the licensee promptly submit reports of these tests to the department; and~~

~~(c) The board finds that all requirements of paragraph G have been met with respect to the proposed increase in the overboard discharge.~~

**Sec. 5. 38 MRSA §464, sub-§4, ¶G,** as enacted by PL 1987, c. 180, §15, is repealed.

**Sec. 6. 38 MRSA §464, sub-§§7 and 8** are enacted to read:

**7. Interdepartmental coordination.** The board, the Commissioner of Marine Resources and the Commissioner of Human Services shall jointly:

A. Make available accurate and consistent information on the requirements of this section, section 411-A and section 414-A, subsection 1-B; and

B. Certify waste water treatment and disposal technologies which can be used to replace overboard discharges.

**8. Development of group systems.** Subject to the provisions of section 414-A, subsection 1-B, the board shall coordinate the development and implementation of waste water treatment and disposal systems serving more than one residence or commercial establishment where individual replacement systems are not feasible.

**Sec. 7. Report.** By January 1, 1990, the Department of Environmental Protection shall report to the joint standing committee of the Legislature having jurisdiction over natural resources on the following issues:

1. The ability of sanitary and sewer districts to assist in the elimination of overboard discharges from the waters of the State;

2. The feasibility of developing a suitable financial means test for the overboard discharge replacement program;

3. The estimated state financial requirements to fully implement the overboard discharge replacement program for year-round, seasonal and commercial establishments; and

4. The availability of alternative financing arrangements including loan guarantees, low-interest loans and other alternatives to direct grants.

The department shall include any recommendations of necessary legislation and funding in its report.

**Sec. 8. Allocation.** The following funds are allocated from Other Special Revenue to carry out the purposes of this Act.

	1989-90	1990-91
<b>ENVIRONMENTAL PROTECTION, DEPARTMENT OF</b>		
<b>Maine Environmental Protection Fund</b>		
Positions	(3)	(3)
Personal Services	\$67,789	\$90,385
All Other	45,150	60,200
Capital Expenditures	15,244	

Provides funds for 3 Environmental Specialist II positions, 2 seasonal conservation aids, required laboratory analyses, and general operating expenses.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

TOTAL \$128,183 \$150,585

See title page for effective date.

CHAPTER 443

H.P. 815 - L.D. 1127

An Act to Enhance the Status of Vocational-technical Education in Maine

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

Sec. 1. 1 MRSA §402, sub-§2, ¶B, as repealed and replaced by PL 1987, c. 20, §1, is amended to read:

B. Any board or commission of any state agency or authority, the Board of Trustees of the University of Maine System and any of its committees and subcommittees, the Board of Trustees of the Maine Maritime Academy and any of its committees and subcommittees, the Board of Trustees of the Maine Vocational-Technical Institute Technical College System and any of its committees and subcommittees; and

Sec. 2. 1 MRSA §402, sub-§3, ¶E, as repealed and replaced by PL 1987, c. 402, Pt. A, §1, is amended to read:

E. Records, working papers, interoffice and intraoffice memoranda used by or prepared for faculty and administrative committees of the Maine Maritime Academy, the Maine Vocational-Technical Institute Technical College System and the University of Maine System. The provisions of this paragraph do not apply to the boards of trustees and the committees and subcommittees of those boards, which are referred to in subsection 2, paragraph B.

Sec. 3. 3 MRSA §507, sub-§7, ¶B, as repealed and replaced by PL 1987, c. 769, Pt. A, §3, is amended to read:

B. The evaluations and analyses of the justification reports for the programs of the following Group D-2 departments shall be reviewed by the Legislature no later than June 30, 1987: The Department of Educational and Cultural Services, excluding the State Museum Bureau, the Arts Bureau and the vocational-technical institutes technical colleges.

Sec. 4. 3 MRSA §507, sub-§10, ¶B, as repealed and replaced by PL 1987, c. 769, Pt. A, §4, is amended to read:

B. Unless continued or modified by law, the following Group G-2 independent agencies shall terminate, not including the grace period, no later than June 30, 1990. The Board of Emergency Municipal Finance, the Finance Authority of Maine and the

Maine Municipal Bond Bank shall not terminate, but shall be reviewed by the Legislature no later than June 30, 1990:

- (1) Board of Emergency Municipal Finance;
(2) Finance Authority of Maine;
(3) Maine Municipal Bond Bank;
(4) State Liquor Commission;
(5) Capitol Planning Commission;
(6) State Board of Property Tax Review;
(7) Maine Vocational-Technical Institute Technical College System;
(8) Maine Commission for Women; and
(9) Maine Human Rights Commission.

Sec. 5. 5 MRSA §18, sub-§1, ¶B, as amended by PL 1987, c. 735, §4 and c. 784, §1, is repealed and the following enacted in its place:

B. "Executive employee" means the constitutional officers, the State Auditor, members of the state boards and commissions as defined in chapter 379 and compensated members of the classified or unclassified service employed by the Executive Branch, but it shall not include:

- (1) The Governor;
(2) Employees of and members serving with the National Guard;
(3) Employees of the University of Maine System, the Maine Maritime Academy and state technical colleges;
(4) Employees who are employees solely by their appointment to an advisory body;
(5) Members of boards listed in chapter 379, who are required by law to represent a specific interest, except as otherwise provided by law; and
(6) Members of advisory boards as listed in chapter 379.

Sec. 6. 5 MRSA §285, sub-§1, ¶F-1, as amended by PL 1987, c. 735, §5, is further amended to read:

F-1. Any employee of the Maine Vocational-Technical Institute Technical College System;