

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

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

civil action shall be brought in the name of the State and shall be instituted in the Superior Court for the county where the alleged violator resides or has a principal place of business.

§4682. Violations of constitutional rights; civil actions by aggrieved persons

1. Remedy. Any person whose exercise or enjoyment of rights secured by the United States Constitution or laws of the United States, or of rights secured by the Constitution of Maine or laws of the State, has been interfered with, or attempted to be interfered with, as described in section 4681, may institute and prosecute in that person's own name and on that person's own behalf a civil action for legal or equitable relief.

§4683. Attorney's fees and costs

In any civil action under this chapter, the court, in its discretion, may allow the prevailing party, other than the State, reasonable attorney's fees and costs, and the State shall be liable for attorney's fees and costs in the same manner as a private person.

See title page for effective date.

CHAPTER 583

H.P. 108 - L.D. 145

An Act to Encourage Recycling of Lead-acid Batteries

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

38 MRSA §1604 is enacted to read:

§1604. Lead-acid batteries

For the purposes of this section, "lead-acid battery" means a device designed and used to store electrical energy through chemical reactions involving lead and acid.

1. Disposal. No person may dispose of a lead-acid battery by burial, incineration, deposit or dumping so that the battery or any of its constituents may enter the environment or be emitted into the air or discharged into any waters.

2. Lead-acid battery retailers. A person selling or offering for retail sale lead-acid batteries shall:

A. Accept, at the point of transfer, used lead-acid batteries in reasonably clean and unbroken condition from customers in a quantity at least equal to the number of new batteries purchased;

B. If a used lead-acid battery is not exchanged at the time of sale, collect a \$10 deposit on the new battery.

(1) The deposit shall be returned to the customer when the customer delivers a used

lead-acid battery within 30 days of the date of sale.

(2) All funds received by a dealer as a deposit on a lead-acid battery shall be held in trust and separately accounted for by the retailer. Any interest on those funds shall inure to the benefit of the retailer. Annually on July 1st, all deposits not returned to customers in exchange for lead-acid batteries during the previous year ending June 30th shall inure to the benefit of the retailer; and

C. Post an 8 1/2" x 11" written notice that includes the display of the universal recycling symbol and the following language.

(1) "State law requires us to accept motor vehicle batteries or other lead-acid batteries for recycling in exchange for new batteries purchased."

(2) "A deposit of \$10 will be charged for each new lead-acid battery that is not exchanged with an old lead-acid battery."

(3) "It is illegal to dump, bury or incinerate a motor vehicle lead-acid battery or other lead-acid battery."

(4) "Recycle your used batteries."

3. Lead-acid battery wholesalers. Any person selling new lead-acid batteries at wholesale shall accept, at the point of transfer, in a quantity at least equal to the number of new lead-acid batteries purchased, used lead-acid batteries in reasonably clean and unbroken condition from customers. A person accepting lead-acid batteries in transfer from an automotive battery retailer shall be allowed a period, not to exceed 90 days, to remove batteries from the retail point of collection.

4. Inspection and enforcement. The Department of Environmental Protection shall produce, print and distribute notices required under subsection 2. The department shall enforce the provisions of this section and may inspect places, buildings or premises governed by this section.

5. Violations. Any person who does not abide by this section commits a civil violation subject to section 349.

See title page for effective date.

CHAPTER 584

H.P. 183 - L.D. 248

An Act to Strengthen Land Use Management in Maine's Unorganized Territories

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

Sec. 1. 12 MRSA §682, sub-§2, as amended by PL 1987, c. 885, §1, is further amended to read:

2. Subdivision. "Subdivision" means a division of an existing parcel of land into 3 or more parcels or lots within any 5-year period, whether this division is accomplished by platting of the land for immediate or future sale, or by sale of the land by metes and bounds or by leasing. A division accomplished by gift to a person related to the donor by blood, marriage or adoption, unless the intent of that gift is to avoid the objectives of this chapter, does not create a lot or lots for purposes of this definition.

The term "subdivision" shall also include the division of a new structure or structures on a tract or parcel of land into 3 or more dwelling units within a 5-year period and the division of an existing structure or structures previously used for commercial or industrial use into 3 or more dwelling units within a 5-year period. The area included in the expansion of an existing structure is deemed to be a new structure for the purposes of this paragraph.

~~The creation of a lot or parcel more than 500 acres in size shall not be counted as a lot for the purpose of this subsection.~~

The creation of a lot or parcel of at least 40 ~~but not more than 500~~ acres in size shall not be counted as a lot for the purpose of this subsection except when the lot or the parcel from which it was divided is located wholly or partly within the shoreland area as defined in Title 38, section 435 and except as provided in paragraph A, or when the lot or parcel from which it was divided has been subdivided into more than 10 lots in 5 years.

A. When ~~3 or more~~ to 10 lots containing at least 40 ~~but not more than 500~~ acres are created within a 5-year period from a parcel which is located wholly outside the shoreland area as defined in Title 38, section 435, a plan showing the division of the original parcel must be filed by the person creating the 3rd lot with the registry of deeds, the commission and the State Tax Assessor within 60 days of the creation of that lot. Any subsequent division of a lot created from the original parcel within 10 years of the filing of the plan in the registry of deeds shall be considered a subdivision. Failure to file the plan required by this paragraph is a violation of this chapter subject to the penalties provided in section 685-C, subsection 8.

B. The commission shall submit a report by March 15th, annually, to the joint standing committee of the Legislature having jurisdiction over energy and natural resources. The report shall indicate the number and location of lots for which a plan was filed under paragraph A and the number and location of subsequent divisions requiring review by the commission.

Sec. 2. 12 MRSA §685-B, sub-§2-B is enacted to read:

2-B. Determination deadline. The commission shall render its determination on any application for subdivision approval within 60 days after the commission receives that application.

Sec. 3. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

1990-91

CONSERVATION, DEPARTMENT OF

Maine Land Use Regulation Commission

All Other \$2,000

Provides funds for increased mailings and public hearings.

See title page for effective date.

CHAPTER 585

H.P. 1025 - L.D. 1431

An Act to Promote Reduction, Recycling and Integrated Management of Solid Waste and Sound Environmental Regulation

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

PART A

Sec. 1. 2 MRSA §6, sub-§2, as repealed and replaced by PL 1981, c. 705, Pt. L, §§1 to 3, is amended to read:

2. Range 90. The salaries of the following state officials and employees shall be within salary range 90:

Superintendent of Banking;

Bureau of Consumer Credit Protection Superintendent;

State Tax Assessor; ~~and~~

Superintendent of Insurance; and

Executive Director, Maine Waste Management Agency.