

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND FOURTEENTH LEGISLATURE
FIRST SPECIAL SESSION

August 21, 1989 to August 22, 1989

and

SECOND REGULAR SESSION

January 3, 1990 to April 14, 1990

THE GENERAL EFFECTIVE DATE FOR
NON-EMERGENCY LAWS IS
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PUBLISHED BY THE REVISOR OF STATUTES
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J.S. McCarthy Company
Augusta, Maine
1990

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
SECOND REGULAR SESSION

of the
ONE HUNDRED AND FOURTEENTH LEGISLATURE

January 3, 1990 to April 14, 1990

CHAPTER 635

S.P. 809 - L.D. 2072

An Act Providing Conformity with the United States Internal Revenue Code Under the Maine Income Tax Law for 1989

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

Whereas, the 90-day period would delay the processing of the 1989 income tax returns; and

Whereas, legislative action is immediately necessary in order to ensure continued and efficient administration of the Maine Income Tax Law and certain other state taxes; 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:

Sec. 1. 36 MRSA §111, sub-§1-A, as amended by PL 1989, c. 242, §§1 and 2, is further amended to read:

1-A. Code. "Code" means the United States Internal Revenue Code of 1986 and amendments to that Code as of December 31, ~~1988~~ 1989.

Sec. 2. Application. This Act applies to tax years beginning on or after January 1, 1989.

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

Effective February 23, 1990.

CHAPTER 636

S.P. 904 - L.D. 2298

An Act to Extend the Reporting Date of the Commission on Codification of Rules

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

Whereas, Public Law 1989, chapter 574, section 10, subsection 5, became effective on September 30, 1989 and set a March 15, 1990 reporting deadline for the Commission on Codification of Rules to report its findings and recommendations for a code of rules to the Joint Standing Committee on State and Local Government; and

Whereas, the commission requires additional time in order to develop appropriate recommendations; 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:

PL 1989, c. 574, §10, sub-§5 is amended to read:

5. The commission shall report its findings and its recommendation for a code of rules to the Joint Standing Committee on State and Local Government no later than ~~March~~ September 15, 1990.

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

Effective February 23, 1990.

CHAPTER 637

H.P. 1327 - L.D. 1829

An Act to Prohibit the Use of Herbicides in the Allagash Wilderness Waterway

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

Whereas, the herbicide spraying season will begin before legislation by the Second Regular Session of the 114th Legislature becomes effective; and

Whereas, a moratorium on the use of herbicides during this growing season will give the State an opportunity to reassess herbicide use within the Allagash Wilderness Waterway; 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:

Sec. 1. 12 MRSA §662, sub-§4-A is enacted to read:

4-A. Herbicide. "Herbicide" means a substance or mixture of substances used to destroy, dessicate, defoliate or prevent the growth of unwanted vegetation.

Sec. 2. 12 MRSA §670, sub-§§1 and 2, as repealed and replaced by PL 1983, c. 754, §3, are amended to read:

1. Restricted zone. Timber-harvesting operations ~~shall~~ are not ~~be~~ permitted within the restricted zone, except:

- A. By direction of the bureau for the purpose of maintaining healthy forest conditions; or
- B. By direction of the bureau for the purpose of correcting situations arising from natural disasters.

Herbicides spraying is prohibited within the restricted zone.

2. Waterway outside restricted zone. ~~No~~ A person may not commence a timber-harvesting ~~operations~~ operation in the waterway outside of the restricted zone without consultation with or, when required under paragraph B, approval from the bureau. Prior to December 1, 1990, a person may not apply herbicides in the waterway outside the restricted zone.

A. Before a timber-harvesting operation is commenced in the waterway outside the restricted zone, a management plan ~~shall~~ must be submitted to the bureau. The plan ~~shall~~ must contain:

- (1) A plan of the proposed timber-harvesting operation, setting forth the type of cutting proposed;
- (2) The amount of timber proposed to be removed;
- (3) The time of year of cutting and removal;
- (4) The location of principal haul road and crossings in the waterway to be used in connection with the proposed timber-harvesting operation;
- (5) The plan for reforestation;
- (6) A stand table indicating species composition, size class and health of the original and residual stands;
- (7) Expected date of reentry;
- (8) Pesticide or other chemical treatment planned, excluding the use of herbicides before December 1, 1990; and
- (9) Proposed plans to mitigate evidence of harvesting.

When an application for approval is not required under paragraph B, the bureau shall seek coopera-

tion from those submitting the management plan in addressing any concerns of the bureau.

B. When the bureau determines that the timber-harvesting operation is proposed for an area in the waterway outside of the restricted zone and visible from the watercourse, the timber-harvesting operation may commence only with approval from the bureau. Application forms for approval, provided by the bureau, ~~shall~~ must be completed and signed by the applicant. This paragraph ~~shall~~ may not be construed to excuse the applicant from requirements for other permits required by law.

C. The bureau shall, within 30 days of receipt of an application for approval, either approve the proposed timber-harvesting operation, upon such terms and conditions as are appropriate and reasonable, or disapprove the proposed timber-harvesting operation setting forth in writing the reasons therefor. If a decision is not made within the 30 days, the timber-harvesting operation ~~shall be~~ is considered approved under the provisions of the management plan submitted.

D. The bureau shall approve an application for a timber-harvesting operation when it finds that the management plan provides for the silvicultural alternative which:

- (1) Produces the least adverse impact upon the natural character of the area in the waterway outside the restricted zone and visible from the watercourse for which the timber-harvesting operation is proposed; and
- (2) Is economically feasible, except that an applicant may waive the requirement of a finding of economic feasibility.

E. Notwithstanding the provisions of paragraph D, the bureau ~~shall~~ may not deny an application for the removal of trees that are dead, dying or damaged by natural causes.

F. Before disapproving an application or imposing terms and conditions under paragraph C, the bureau shall have the application and management plan reviewed by an experienced professional forester.

Sec. 3. 12 MRSA §674, 4th ¶, as repealed and replaced by PL 1983, c. 754, §4, is amended to read:

A person who violates any provision of section 670, except as otherwise provided in this paragraph, rules promulgated or permits issued under ~~it~~ that section, commits a civil violation for which a forfeiture of up to, but not more than, \$1,000 for each day of the violation may be adjudged. A person who willfully or knowingly falsifies any statement contained in a management plan or application under section 670 commits a civil violation

for which a forfeiture of up to, but not more than \$1,000 may be adjudged. A person who violates the herbicide provisions of section 670 is subject to the penalties of Title 22, section 1471-J.

Sec. 4. 36 MRSA §574-B, sub-§1, as enacted by PL 1989, c. 555, §16, is amended to read:

1. Forest management and harvest plan. A forest management and harvest plan has been prepared for the parcel and updated every 10 years. The landowner shall file a sworn statement with the municipal assessor in a municipality or the State Tax Assessor for parcels in the unorganized territory that a management plan has been prepared for the parcel. A landowner with a parcel taxed pursuant to this subchapter ~~on the date of enactment of this provision~~ September 30, 1989 has until April 1, 1999, to comply with this requirement and may, upon request until the plan is prepared or April 1, 1999, whichever is earlier, will be subject to the applicability provisions until April 1, 1999, under this section as it existed on April 1, 1982;

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

Effective February 28, 1990.

CHAPTER 638

S.P. 780 - L.D. 2021

An Act to Amend the Laws Implementing, Administering and Enforcing the United States Emergency Planning and Community Right-to-Know Act of 1986

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

Whereas, there are railroad yards, truck depots and airports that routinely possess extremely hazardous substances on a temporary basis and these transportation storage points should be defined as "facilities" within the law; and

Whereas, the State does not now have authority to accomplish administrative inspections to determine if a facility has complied with all provisions of the law; and

Whereas, the current law does not describe accurately the intent and the need to improve both employee health and public safety; 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:

Sec. 1. 37-B MRSA §791, sub-§2, ¶B-1 is enacted to read:

B-1. "Facility" means all buildings, equipment, structures, rail makeup, holding or storage tracks, spurs or yards, truck parking areas, airports, loading docks and other stationary items that are located on a single site or on contiguous or adjacent sites and are owned or operated by the same person or by another person who controls, is controlled by, or is under common control with that person. "Facility" includes sites where motor vehicles, watercraft, rolling stock and aircraft are present for more than 12 hours.

Sec. 2. 37-B MRSA §795, first ¶, as enacted by PL 1989, c. 464, §3, is amended to read:

The operators of any facility ~~that stores~~ where any extremely hazardous substance is present in a quantity above the threshold planning quantity are subject to the following.

Sec. 3. 37-B MRSA §803, sub-§4, as enacted by PL 1989, c. 464, §3, is amended to read:

4. Monitor compliance. The agency shall monitor the compliance of facilities, owners and operators with this subchapter and shall conduct inspections as necessary to ensure compliance with this subchapter. In the event of an accident or incident, the agency may investigate and inspect facilities to determine the cause and circumstances and may order appropriate reporting, facility response mitigation and corrective actions pursuant to any requirement of this subchapter.

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

Effective March 1, 1990.

CHAPTER 639

H.P. 1447 - L.D. 2016

An Act to Amend Laws Regulating the Sardine Industry by Enhancing Export Opportunities

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

Whereas, the Maine sardine industry is losing market opportunities worth thousands of dollars each year in the territories and possessions of the United States due to restrictions in the laws of this State that were created to enhance the quality of sardines sold in the markets of the United States; and

Whereas, a rapid resolution of the restrictions that reduce access to these markets is in the best interests