

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
July 14, 1990

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
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

Transit districts subject to regulation by the Public Utilities Commission under Title 35-A, Part 5, are exempt from this subsection.

5. Penalty. Any transit district violating subsection 4, is subject to a civil penalty of not more than \$5,000, payable to the State, and recoverable in a civil action.

See title page for effective date.

CHAPTER 727

H.P. 1329 - L.D. 1846

An Act to Require Mitigation for Land Use Violations within the Shoreland Zone

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

Sec. 1. 30-A MRSA §4452, sub-§3, as enacted by PL 1989, c. 104, Pt. A, §45 and Pt. C, §10, is amended to read:

3. Civil penalties. The following provisions apply to violations of the laws and ordinances set forth in subsection 5. All Except for paragraph H, monetary penalties may be assessed on a per-day basis and are civil penalties.

A. The minimum penalty for starting construction or undertaking a land use activity without a required permit is \$100, and the maximum penalty is \$2,500.

B. The minimum penalty for a specific violation is \$100, and the maximum penalty is \$2,500.

C. The violator may be ordered to correct or abate the violations. When the court finds that the violation was willful, the violator shall be ordered to correct or abate the violation unless the abatement or correction will results in:

- (1) Result in a A threat or hazard to public health or safety;
- (2) Result in substantial Substantial environmental damage; or
- (3) Result in a A substantial injustice.

C-1. Notwithstanding paragraph C, for violations of the laws and ordinances set forth in subsection 5, paragraph Q, the violator shall be ordered to correct or mitigate the violation unless the correction or mitigation results in:

- (1) A threat or hazard to public health or safety;
- (2) Substantial environmental damage; or

(3) A substantial injustice.

D. If the municipality is the prevailing party, ~~it shall~~ the municipality must be awarded reasonable attorney fees, expert witness fees and costs, unless the court finds that special circumstances make the award of these fees and costs unjust. If the defendant is the prevailing party, the defendant may be awarded reasonable attorney fees, expert witness fees and costs as provided by court rule.

E. In setting a penalty, the court shall consider, but is not limited to, the following:

- (1) Prior violations by the same party;
- (2) The degree of environmental damage that cannot be abated or corrected;
- (3) The extent to which the violation continued following a municipal order to stop; and
- (4) The extent to which the municipality contributed to the violation by providing the violator with incorrect information or by failing to take timely action.

F. The maximum penalty may exceed \$2,500, but may not exceed \$25,000, when it is shown that there has been a previous conviction of the same party within the past 2 years for a violation of the same law or ordinance.

G. The penalties for violations of waste discharge licenses issued by the municipality pursuant to Title 38, section 413, subsection 8, is as prescribed in Title 38, section 349.

H. If the economic benefit resulting from the violation exceeds the applicable penalties under this subsection, the maximum civil penalties may be increased. The maximum civil penalty may not exceed an amount equal to twice the economic benefit resulting from the violation. Economic benefit includes, but is not limited to, the costs avoided or enhanced value accrued at the time of the violation as a result of the violator's noncompliance with the applicable legal requirements.

Sec. 2. 30-A MRSA §4506, sub-§3, as amended by PL 1989, c. 6; c. 9, §2; c. 104, Pt. C, §§8 and 10; and c. 282, §1, is repealed.

See title page for effective date.

CHAPTER 728

S.P. 822 - L.D. 2098

An Act to Increase Eligibility for Imprisonment with Intensive Supervision