

# 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.

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J.S. McCarthy Company  
Augusta, Maine  
1990

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**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**

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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

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

**Sec. 1.** 17-A MRSA §1206, sub-§7-B is enacted to read:

**7-B.** Upon revocation of probation in accordance with subsection 5, 6 or 7, the court may act in accordance with section 1267.

**Sec. 2.** 17-A MRSA §1263, sub-§1, ¶B, as enacted by PL 1985, c. 821, §15, is amended to read:

B. ~~His~~ The conviction is for a Class A, Class B or Class C crime, excluding the following:

- (1) Sections 755, 756 and 757; and
- (2) Any sentence controlled by section 1252, subsections 4 and 5; ~~and~~ , unless the defendant is sentenced to a term of imprisonment with at least 3 years unsuspended, with the last year of the unsuspended portion to be served with intensive supervision, provided that the conditions of subsection 2 are also met. The defendant may be sentenced to imprisonment with intensive supervision under this subparagraph regardless of whether the defendant petitions the court or otherwise agrees to imprisonment with intensive supervision;
- (3) ~~A conviction for violating a law which expressly provides that the fine and imprisonment penalties it authorizes may not be suspended;~~

**Sec. 3.** 17-A MRSA §1263, sub-§2 is enacted to read:

2. A person convicted of violating a law that expressly provides that the fine or imprisonment penalty it authorizes may not be suspended may not be sentenced to imprisonment with intensive supervision pursuant to section 1262, unless the penalty that may not be suspended is also imposed. If the penalty that may not be suspended is one of imprisonment, then that penalty must be served in institutional confinement as part of and at the beginning of the initial unsuspended term with the intensive supervision applying to the final portion of the initial unsuspended term.

**Sec. 4.** 17-A MRSA §1267 is enacted to read:

**§1267. Intensive supervision upon revocation of probation**

1. Upon revocation of probation pursuant to section 1206 and if recommended by the Department of Corrections, the court may vacate, in whole or in part, the suspension of execution as to the imprisonment specified when probation was granted and may order that part or

all of the imprisonment be served with intensive supervision provided that there remains at the time of revocation at least 6 months of imprisonment suspended.

2. If the court requires that the imprisonment be served with intensive supervision, the court shall specify how much of the imprisonment is to be served with intensive supervision, with that portion ranging from 6 to 18 months. Any portion of the imprisonment not to be served with intensive supervision must be served with institutional confinement prior to the intensive supervision.

3. Imprisonment with intensive supervision may be ordered under this section regardless of whether there remains any portion of the sentence for which suspension of execution is not vacated upon the revocation of probation. Any portion for which suspension of execution is not vacated is governed by section 1206, subsection 7-A.

4. The court may order a person to serve a term of imprisonment with intensive supervision under this section regardless of whether the person petitions the court or otherwise agrees to imprisonment with intensive supervision.

5. Except to the extent that they are inconsistent with this section, the other sections in this chapter apply to persons ordered to serve imprisonment with intensive supervision under this section as if those persons had been sentenced to a term of imprisonment with intensive supervision under those sections.

See title page for effective date.

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## CHAPTER 729

S.P. 826 - L.D. 2134

### An Act to Change the Name of the Committee for the Interdepartmental Coordination of Services to Children and Families

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

**34-B MRSA §1214**, as repealed and replaced by PL 1989, c. 502, Pt. B, §44, is amended to read:

**§1214. Interdepartmental Council**

1. Establishment. ~~The Committee for the Interdepartmental Coordination of Services to Children and Families Council~~ is established.

2. Purpose. It is the intent of the Legislature to encourage the coordination of policies and programs for Maine children and families.

3. Membership. ~~The committee council~~ shall be composed of 4 5 members: The Commissioner of Corrections; Commissioner of Educational and Cultural