

# 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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person creating the subdivision notifies the commissioner in writing on a form supplied by the commissioner that the exemption afforded by this paragraph is being used. The person creating the subdivision shall file with that form a set of site plans, including the plans required under subparagraphs (7) and (8), and other evidence sufficient to demonstrate that the requirements of this paragraph have been met. The commissioner shall forward a copy of the form to the municipality in which the subdivision is located.

For purposes of this paragraph, "developable land in the parcel" means all contiguous land in the same ownership except for coastal wetlands, freshwater wetlands, rivers, streams and brooks as defined in section 480-B and except for any surface water classified GPA under section 465-A.

6. Multi-unit housing exemption. Developments that consist only of multi-unit housing located entirely within the area of the State subject to the jurisdiction of the Maine Land Use Regulation Commission under Title 12, chapter 206-A, are exempt from the requirements of this article.

7. Exemption for expansion at existing manufacturing facility. New construction that is not a development that may substantially affect the environment at an existing manufacturing facility is exempt from review under this article provided that the additional disturbed area not to be revegetated does not exceed 30,000 square feet in any calendar year. When review under this article is required for development at an existing manufacturing facility, the applicant shall provide plans for the new development, as well as for those activities which have been undertaken pursuant to this subsection.

See title page for effective date.

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## CHAPTER 770

H.P. 1441 - L.D. 2010

### An Act Concerning the Depuration Digging of Shellfish

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

**Sec. 1. 12 MRSA §6856, sub-§3,** as amended by PL 1979, c. 249, is further amended to read:

**3. Depuration certificate.** The commissioner may issue a depuration certificate to a wholesale seafood license holder ~~which that~~ authorizes the holder to take shellfish from closed areas for depuration ~~and to process or transport them, processing and transportation.~~ The certificate ~~shall~~ **must** establish the limits on harvesting, depurating and processing methods and any other provisions required to assure the public safety. The commis-

sioner may permit depuration of shellfish not contaminated by paralytic shellfish poisoning if it is established that the water used during depuration will not contaminate the shellfish with paralytic shellfish poisoning. To ensure consistency with municipal shellfish conservation programs, established pursuant to section 6671, the commissioner must consult with a municipal shellfish conservation committee before taking action to open an area within that municipality for depuration digging. The commissioner may continue to issue controlled purification certificates for areas that were restricted to depuration digging on September 1, 1989, without consulting municipalities.

**Sec. 2. Department of Marine Resources study.** The Department of Marine Resources shall establish a group of interested municipal representatives to identify and recommend methods to increase participation by municipalities, interested citizens and municipal shellfish conservation committees in water quality testing, especially as the water quality testing relates to shellfish sanitation sampling and depuration harvesting programs. Municipal representatives must include members of municipal shellfish conservation committees. The department shall also identify and implement methods to increase cooperation and communication between the department and municipalities on shellfish-related issues. The department shall report its findings, any actions taken and any recommendations, including any implementing legislation, by January 15, 1991, to the Executive Director of the Legislative Council for transmittal to the Joint Standing Committee on Marine Resources. The Joint Standing Committee on Marine Resources may introduce legislation to the First Regular Session of the 115th Legislature in response to the department's report.

See title page for effective date.

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## CHAPTER 771

H.P. 1405 - L.D. 1953

### An Act to Strengthen Penalties for Operating under the Influence When a Minor Is a Passenger

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

**Sec. 1. 29 MRSA §1311-A, sub-§5, ¶B,** as amended by PL 1989, c. 502, Pt. B, §34, is further amended to read:

**B. ~~The~~ Except as provided in paragraph B-1, the period of license suspension for a person whom the Secretary of State has determined to have operated or attempted to operate a motor vehicle with an excessive blood-alcohol level for a first or subsequent offense ~~shall be~~ is the same suspension period as if the person were convicted or adjudicated of a violation of section 1312-B or Title 15, section 3103, subsection 1, paragraph F.**

**Sec. 2. 29 MRSA §1311-A, sub-§5, ¶B-1** is enacted to read:

B-1. If the Secretary of State determines that a person with an excessive blood-alcohol level operated or attempted to operate a motor vehicle with a passenger under 16 years of age, the Secretary of State may impose a suspension period of up to 275 days, in addition to the suspension period under paragraph B.

**Sec. 3. 29 MRSA §1312-B, sub-§2, ¶B**, as amended by PL 1987, c. 791, §19, is further amended to read:

B. In the case of a person having no previous convictions of a violation of former section 1312, subsection 10, former section 1312-B, or this section and having no previous suspension of license or privilege to operate for failure to comply with the duty to submit to and complete a test to determine the level of blood-alcohol under section 1312 within a 6-year period, the fine ~~shall~~ may not be less than \$300, the sentence ~~shall~~ must include a period of incarceration of not less than 48 hours and the court shall suspend the defendant's license or permit to operate, right to operate a motor vehicle and right to apply for and obtain a license for a period of 90 days, which penalties may not be suspended, when the person:

- (1) Was tested as having a blood-alcohol level of 0.15% or more;
- (2) Was driving in excess of the speed limit by 30 miles an hour or more during the operation ~~which~~ that resulted in the prosecution for operating under the influence or with a blood-alcohol level of 0.08% or more;
- (3) Eluded or attempted to elude an officer, as defined in section 2501-A, subsection 3, during the operation ~~which~~ that resulted in prosecution for operating under the influence or with a blood-alcohol level of 0.08% or more; ~~or~~
- (4) Failed to submit to a chemical test for the determination of that person's blood-alcohol level, at the request of a law enforcement officer on the occasion ~~which~~ that resulted in the conviction; ~~or~~
- (5) Was, on the occasion that resulted in the conviction, operating or attempting to operate a motor vehicle with a passenger under 16 years of age.

**Sec. 4. 29 MRSA §1312-B, sub-§3**, as amended by PL 1987, c. 791, §21, is further amended to read:

**3. Sentencing procedure.** Notwithstanding the provisions of Title 15, section 757, in determining the

appropriate sentence, the court shall consider whether the defendant operated or attempted to operate a motor vehicle with a passenger under 16 years of age, the record of convictions for criminal traffic offenses, adjudications of traffic infractions and suspensions of license or privilege to operate for failure to comply with the duty to submit to and complete a test to determine the level of blood alcohol of the defendant. The court may rely upon oral representations based on records maintained by the courts, by the State Bureau of Identification or by the Secretary of State, including telecommunications of records maintained by the Secretary of State. If the defendant disputes the accuracy of any representation concerning a conviction or adjudication, the court shall grant a continuance for the purposes of determining the accuracy of the record.

See title page for effective date.

## CHAPTER 772

H.P. 1357 - L.D. 1874

### An Act to Correct the Subdivision Laws

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

**Sec. 1. 12 MRSA §682, sub-§2**, as amended by PL 1989, c. 584, §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~~ includes the division, placement or construction of a new structure or structures on a tract or parcel of land ~~into~~ resulting in 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 of at least 40 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.