

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

~~license~~ confiscated items, together with a report stating the circumstances under which ~~it was~~ they were obtained, to the Secretary of State.

See title page for effective date.

CHAPTER 873

H.P. 1758 - L.D. 2423

An Act to Clarify the Laws on Manslaughter in the Workplace

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

Whereas, unless this legislation is enacted as an emergency measure, certain public employees or persons performing a public service may be held criminally liable for performing that public service or responding to a life-threatening situation; 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:

17-A MRSA §203, sub-§1, ¶C, as enacted by PL 1989, c. 505, §1, is amended to read:

C. Has direct and personal management or control of any employment, place of employment or other employee, and intentionally or knowingly violates any occupational safety or health standard of this State or the Federal Government, and that violation in fact causes the death of an employee and that death is a reasonably foreseeable consequence of the violation. This paragraph does not apply to:

(1) Any person who performs a public function either on a volunteer basis or for minimal compensation for services rendered; or

(2) Any public employee responding to or acting at a life-threatening situation who is forced to make and does make a judgment reasonably calculated to save the life of a human being.

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

Effective April 19, 1990.

CHAPTER 874

H.P. 1753 - L.D. 2416

An Act to Establish Fees for Nonferrous Metal Mining

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

Whereas, several enterprises have expressed interest in beginning nonferrous metal mining operations in the State; and

Whereas, the existing fee structure for permits from the Department of Environmental Protection is inadequate to assess properly the environmental impacts of large-scale mining operations; and

Whereas, considerable state resources are expended for review of mining projects in advance of submission of an application to mine; and

Whereas, the Department of Environmental Protection must have sufficient resources to assess the environmental, health and safety issues related to nonferrous metal mining in the State; and

Whereas, the Legislature has determined that nonferrous metal mining, if conducted properly, is an acceptable and necessary activity which results in benefits to the State and the nation; 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. 38 MRSA §349-A is enacted to read:

§349-A. Mining rules

The board and the Maine Land Use Regulation Commission shall jointly adopt or amend rules necessary to regulate nonferrous metal mining by February 1, 1991. The commissioner and the Maine Land Use Regulation Commission shall convene a joint task force composed of 3 members from each agency to carry out the duties of this section. Any consultants hired must be jointly chosen by both the commissioner and the Director of the Maine Land Use Regulation Commission. Any rules adopted pursuant to this section must include reclamation requirements for a nonferrous metal mining site.

Sec. 2. 38 MRSA §352, sub-§4-A is enacted to read:

4-A. Maximum fees for nonferrous metal mining. Notwithstanding the fees for mining established in subsections 4 and 5, the maximum fees for nonferrous metal mining are as follows:

A. The preapplication fee is \$20,000 until the one-time allocation made pursuant to section 1319-E, subsection 1, paragraph F, has been repaid. Thereafter the preapplication fee is \$10,000;

B. The processing fee is \$30,000; and

C. The annual license fee is \$10,000.

Sec. 3. 38 MRSA §353, sub-§1-A is enacted to read:

1-A. Preapplication fee for nonferrous metal mining. The preapplication fee for nonferrous metal mining must be paid upon submission of a base line monitoring plan to the department for review and approval. Any preapplication fee received by the department must be transferred from the fund to the Maine Hazardous Waste Fund until the one-time allocation made pursuant to section 1319-E, subsection 1, paragraph F, has been repaid.

For the purposes of this subsection, "base line monitoring plan" means a monitoring plan that defines the existing site conditions for a specific location and must include, but is not limited to, characterizations of the following resources: wildlife, surface and ground water quality and quantity and air quality.

Sec. 4. 38 MRSA §353, sub-§2, as amended by PL 1987, c. 419, §8, is further amended to read:

2. Processing fee. A processing fee shall must be paid at the time of filing the application. Failure to pay the processing fee at the time of filing the application will result results in the application being returned to the applicant. The department shall commissioner may not refund the processing fee if the application is denied by the board or the commissioner. If the application is withdrawn by the applicant within 30 days of the start of processing, the processing fee shall must be refunded, except in the case of nonferrous metal mining applications. If an application for nonferrous metal mining is withdrawn by the applicant within 30 days of the date of filing, 1/2 of the application fee must be refunded.

Sec. 5. 38 MRSA §353, sub-§3, as amended by PL 1987, c. 787, §11, is further amended to read:

3. License fee. A license fee shall must be paid at the time of filing the application. Failure to pay the license fee at the time of filing will result results in the application being returned to the applicant. The department shall refund the license fee if the board or commissioner denies the application or if the application is withdrawn by the applicant. Notwithstanding the provisions of this subsection, the license fee for a subdivision shall must be paid prior to the issuance of the license.

The license fees for nonferrous metal mining must be paid annually on the anniversary date of the license for the life of the project, up to and including the period of closure and reclamation.

Sec. 6. 38 MRSA §361-A, sub-§3-A is enacted to read:

3-A. Nonferrous metal mining. "Nonferrous metal mining" means hard rock mining for base and precious metals including copper, lead, tin, zinc, gold, silver, platinum, paladium and unspecified platinoid metals. "Nonferrous metal mining" does not include thorium or uranium.

Sec. 7. 38 MRSA §489-B is enacted to read:

§489-B. Uranium and thorium mining

Mining for uranium or thorium is prohibited within the State.

Sec. 8. 38 MRSA §1319-E, sub-§1, ¶D, as amended by PL 1987, c. 517, §26, is further amended to read:

D. Amounts necessary to reimburse municipalities as required by section 1319-R, subsection 3; and

Sec. 9. 38 MRSA §1319-E, sub-§1, ¶E, as amended by PL 1989, c. 546, §15, is further amended to read:

E. Costs incurred in the inspection or supervision of hazardous waste activities and hazardous waste handlers; and

Sec. 10. 38 MRSA §1319-E, sub-§1, ¶F is enacted to read:

F. A one-time allocation of \$100,000 to the department and the Maine Land Use Regulation Commission to develop mining rules pursuant to section 349-A. This allocation must be repaid by any pre-application fees assessed pursuant to section 352, subsection 4-A, or any federal funds received by the department to develop mining rules.

Sec. 11. Allocation. The following funds are allocated from Other Special Revenue funds to carry out the purposes of this Act.

1989-90

CONSERVATION, DEPARTMENT OF

Maine Land Use Regulation Commission

All Other \$50,000

Provides funds for the promulgation of mining rules.

DEPARTMENT OF CONSERVATION
 TOTAL \$50,000

ENVIRONMENTAL PROTECTION,
 DEPARTMENT OF

Maine Hazardous Waste Fund

All Other \$50,000

Provides funds for the promul-
 gation of mining rules.

DEPARTMENT OF ENVIRONMENTAL
 PROTECTION
 TOTAL \$50,000

TOTAL ALLOCATIONS \$100,000

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

Effective April 19, 1990.

CHAPTER 875

H.P. 1831 - L.D. 2503

An Act to Make Supplemental Appropriations and Allocations for the Expenditures of State Government and to Change Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 1990 and June 30, 1991

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

Whereas, the status of the Maine economy has a dramatic impact on the stability of the State's finances; and

Whereas, the current economic slowdown demonstrates the critical relationship between the Maine economy and the State's finances; and

Whereas, it is necessary to balance the State's finances; 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:

PART A

Sec. 1. Appropriations from the General Fund. There is appropriated from the General Fund for the fiscal years ending June 30, 1990 and June 30, 1991 to the departments listed the following sums:

	1989-90	1990-91
ADMINISTRATION, DEPARTMENT OF		
Administration - Human Resources		
Positions		(-1)
Personal Services		(67,514)
All Other		(34,000)
Total		<u>(101,514)</u>
Provides for the deappropriation of funds from not filling two vacant positions, from a Receptionist layoff, and reduced operational costs from a reduction in computer rental costs.		
Buildings and Grounds Operations		
Personal Services		(130,479)
All Other		(147,500)
Total		<u>(277,979)</u>
Provides for the deappropriation of funds from the delay in filling vacancies, reducing overtime, instituting savings measures to reduce the consumption of fuel, electricity and supplies and by reducing out-of-state travel, lighting, space heaters, HVAC Systems operations, building temperatures and the purchase of supplies.		
Capital Construction - Repairs - Improvements - Administration		
All Other		(140,000)
Provides for the deappropriation of funds from deferring repair and maintenance projects at the Department of Agriculture, Food and Rural Resources and the Department of Conservation and by limiting capital repairs to state facilities.		
Employee Relations - Office of		
Personal Services	(6,000)	(36,258)
All Other		(47,000)
Total	<u>(6,000)</u>	<u>(83,258)</u>