

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND FIFTEENTH LEGISLATURE
FIRST REGULAR SESSION

December 5, 1990 to July 10, 1991

Chapters 1 - 590

THE GENERAL EFFECTIVE DATE FOR
NON-EMERGENCY LAWS IS
OCTOBER 9, 1991

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
1991

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION

of the
ONE HUNDRED AND FIFTEENTH LEGISLATURE

1991

Whereas, these findings are complex and difficult to summarize; 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:

5 MRSA §6305, as enacted by PL 1989, c. 571, Pt. B, §2, is amended to read:

§6305. Report; reporting deadline

The board shall submit a report summarizing its findings and recommendations, including any suggested legislation, to the Legislature by ~~January~~ February 1, 1991.

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

Effective April 16, 1991.

CHAPTER 36

H.P. 2 - L.D. 2

An Act Concerning Open Burning

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

Whereas, the Maine Revised Statutes, Title 38, section 599, was inadvertently repealed by Public Law 1989, chapter 890; and

Whereas, this Act restores the authority and responsibility of the Maine Forest Service to enforce open-burning restrictions and to issue permits; 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Sec. 1. 12 MRSA §9321, sub-§1, 1D, as repealed and replaced by PL 1983, c. 504, §1, is amended to read:

D. The matter and type of burning proposed, giving due consideration to prohibitions and permissible open-

burning ~~regulations~~ rules of the Department of Environmental Protection ~~under Title 38, section 599~~;

Sec. 2. 12 MRSA §9321, sub-§4, as repealed and replaced by PL 1983, c. 504, §3, is amended to read:

4. Conditions. The director may issue a permit with stated conditions or restrictions to insure adequate control of permitted fires in accordance with criteria of subsection 1 and conformity to ~~regulations~~ rules of the Department of Environmental Protection ~~under Title 38, section 599~~.

Sec. 3. 12 MRSA §9324, sub-§5, as enacted by PL 1983, c. 504, §4, is amended to read:

5. Permit required. No person, firm or corporation may burn out of doors without a permit from a ~~municipal fire chief~~, town forest fire warden or forest ranger, except as provided in sections 9322 and 9324 and ~~Title 38, section 599~~ 9325.

Sec. 4. 12 MRSA §9325 is enacted to read:

§9325. Open burning

1. Permissible open burning with permit. When not prohibited by statute, rule of any state agency or local ordinance, the types of burning described in this subsection are allowed provided that a permit has been obtained from the town forest fire warden or from the forest ranger having jurisdiction over the location where the fire is to be set. The burning must be conducted according to the terms and conditions of the permit and may not create a nuisance. A permit is required for:

A. Recreational campfires kindled when the ground is not covered by snow;

B. Fires in conjunction with holiday and festive celebrations;

C. Burning of solid or liquid fuels and structures for research or bona fide instruction and training of municipal, volunteer and industrial firefighters when conducted under the direct control and supervision of qualified instructors;

D. Burning for agricultural purposes including, but not limited to, open burning of blueberry fields, potato tops and hayfields and prescribed burning for timberland management;

E. Residential open burning of highly combustible household trash such as paper, cardboard cartons and wooden boxes where a trash collection service supported by municipal property taxes is not available or does not accept those materials;

F. Residential open burning of leaves, brush, deadwood and tree cuttings accrued from normal property maintenance by the individual landowner or lessee of

the land unless expressly prohibited by municipal ordinance;

G. Burning on site for the disposal of materials generated from the clearing of any land or by the erection, modification, maintenance, demolition or construction of any highway, railroad, power line, communication line, pipeline, building or development;

H. Burning for hazard reduction purposes such as, but not limited to, the burning of grass fields;

I. Burning for the containment or control of spills of gasoline, kerosene, heating oil or similar petroleum products; and

J. The burning of brush and demolition debris at municipal solid waste disposal facilities.

2. Permissible open burning without permit. When not prohibited by state rule, local ordinance or water utility regulation, the following types of burning are permissible without a permit if no nuisance is created:

A. Recreational campfires kindled when the ground is covered by snow or on frozen bodies of water;

B. Residential use of outdoor grills and fireplaces for recreational purposes such as preparing food; and

C. Use of outdoor grills and fireplaces for recreational purposes such as preparing food at commercial campgrounds in organized towns as long as the commercial campgrounds are licensed by the health engineering division of the Department of Human Services.

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

Effective April 23, 1991.

CHAPTER 37

S.P. 71 - L.D. 127

An Act to Revise the Law Respecting Insurers' Dividend Distributions

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

Sec. 1. 24-A MRSA §222, sub-§2, ¶A-2 is enacted to read:

A-2. "Continuing director" means:

(1) Any member of a domestic insurer's board of directors, while that person is a member of the

board of directors, who was a member of that board of directors prior to the time that any person acquires control of the domestic insurer or any person controlling the insurer; and

(2) Any successor of a continuing director, while the successor is a member of the board of directors, who is recommended or elected to succeed a continuing director by a number of continuing directors equal to a majority of continuing directors in office immediately preceding the acquisition of control.

Sec. 2. 24-A MRSA §222, sub-§11, as enacted by PL 1975, c. 356, §1, is amended to read:

11. Dividends and distributions. ~~No An~~ insurer subject to registration under this section ~~shall may not~~ pay any extraordinary dividend or make any other extraordinary distribution to its stockholders until 60 days after the superintendent has received notice of the declaration thereof, and has not within ~~such~~ that period disapproved ~~such~~ the payment, or until the superintendent ~~shall have approved~~ such approves that payment within ~~such the~~ 60-day period. For purposes of this section, an extraordinary dividend or distribution is any dividend or distribution which, together with other dividends or distributions made within the preceding 12 months, exceeds the greater of 10% of the insurer's surplus to policyholders as of December 31st of the immediate preceding 12 months or the net gain from operations of the insurer if the insurer is a life insurer or the net investment income if the insurer is not a life insurer, for the 12-month period ending December 31st of the year immediately preceding, but shall not include pro rata distributions of any class of the insurer's own securities. A pro rata distribution of any class of the insurer's own securities is not considered an extraordinary dividend or distribution for purposes of this section. Notwithstanding any other provision of law, an insurer may declare an extraordinary dividend or distribution ~~which that~~ is conditional upon the superintendent's approval thereof, and such a declaration ~~shall does not~~ confer ~~no any~~ rights upon stockholders until the superintendent has approved the payment of the dividend or distribution or the superintendent has not disapproved ~~such the~~ payment within the period referred to ~~above in~~ this subsection. The insurer's surplus following any dividends or distributions to shareholder affiliates ~~shall must~~ be reasonable in relation to the insurer's outstanding liabilities and ~~shall be~~ adequate to meet its financial needs. For purposes of this section, an extraordinary dividend or distribution is any dividend or distribution that:

A. Exceeds the greater of:

(1) Ten percent of the insurer's surplus to policyholders as of December 31st of the preceding year; or

(2) The net gain from operations of the insurer for the 12-month period ending December 31st