

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

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ONE HUNDRED AND FIFTEENTH LEGISLATURE

1991

oil, #2 fuel oil, kerosene, jet fuel and diesel fuel, is assessed on the transfer of those products by oil terminal facility licensees, as defined in section 542, subsection 7. These fees must be paid monthly by the oil terminal facility licensees on the basis of records certified to the commissioner and credited to the Ground Water Oil Clean-up Fund upon receipt by the department, except that the commissioner shall transfer the amount of these fees in excess of 3¢ per barrel of gasoline and 2¢ per barrel of refined petroleum products and their by-products, other than gasoline and liquid asphalt, as follows.

A. Sixty-two and one half percent of the excess must be transferred to the Finance Authority of Maine for deposit in the Underground Oil Storage Replacement Fund.

B. Thirty-seven and one half percent of the excess must be transferred to the Maine State Housing Authority for deposit in the Housing Opportunities for Maine Fund to be used initially for loans and grants to finance the costs of removal, disposal, replacement or abandonment of underground oil storage facilities and tanks located on owner-occupied or residential rental property, which facilities and tanks have been identified by the department as leaking or posing an environmental threat or as having been abandoned.

After an aggregate sum of \$5,000,000 has been transferred to the Finance Authority of Maine and an aggregate sum of \$3,000,000 has been transferred to the Maine State Housing Authority pursuant to this subsection, the per barrel fee assessed pursuant to this subsection must be reduced by 6¢ per barrel.

This subsection is effective December 31, 1999.

6-A. Reimbursements to the Ground Water Oil Clean-up Fund. The commissioner shall seek recovery for the use of the fund of all sums expended from the fund, including overdrafts, for the purposes described in subsection 5, paragraphs B, D, E and G, or for other damage incurred by the State, in connection with a prohibited discharge, including interest computed at 15% a year from the date of expenditure, unless the commissioner finds the amount involved too small or the likelihood of success too uncertain. Requests for reimbursement to the fund if not paid within 30 days of demand must be turned over to the Attorney General for collection.

This subsection is effective December 31, 1999.

Sec. C-2. 38 MRSA §§570-I and 570-J are enacted to read:

§570-I. Budget approval

The commissioner shall submit budget recommendations for disbursements from the fund in accordance with section 569, subsection 5, paragraphs A, C, F and G for each biennium. The budget must be submitted in accordance with Title 5, sections 1663 to 1666. The State Controller shall

authorize expenditures from the fund as approved by the commissioner. Expenditures pursuant to section 569, subsection 5, paragraphs B, D and E may be made as authorized by the State Controller following approval by the commissioner.

This section is effective December 31, 1999.

§570-J. Personnel and equipment

The commissioner shall establish and maintain at appropriate locations employees and equipment that, in the commissioner's judgment, are necessary to carry out this subchapter. The commissioner, subject to the Civil Service Law, may employ personnel necessary to carry out the purposes of this subchapter and shall prescribe the duties of those employees. The salaries of those employees and the cost of that equipment must be paid from the Ground Water Oil Clean-up Fund established by this subchapter.

This section is effective December 31, 1999.

PART D

Legislative intent. The purpose of this Act is to resolve conflicts created by 2 or more chapters of Public Law 1989 that amended or affected the same section, subsection, paragraph or subparagraph without reference to each other. Each conflict is resolved by reading the public law chapters together, consistent with the legislative purpose and intent for each chapter. If any Act of the 115th Legislature amends or affects the same section, subsection, paragraph or subparagraph without reference to this Act, and the statutory provisions can not be read together, it is the intent of the Legislature that the provisions of the other Act be given effect over the provisions of this Act.

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

Effective May 1, 1991.

CHAPTER 67

S.P. 260 - L.D. 718

**An Act to Protect the Confidentiality of
Library Records at Libraries of the
University of Maine System**

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

27 MRSA §121, first ¶, as enacted by PL 1983, c. 208, is amended to read:

Records maintained by any public municipal library, including the Maine State Library and libraries of the University of Maine System and the Maine Maritime Academy, which that contain information relating to the identity of a

library patron relative to the patron's use of books or other materials at the library, ~~shall be~~ are confidential. Those records may only be released with the express written permission of the patron involved or as the result of a court order.

See title page for effective date.

CHAPTER 68

S.P. 277 - L.D. 736

An Act to Amend the Laws Concerning the Aeronautical Functions Investigation

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

6 MRSA §17, sub-§7, as enacted by PL 1977, c. 678, §30, is amended to read:

7. Investigation. ~~Investigate all~~ Assist the National Transportation Safety Board as needed in the investigation of aircraft accidents and incidents ~~within~~ in the State;

See title page for effective date.

CHAPTER 69

S.P. 269 - L.D. 728

An Act Pertaining to the Licensing of Boarding Care Facilities

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

Sec. 1. 22 MRSA §7802, sub-§2, ¶B, as amended by PL 1983, c. 602, §1, is further amended to read:

B. The terms of full licenses or approvals ~~shall be~~ are as follows.

(1) Except as provided in subparagraphs (2) and (3), the term of all full licenses and approvals issued pursuant to this chapter ~~shall be~~ is for one year or the remaining period of a conditional or provisional license that has been issued for less than one year.

(2) The term of a residential child care facility license ~~shall be~~ is for 2 years.

(3) The term of a drug treatment center license may be for either one or 2 years.

Sec. 2. 22 MRSA §7905, sub-§1, as amended by PL 1985, c. 770, §11, is further amended to read:

1. Permission to manage personal funds. No operator or agent of any boarding care facility ~~shall~~ may manage, hold or deposit in a financial institution the personal funds of any resident of the facility, unless the operator or agent has received written permission therefor from:

A. The resident, if the resident ~~is not mentally retarded and~~ has no guardian, trustee or conservator;

B. The resident's guardian, trustee or conservator, if ~~such~~ that person exists and can be reached; or

C. The department, if a guardian, trustee or conservator exists, but ~~cannot~~ can not be reached, ~~or, in the case of a mentally retarded resident, if such resident has no guardian, trustee or conservator.~~

~~Whenever the department gives written permission to an operator or agent to manage, hold or deposit the personal funds of any mentally retarded residents, the department may request the Bureau of Mental Retardation, Department of Mental Health and Mental Retardation, to develop, insofar as resources are available, an appropriate plan for the management of these funds.~~

Sec. 3. 22 MRSA §7905, sub-§3, as enacted by PL 1975, c. 719, §6, is amended to read:

3. Depositing personal funds. The department may require an operator or agent of a boarding care facility to deposit in a financial institution the personal funds of a resident, ~~if: the resident has a guardian, trustee or conservator who can not be reached.~~

~~A. The resident has a guardian, trustee or conservator who cannot be reached; or,~~

~~B. In the case of a mentally retarded resident, the resident has no guardian, trustee or conservator.~~

Sec. 4. 22 MRSA §7922, sub-§1, as enacted by PL 1981, c. 445, is amended to read:

1. Long-term care facility. "Long-term care facility" means any boarding ~~care facility~~ home licensed pursuant to chapters 1663 and 1665, and any skilled nursing or intermediate care facility or unit licensed pursuant to chapter 405.

Sec. 5. 22 MRSA §7923, sub-§§1 and 3, as enacted by PL 1981, c. 445, are amended to read:

1. Establishment; composition. Each long-term care facility of ~~7 or more beds~~ shall inform residents of their right to establish a council. This information ~~shall~~ must be given to all residents and a family member or designated representative for those residents on admission and ~~shall~~ must be posted prominently in the facility.

The administrator shall assist residents in establishing a residents' council, if the residents choose to establish one. If there