

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

tution 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 §1303-C, sub-§§12, 13 and 41, as enacted by PL 1989, c. 585, Pt. E, §4, are amended to read:

12. Disposal. "Disposal" means the discharge, deposit, dumping, incineration, spilling, leaking or placing of any hazardous, biomedical or solid waste, waste oil, refuse-derived fuel, sludge or septage into or on any land, air or water so that the hazardous, biomedical or solid waste, waste oil, refuse-derived fuel, sludge or septage or any constituent thereof may enter the environment or be emitted into the air, or discharged into any waters, including ground waters.

13. Generation. "Generation" means the act or process of producing hazardous, biomedical or solid waste, waste oil, sludge or septage.

41. Waste management. "Waste management" means purposeful, systematic and unified control of the handling and transportation of hazardous, biomedical or solid waste, waste oil, sludge or septage.

Sec. 2. 38 MRSA §1303-C, sub-§47 is enacted to read:

47. Yard wastes. "Yard wastes" means grass clippings, leaves and other vegetal matter other than wood wastes and land clearing debris.

Sec. 3. 38 MRSA §1304, sub-§13, as affected by PL 1989, c. 890, Pt. A, §40 and as amended by Pt. B, §229, is further amended to read:

13. Innovative disposal and utilization. Recognizing that environmentally suitable sites for waste disposal are in limited supply and represent a critical natural resource, the commissioner may investigate and implement with the approval of the board innovative programs for managing, utilizing and disposing of solid waste. Innovative programs may include agricultural and forest land spreading of wood-derived ash, utilization of ash resulting from combustion of municipal solid waste, paper mill sludges ~~and~~, municipal waste water treatment plant sludges and the composting of yard wastes. The agency shall first determine that the proposed innovative disposal and waste management programs are consistent with the state plan. The commissioner shall review proposed innovative programs for each waste category and shall apply all controls necessary to ensure the protection of the environment and public health consistent with this chapter. The board may adopt application review procedures designed to review individual applications and their individual waste sources with prior approval of classes of disposal or utilization sites. The board shall adopt provisions for municipal notification prior to use of individual utilization sites.

Sec. 4. 38 MRSA §1304-B, sub-§2, ¶B, as amended by PL 1987, c. 517, §14, is further amended to read:

B. Requiring delivery of wastes generated within the municipality, or any portion of those wastes, to a designated disposal or reclamation facility; ~~and~~

Sec. 5. 38 MRSA §1304-B, sub-§2, ¶C, as enacted by PL 1987, c. 517, §15, is amended to read:

C. Designating certain materials as recyclable and exempt from the provisions of paragraph B: and

Sec. 6. 38 MRSA §1304-B, sub-§2, ¶D is enacted to read:

D. Designating yard wastes as compost material and requiring delivery of these wastes to a designated composting facility.

Sec. 7. 38 MRSA §1310-N, sub-§8 is enacted to read:

8. Exemption. The disposal of construction and demolition debris, land clearing debris and wood wastes is exempt from the requirements of this chapter when:

A. The disposal facility is less than one acre in size;

B. The disposal facility is located on the same parcel of property where the waste is generated; and

C. Only one exempt disposal facility is located on a single parcel of property, except that additional disposal facilities on the same parcel that are less than one acre in size and that were in existence prior to the effective date of this subsection do not require a license under this chapter if no additional waste is disposed of in those additional facilities after the effective date of this subsection.

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

Effective May 6, 1991.

CHAPTER 73

S.P. 323 - L.D. 879

An Act to Prevent Multiple Assessments of Patients at the Augusta Mental Health Institute

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

Whereas, the Department of Mental Health and Mental Retardation must complete assessments by June 30, 1991; 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. PL 1989, c. 501, Pt. BB, §7, 4th sentence is repealed and the following enacted in its place:

The department shall perform assessments on all patients of the Augusta Mental Health Institute by June 30, 1991 and on all patients of the Bangor Mental Health Institute by December 30, 1991. To prevent the occurrence of multiple individual assessments, these assessments must be conducted according to the terms and conditions of the consent decree issued on August 2, 1990 by the Superior Court, Kennebec County, in Civil Action Docket No. 89-88.

Sec. 2. Retroactivity. This Act applies retroactively to July 1, 1989.

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

Effective May 6, 1991.

CHAPTER 74

H.P. 979 - L.D. 1422

An Act to Allow the Part-time Chaplain's Position at the Maine State Prison to Be a Job-sharing Position

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

Whereas, the current chaplain of the Maine State Prison may be leaving in June of this year; and

Whereas, the status of the positions should be established before a new chaplain fills the position; 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:

34-A MRSA §3236, sub-§1, as enacted by PL 1983, c. 459, §6, is amended to read:

1. Appointment. The warden shall appoint suitable persons as chaplains. Notwithstanding Title 5, section 902, subsection 3, any part-time chaplain position at the Maine State Prison may be a job-sharing position.

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

Effective May 6, 1991.

CHAPTER 75

H.P. 72 - L.D. 100

An Act to Eliminate the Requirement of Mediation in Certain Domestic Cases

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

Sec. 1. 19 MRSA §214, sub-§4, as amended by PL 1985, c. 750, §3, is further amended to read:

4. Mediation. Prior Except as provided in subsection 4-A, prior to a contested hearing under this section where when there are minor children of the parties, the court shall refer the parties to mediation; except that, for good cause shown, the court, prior to referring the parties to mediation, may hear motions for temporary relief, pending final judgment on any issue or combination of issues for which good cause for temporary relief has been shown. Upon motion supported by affidavit, the court may, for extraordinary cause shown, waive the mediation requirement under this subsection. Any agreement reached by the parties through mediation on any issues ~~shall~~ **must** be reduced to writing, signed by the parties and presented to the court for approval as a court order. When agreement through mediation is not reached on any issue, the court must determine that the parties made a good faith effort to mediate the issue before proceeding with a hearing. If the court finds that either party failed to make a good faith effort to mediate, the court may order the parties to submit to mediation, may dismiss the action or any part of the action, may render a decision or judgment by default, may assess attorney's fees and costs or may impose any other sanction that is appropriate in the circumstances. The court may also impose an appropriate sanction upon a party's failure without good cause to appear for mediation after receiving notice of the scheduled time for mediation.

Sec. 2. 19 MRSA §214, sub-§4-A is enacted to read:

4-A. Waiver of mediation; questions of law. The court may hear motions to waive mediation in cases in which there are no facts at issue and all unresolved issues are questions of law.

Sec. 3. 19 MRSA §581, sub-§4, as amended by PL 1985, c. 750, §4, is further amended to read: