

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

ing or altering docks or filling of wetlands, are not exempt from the provisions of this article; ~~and~~

Sec. 2. 38 MRSA §480-Q, sub-§11, as enacted by PL 1989, c. 878, Pt. A, §113, is amended to read:

11. Soil evaluation. Borings taken to evaluate soil conditions in or adjacent to a great pond, river, stream or brook, coastal wetland, freshwater wetland or sand dune are exempt from the provisions of this article provided that no area of wetland vegetation is destroyed or permanently removed; and

Sec. 3. 38 MRSA §480-Q, sub-§12 is enacted to read:

12. Existing access ways. Normal maintenance and repair or reconstruction of existing access ways in freshwater or coastal wetlands to residential dwellings as long as:

A. The applicant shows evidence that the access way in disrepair is the existing route of access to the residential dwelling;

B. Erosion control measures are used;

C. Intrusion of the access way into the freshwater or coastal wetland is minimized and allows for proper drainage where necessary;

D. The access way, if in a coastal wetland, is traditionally dry at mean high tide; and

E. A notice of intent to maintain, repair or reconstruct the access way and the description of the work to be completed are submitted to the commissioner and to the municipal reviewing authority at least 20 days before the work is performed.

Sec. 4. Allocation. The following funds are allocated from the Maine Environmental Protection Fund to carry out the purposes of this Act.

	1991-92	1992-93
ENVIRONMENTAL PROTECTION, DEPARTMENT OF		
Maine Environmental Protection Fund		
All Other	(\$250)	(\$250)
Provides for the reduction of general operating expenses as a result of a decrease in revenue.		

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

Effective May 31, 1991.

CHAPTER 241

H.P. 973 - L.D. 1414

An Act to Provide Certain Municipalities with an Exception to the Waste Facility Siting Laws

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

38 MRSA §1310-N, sub-§2-D, ¶B, as enacted by PL 1991, c. 43, §2, is repealed and the following enacted in its place:

B. For all other transfer stations, the handling site may not be within 250 feet of any abutting property boundary, unless:

(1) The department finds the abutting property to be a conforming use. If the department finds an abutting property to be a conforming use, the handling site may be within 250 feet of the boundary but not within 250 feet of any permanent structure on that abutting property; or

(2) The municipality obtains the written permission of all property owners within 250 feet of the proposed handling site.

See title page for effective date.

CHAPTER 242

H.P. 594 - L.D. 845

An Act to Reduce Marine Pollution

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

Whereas, identifying sources of marine pollution is essential to ensure public health; and

Whereas, this Act must take effect prior to the start of the oyster spawning season; 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 §6172, sub-§5 is enacted to read:

5. Private property; right of entry. The commissioner's authority to enter privately owned land or buildings to carry out the purposes of this section is prescribed as follows:

A. The commissioner, upon presentation of credentials, may enter privately owned land at reasonable times with the owner's permission. If entry to the land is denied by the owner, the commissioner may seek a search warrant to inspect the land for sources of pollution under this section. A warrant may not be issued to search a domicile or residential building or ancillary structures; and

B. The commissioner may enter a privately owned domicile, building or structure only with the owner's permission and only in the presence of the owner or the owner's agent.

For the purposes of this subsection, "commissioner" means the Commissioner of Marine Resources or an employee of the department authorized by the commissioner to inspect coastal waters and intertidal zones for sources of pollution.

Sec. 2. 12 MRSA §6521, sub-§1, as enacted by PL 1977, c. 661, §5, is amended to read:

1. Deposition of dead marine animals; exception. It shall be is unlawful to deposit or discard, in intertidal zone zones or in harbors or rivers below the dividing line between tidewater and fresh water, any dead marine animal or its parts, except that a person may deposit oyster shell cultch in those waters solely to promote growth of oysters with the written permission of the commissioner and under any conditions the commissioner determines appropriate.

Sec. 3. 12 MRSA §6671, sub-§8, ¶¶B and C, as enacted by PL 1983, c. 838, §4, are amended to read:

B. Any municipal shellfish conservation warden appointed by a municipality to enforce the provisions of this Article shall article, within one year of appointment, must be certified by the commissioner. The commissioner shall establish a program to provide shellfish conservation training in principles of shellfish conservation, management, enforcement and protection and shall establish standards for certification of municipal conservation wardens upon their satisfactory completion of the training program. The program must include training in sampling techniques for the detection of pollutants and contaminants in shellfish areas. The commissioner may establish by rule procedures for certification, recertification and for revocation of certification. A certificate may be revoked for failure of the warden to comply with the performance standards established by the commissioner.

C. A certified municipal shellfish conservation warden shall enforce the shellfish ordinances of the municipal-

ity employing him the warden and may arrest all violators. The warden may serve all process pertaining to the ordinance. The warden shall also have has, within his that warden's jurisdiction, the powers of a marine patrol officer provided in section 6025, subsection 4. All of the powers conferred in this subsection shall be are limited to the enforcement of a municipal shellfish conservation ordinance.

At the commissioner's request, a certified municipal shellfish conservation warden may collect samples and otherwise assist the department in the detection of pollutants and contaminants. The commissioner is not required to conduct tests on samples not requested by the commissioner.

Sec. 4. 38 MRSA §410-F, as enacted by PL 1987, c. 843, §1, is amended to read:

§410-F. Marine Environmental Monitoring Program

The Department of Environmental Protection in cooperation with the Department of Marine Resources shall establish the Marine Environmental Monitoring Program. The initial purpose of this program shall be is to design a monitoring program to examine the extent and effect of industrial contaminants and pollutants on marine and estuarine ecosystems and to determine compliance with and attainment of water quality standards under article 4-A. This study shall must include, but is not be limited to:

1. Sources. The sources, fates and biological availability of these contaminants;

2. Impact. The impact of these contaminants on marine and estuarine biota; and

3. Assessment. An assessment of the condition of marine and estuarine habitats.

The commissioner shall establish a task force to coordinate the continuing activities of the monitoring program. The Commissioner of Agriculture, Food and Rural Resources, the Commissioner of Environmental Protection, the Commissioner of Human Services and the Commissioner of Marine Resources shall appoint representatives to serve as members of the task force. The task force shall address the identification and removal of sources of marine pollution.

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

Effective May 31, 1991.