

# 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.

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J.S. McCarthy Company  
Augusta, Maine  
1991

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**PUBLIC LAWS**

**OF THE**

**STATE OF MAINE**

**AS PASSED AT THE**

**FIRST REGULAR SESSION**

**of the**

**ONE HUNDRED AND FIFTEENTH LEGISLATURE**

**1991**

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

**Sec. 1. 15 MRSA §5822, sub-§3**, as enacted by PL 1987, c. 420, §2, is amended to read:

**3. Type of action.** The proceeding ~~shall be deemed is an in rem~~ a civil action. Property subject to forfeiture may be kept or stored at any location within the territorial boundaries of the State and is subject to the authority of any court in which a petition seeking the forfeiture of that property is filed. The State has the burden of proving all material facts by a preponderance of the evidence and the owner of the property or other person claiming under the property ~~shall have~~ has the burden of proving by preponderance of the evidence all exceptions set forth in section 5821, except as provided in section 5821, subsection 7, paragraph A.

**Sec. 2. 15 MRSA §5822, sub-§4, ¶A**, as enacted by PL 1987, c. 420, §2, is amended to read:

A. To the extent that the court finds it appropriate and with the written consent of the Attorney General, the court may order forfeiture of as much of the property as is appropriate to a municipality, county or state agency ~~which, or to the district attorneys budget within the Department of the Attorney General, that~~ has made a substantial contribution to the investigation or prosecution of a related criminal case, subject to the requirements of section 5824.

When property is forfeited and transferred to a municipality in accordance with section 5824, the legislative body of the municipality shall determine the disposition of the property. When property is forfeited and transferred to a county in accordance with section 5824, the county commissioners shall determine the disposition of the property.

**Sec. 3. 15 MRSA §5823, sub-§2**, as enacted by PL 1987, c. 420, §2, is amended to read:

**2. Procedure.** The Attorney General or a district attorney upon receiving the ~~seizure vehicle~~ report shall petition, within ~~7~~ 21 days, the Superior Court in the name of the State in the nature of a proceeding in rem to order forfeiture and perfect the State's title to any vehicle subject to forfeiture under section 5821. The proceeding ~~shall be~~ is the same as for forfeited property under section 5822, except that when the owner of the vehicle ~~cannot~~ can not be determined, the court shall:

A. Order the State, prior to the forfeiture ~~proceeding hearing described in paragraph B, to publish notice of the proceeding once each month for 6 consecutive months in newspapers~~ make service by publication as directed by the court pursuant to the Maine Rules of Civil Procedure, Rule 4, except that the publication must be made in a newspaper of general circulation throughout the State; and

B. Hold a hearing on the petition not less than 2 weeks after all notices required by this section have been given.

The final order of forfeiture by the court under this section ~~shall perfect~~ perfects the State's right and interest in and title to the vehicle and ~~shall relate~~ relates back to the date of seizure.

See title page for effective date.

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## CHAPTER 462

H.P. 956 - L.D. 1383

### An Act to Clarify the Authority of the Department of Transportation to Acquire Property for Environmental Mitigation Purposes

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

**23 MRSA §153, sub-§7**, as enacted by PL 1987, c. 267, §3, is amended to read:

**7. Other projects.** Construct, improve and maintain transportation projects as directed by law and provide mitigation for existing or potential environmental effects of any transportation projects.

See title page for effective date.

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## CHAPTER 463

S.P. 613 - L.D. 1617

### An Act to Encourage Waste Reduction and Recycling

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

**38 MRSA §2141** is enacted to read:

#### §2141. Waste reduction and recycling labeling program

By February 1, 1992, the agency shall adopt rules establishing a waste reduction and recycling labeling program. The rules must include recycling emblems, standards for the use of the recycling emblems and standards for the use of the terms "reusable," "recyclable," "recycled" and "recycled content." To the fullest extent possible, emblems and standards adopted by the agency under this section must be consistent with emblems and standards adopted by the Northeast Recycling Council of the Council of State Governments and standards adopted by other northeastern states.

**1. Applicability.** After July 1, 1992, a person may not use the recycling emblem or the terms "reusable," "recyclable," "recycled" and "recycled content" on a package or product that is sold or offered for sale, or in the promotion or advertisement of a package or product, unless that package or product conforms to the standards in the labeling program adopted by the agency under this section.

**2. Statement of fact.** A person may use the term "reusable," "recyclable," "recycled" or "recycled content" on a package or product that does not meet the standards adopted by the agency if the term is used in a properly qualified statement of fact for the purpose of conveying accurate information to consumers about the package or product and the term is displayed no more prominently than the other words in the statement of fact.

**3. Penalty.** A violation of this section is a violation of Title 5, chapter 10, the Maine Unfair Trade Practices Act.

See title page for effective date.

## CHAPTER 464

S.P. 451 - L.D. 1227

### An Act to Amend the Schedule of Fees for Permits, Licenses and Certificates Issued by the Department of Public Safety

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

**Sec. 1. 8 MRSA §161, 5th ¶**, as amended by PL 1973, c. 78, §2, is further amended to read:

A fee of ~~\$10 shall be~~ \$15 is fixed by the Commissioner of Public Safety for each ~~such~~ license. ~~Said~~ The fee ~~shall must~~ shall accompany the application for ~~such the~~ license and ~~shall is not be~~ is not refunded in those cases in which the premises are inspected and ~~said the fee shall be is~~ is credited to the Department of Public Safety to help defray expenses of ~~such those~~ those inspections. No fee ~~shall be is~~ is required for the licensing of public, private or state-owned school buildings or ~~municipally-owned~~ municipality-owned buildings.

**Sec. 2. 8 MRSA §227, sub-§§1 to 3**, as enacted by PL 1985, c. 23, §2, are amended to read:

**1. Permit to discharge fireworks.** Permit to discharge, fire off or explode fireworks: ~~Fifteen~~ twenty-two dollars and ~~fifty cents~~ per calendar year;

**2. Site inspection.** Inspection of fireworks display sites: ~~Ten~~ fifteen dollars; and

**3. Display permit for specified period of time.** Permit for supervised display of fireworks for period of time specified in permit: ~~Twenty~~ thirty dollars.

**Sec. 3. 8 MRSA §502, 2nd ¶**, as amended by PL 1989, c. 502, Pt. C, §2, is further amended to read:

No traveling circus, traveling amusement show or amusement device may operate or exhibit any parade, show or entertainment in this State without first paying a license fee for each calendar year. Application for the license ~~shall must~~ must be made to the Commissioner of Public Safety and ~~shall~~ shall contain the name of the person or corporation using or operating the traveling circus, traveling amusement show or amusement device, and a statement of proposed territory within the limits of the State, and names of the cities and towns in which the traveling circus, traveling amusement show or amusement device is to operate or exhibit. No traveling circus or traveling amusement show or amusement device may exhibit any parade, show or entertainment in this State without first furnishing the Commissioner of Public Safety, in an amount to be determined by the commissioner, a certificate of public liability insurance issued by an authorized insurer or approved surplus lines insurer pursuant to Title 24-A or any risk retention group registered in any state pursuant to the 15 United States Code, ~~Title 15~~, Chapter 65; or through a purchasing group registered in any state pursuant to the 15 United States Code, ~~Title 15~~, Chapter 65. Upon receipt of the application, accompanied by a certificate of public liability insurance and upon payment of the required fee, a license ~~shall be is~~ is issued. For amusement shows, carnivals, thrill shows, ice shows, rodeos or similar types of performances which are held indoors or outdoors the fee ~~shall be is~~ is \$250. For circuses which are held outdoors or under tents or similar temporary cover or enclosure the fee ~~shall be is~~ is \$500. For circuses held indoors in an auditorium, arena, civic center or similar type building the fee ~~shall be is~~ is \$250. For circuses produced in their entirety by a nonprofit, charitable organization a license is required but no fee ~~may be is~~ is charged. The amusement device license fee ~~shall be \$25 is~~ \$37.50 per amusement device. A traveling amusement show, having amusement devices and having secured a traveling amusement show license, ~~shall must~~ must pay an additional amusement device license fee for each amusement device over ~~8~~ 5 rides. "Amusement device" means a device by which a person is conveyed, where control by the rider over the speed or direction of travel is incomplete. It does not include a vehicle or device, the operation of which is regulated as to safety by any other provision of law, except a municipal ordinance under Title 30-A, section 3001; or any coin-operated kiddie amusement device on a nonmoving base which is designed to accommodate one child.

**Sec. 4. 8 MRSA §652**, as repealed and replaced by PL 1977, c. 340, §1, is amended to read: