

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

**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**

---

---

**6. Application.** The injunction authorized in this section does not apply to post-divorce actions.

See title page for effective date.

---



---

## CHAPTER 483

S.P. 625 - L.D. 1629

### An Act Relating to Unavoidable Equipment Malfunctions

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

**Sec. 1.** **38 MRSA §349, sub-§9** is enacted to read:

**9. Unavoidable malfunctions.** The commissioner may exempt from civil penalty an air emission or a wastewater discharge in excess of license limitations if the emission or discharge results exclusively from an unavoidable malfunction entirely beyond the control of the licensee and the licensee has taken all reasonable steps to minimize or prevent any discharge or emission and takes corrective action as soon as possible. There may be no exemption if the malfunction is caused, entirely or in part, by poor maintenance, careless operation, poor design or any other reasonably preventable condition or preventable equipment breakdown. The burden of proof is on the licensee seeking the exemption under this subsection. In the event of an unavoidable malfunction, the licensee shall notify the commissioner in writing within 48 hours. The commissioner shall annually report to the joint standing committee of the Legislature having jurisdiction over energy and natural resource matters with regard to the exercise of this authority.

**Sec. 2.** **38 MRSA §414-A, sub-§4** is enacted to read:

**4. License conditions affecting bypasses.** In fashioning license decisions and conditions, the department shall consider the extent to which operation of the licensed facility will require an allowance for bypass of wastewater from any portion of a treatment facility when necessary for essential maintenance to assure efficient operation of the licensed facility and otherwise subject to applicable effluent limitations and standards. When the applicant demonstrates to the department that, consistent with best practical treatment requirements and other applicable standards, reasonably controlled and infrequent bypasses will be necessary for this purpose, the department may fashion appropriate license allowances and conditions.

**Sec. 3.** **38 MRSA §590**, as affected by PL 1989, c. 890, Pt. A, §40 and amended by Pt. B, §164, is further amended by adding at the end a new paragraph to read:

In fashioning license decisions and conditions, the department shall consider the extent to which operation of

the licensed facility requires an allowance for excess emissions during cold start-ups and planned shutdowns of the facility, as long as that facility is operated to minimize emissions and is otherwise subject to applicable standards. When the applicant demonstrates to the department that, consistent with best practical treatment requirements and other applicable standards, infrequent emissions are unavoidable during these periods, the department may fashion appropriate license allowances and conditions.

See title page for effective date.

---



---

## CHAPTER 484

H.P. 1272 - L.D. 1843

### An Act to Improve Implementation of the Maine Indian Claims Settlement Laws

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

**Sec. 1.** **4 MRSA §161, first ¶**, as amended by PL 1987, c. 736, §3, is further amended to read:

The Chief Judge of the District Court may authorize any attorney-at-law, who is duly licensed to practice law in the State, to receive complaints and to issue process for the arrest of persons charged with offenses, to issue search warrants and to endorse certificates of commitment of the mentally ill, all in accordance with law, and to perform all other such acts and duties that are or may be authorized by law. The powers to issue process for the arrest of persons charged with offenses and to issue search warrants extend to offenses subject to the exclusive jurisdiction of the Passamaquoddy Tribe or the Penobscot Nation under the terms of Title 30, section 6209. That attorney shall may be known as a justice of the peace.

**Sec. 2.** **4 MRSA §165**, as amended by PL 1975, c. 430, §6, is further amended to read:

#### **§165. Criminal jurisdiction; fines, penalties and costs paid over**

The District Court ~~shall have~~ has jurisdiction, and, except as provided in Title 29, section 2302, concurrent jurisdiction with the Superior Court, of all crimes and offenses including violations of any statute or bylaw of a town, village corporation or local health officer, or breaches of the peace, not punishable by imprisonment in the State Prison, to issue process with respect to any violation over which the Passamaquoddy Tribe or the Penobscot Nation exercises exclusive jurisdiction under Title 30, section 6209 and over complaints for desertion and nonsupport or nonsupport of dependents where either the spouse, dependent or the respondent resides and may for such crimes and offenses impose any of the fines or sentences provided by law to be imposed therefor. All fines, penalties and costs imposed by such courts paid to the jailer after commitment