

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
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ONE HUNDRED AND FIFTEENTH LEGISLATURE

1991

Sec. 10. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

	1991-92	1992-93
FINANCE, DEPARTMENT OF		
Bureau of Taxation		
All Other	\$3,750	\$3,750
Provides funds to cover increased recording costs. These costs will be offset by an increase in General Fund revenue through the municipal cost component.		

See title page for effective date.

CHAPTER 498

S.P. 584 - L.D. 1537

An Act Relating to Sheriff's Fees for Civil Orders of Arrest

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

Sec. 1. 14 MRSA §3135, last ¶, as enacted by PL 1987, c. 184, §18, is amended to read:

Unless the judgment debtor shows good cause for ~~his~~ failure to appear after being duly served with a disclosure subpoena under section 3123 or a contempt subpoena under section 3136, the debtor ~~shall~~ must be ordered to pay the costs of issuing and serving the civil order for arrest. The costs of issuing and serving the civil order for arrest ~~shall be~~ are \$25 plus mileage at a rate of ~~24¢~~ 22¢ per mile. The fee payable to sheriffs and their deputies for civil orders for arrest is governed by Title 30-A, section 421, subsection 6.

Sec. 2. 30-A MRSA §421, sub-§6, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is further amended to read:

6. Civil arrests and custody. For civil arrests, ~~\$5 for the arrest and \$5 shall be charged for~~ and custody under the arrest, including arrest and custody under paternity proceedings, \$25 plus mileage at a rate of 22¢ per mile;

Sec. 3. 30-A MRSA §4216, 2nd ¶ from the end, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is further amended to read:

The county commissioners of each county may require that the fees collected under subsections 1, 2, 3, 5, 7, 12, 13 and 14 be increased by \$1. The sheriff or deputy shall collect this additional dollar and pay it to the county treasurer for the use and benefit of the county. The county

commissioners may also require that the fees collected under subsections 1 to 14 be increased by an amount equal to the cost of social security and other withholding taxes on the fees payable under this section.

See title page for effective date.

CHAPTER 499

H.P. 1083 - L.D. 1577

An Act to Amend Certain Laws Affecting the Department of Environmental Protection

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 Environmental Protection fee schedule is repealed and lower fees for most permitting and licensing activities are in effect; and

Whereas, the higher fee schedule is necessary; and

Whereas, a proposed merger between the laboratories of the Department of Human Services and the Department of Environmental Protection is scheduled to take place on July 1, 1991 consistent with the fiscal year; 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. 22 MRSA c. 157, as amended, is repealed.

Sec. 2. 22 MRSA c. 157-A is enacted to read:

CHAPTER 157-A

HEALTH AND ENVIRONMENTAL TESTING LABORATORY

§565. Health and Environmental Testing Laboratory

The Health and Environmental Testing Laboratory is established within the department for the chemical and microbiological testing and examination of water supplies, food products, drinking water, environmental and forensic samples and the testing and examination of cases and suspected cases of infectious and communicable diseases.

1. Coordination with the Department of Environmental Protection. In coordination with the Department of Environmental Protection, the department shall also provide laboratory services for environmental testing and analysis as necessary to implement the programs and duties of the

Department of Environmental Protection, pursuant to Title 38, section 342, subsection 4. The commissioner and the Commissioner of Environmental Protection shall enter into joint agreements and establish joint policies as necessary to ensure the provision of appropriate laboratory services.

2. Director; duties. The Director of the Bureau of Health shall appoint a Director of the Health and Environmental Testing Laboratory, subject to the Civil Service Law and in this chapter known as the "laboratory director." The laboratory director shall administer the laboratory to safeguard the public health and environment.

3. Fees for services. The department shall establish by rule a schedule of charges for services rendered by the Health and Environmental Testing Laboratory based on the average costs for those services. The department shall establish services essential to the public health. These services must be provided free to residents of the State.

§566. Record of tests for water samples

A person requesting a water sample test must indicate the source of the water sample. A state agency that tests any water supply shall forward a copy of the test results to the department.

§567. Certification program

The laboratory director shall establish a laboratory certification program to ensure that all generated data is of known and appropriate quality of precision and accuracy when utilized for departmental programs and programs administered by the Department of Environmental Protection.

1. Acceptable data. Six months after the adoption of rules specified in subsection 2, certification is required of any commercial, industrial, municipal, state or federal laboratory that analyzes water, soil, air, solid or hazardous waste, or radiological samples for the use of programs of the department or the Department of Environmental Protection, except as provided under chapter 411, the Maine Medical Laboratory Act; Title 26, chapter 7, subchapter III-A, Substance Abuse Testing; and Title 29, section 1312, subsection 6, administration of tests to determine blood-alcohol level or drug concentration.

2. Certification program requirements. The department and the Department of Environmental Protection shall establish by rule program requirements, standards and criteria for the evaluation and certification of laboratories.

3. Certificate issued. A laboratory must be issued a certificate when the laboratory director determines that the laboratory has the capability to analyze samples with known and appropriate quality of precision and accuracy and is in compliance with other certification requirements. Certificates are effective for one year from date of issuance.

4. Certification fees. A certification fee schedule based on the cost of certifying laboratories must be established by rule. Certification fees are payable upon application for certification and must be deposited in the Health and Environmental Testing Laboratory Special Revenue Account.

§568. Health and Environmental Testing Laboratory Special Revenue Account

The Health and Environmental Testing Laboratory Special Revenue Account is established as a dedicated account for the operation of the laboratory's analytical and certification programs and may be known in this chapter as the "account." Funds deposited to the account include, but are not limited to, appropriations made to the account, funds transferred to the account from within the department and revenues received from analytical services and the certification of laboratories.

Sec. 3. 22 MRSA §2602-A, sub-§2, as enacted by PL 1983, c. 837, §1, is amended to read:

2. Fees. The department shall charge the average cost of the analysis for an examination, testing or analysis of private residential water supplies requested under this chapter. These fees shall must be recalculated and deposited according to section ~~562~~ 565, subsection 3 and section 568, provided that the fee charged for testing a private residential water supply shall may not exceed \$150 when:

A. In the opinion of the department, initial testing or screening performed at the expense of the owner indicates the need for additional testing at a cost in excess of \$150 to determine whether that water supply contains contaminants potentially hazardous to human health and that additional testing is essential to the maintenance of public health; or

B. In the opinion of the department, there is reason to suspect that a private residential water supply may be affected by contamination potentially hazardous to human health and that additional testing is essential to the maintenance of public health. In making such a determination, the department shall consider the following:

(1) The proximity of the private residential water supply to a known or suspected source of contamination;

(2) The proximity of the private residential water supply to another private well or water supply ~~which~~ is known to be contaminated;

(3) Information provided in writing to the department by a physician who has seen or treated a person and who has identified contaminated drinking water as a possible cause of the person's condition or symptoms; or

(4) Information provided by the owner or a user of the private residential water supply voluntarily or in response to questions asked by personnel of the department.

The department may waive all fees incurred in connection with the testing of a private residential water supply upon a showing of indigency.

Sec. 4. 29 MRSA §246-D, sub-§2, ¶E, as enacted by PL 1989, c. 845, §3 and affected by §15, is amended to read:

E. Any motor vehicle used exclusively to transport oil as defined in Title 38, section 542, subsection 6. For the purposes of this section, oil does not include liquefied petroleum gas or liquefied natural gas.

Sec. 5. 29 MRSA §246-D, sub-§6, as enacted by PL 1989, c. 845, §3 and affected by §15, is amended to read:

6. Apportionment of fees. Fees collected by the Secretary of State under this section, except for fees from motor vehicles transporting liquefied petroleum gas or liquefied natural gas, must be apportioned in the following manner:

- A. Sixty-five percent to the Maine Hazardous Waste Fund administered by the Department of Environmental Protection;
- B. Fifteen percent to the Secretary of State for the costs of administering this section;
- C. Ten percent to the Department of Public Safety for the costs related to motor vehicle inspection and enforcement of this section; and
- D. Ten percent to the State Emergency Response Commission for hazardous materials training of local and state officials.

Sec. 6. 29 MRSA §246-D, sub-§6-A is enacted to read:

6-A. Liquefied petroleum gas or liquefied natural gas fees. Fees collected by the Secretary of State under this section from motor vehicles transporting liquefied petroleum gas or liquefied natural gas must be apportioned in the following manner:

- A. Fifteen percent to the Secretary of State for the costs of administering this section;
- B. Seventy percent to the Department of Public Safety for the costs related to motor vehicle inspection and enforcement of this section; and

C. Fifteen percent to the State Emergency Response Commission for hazardous materials training of local and state officials.

Sec. 7. 32 MRSA §10003, sub-§2, as amended by PL 1987, c. 410, §4, is further amended to read:

2. Terms of appointment. The Governor, within 60 days following the effective date of this chapter, shall appoint 3 board members for terms of one year, 3 for terms of 2 years and one for a term of 3 years. The Governor shall appoint by October 1, 1987, a board member from the Maine Chamber of Commerce and Industry for an initial term of one year. Appointments made thereafter ~~shall be~~ are for 3-year terms, but no person except the representative from the Department of Environmental Protection may be appointed to serve more than 2 consecutive terms at any one time. Terms ~~shall~~ begin on the first day of the calendar year and end on the last day of the calendar year or until successors are appointed, except for the first appointed members who shall serve through the last calendar days of the year in which they are appointed, before commencing the terms prescribed by this section.

Any member of the board may be removed from office for cause by the Governor. A member may not serve more than 2 full successive terms provided that, for this purpose only, a period actually served ~~which that~~ exceeds 1/2 of the 3-year term shall be is deemed a full term.

Sec. 8. 32 MRSA §10012, sub-§2, as amended by PL 1989, c. 312, §13, is further amended to read:

2. Disposal of fees and civil penalties. All fees and civil penalties as authorized by section 10015 received by the board related to underground oil storage tank installers or underground gasoline storage tank removers ~~shall must~~ must be paid to the Treasurer of State to be deposited into the Ground Water Oil Clean-up Fund and used for the purpose of carrying out all applicable provisions of this chapter. All fees and civil penalties as authorized by section 10015 received by the board related to underground hazardous substance storage tank installers ~~shall must~~ must be paid to the Treasurer of State to be deposited into the Hazardous Waste Fund and used for the purpose of carrying out all applicable provisions of this chapter. Any balance of fees and civil penalties as authorized by section 10015 in the respective accounts ~~shall does~~ does not lapse but ~~shall must~~ must be carried forward as a continuing account to be expended for the same purposes in the following fiscal years.

Sec. 9. 38 MRSA §342, sub-§4, ¶A, as affected by PL 1989, c. 890, Pt. A, §40 and amended by Pt. B, §1, is repealed and the following enacted in its place:

A. In coordination with the Health and Environmental Testing Laboratory in the Department of Human Services, the commissioner shall ensure that sampling, data handling and analytical procedures are

carried out in accordance with the highest professional standards so that data generated for departmental programs are of known and predictable precision and accuracy.

Sec. 10. 38 MRSA §342-A, as amended by PL 1989, c. 546, §4, is repealed.

Sec. 11. 38 MRSA §352, sub-§4, as amended by PL 1989, c. 405, §1, is repealed.

Sec. 12. 38 MRSA §352, sub-§5, as amended by PL 1989, c. 502, Pt. A, §167, is repealed.

Sec. 13. 38 MRSA §352, sub-§5-A is enacted to read:

5-A. Accounting system. In order to determine the extent to which the functions set out in this section are necessary for the licensing process or are being performed in an efficient and expeditious manner, the commissioner shall require that all employees of the department involved in any aspect of these functions shall keep accurate and regular daily time records. These records must describe the matters worked on, services performed and the amount of time devoted to those matters and services, as well as amounts of money expended in performing those functions. Records must be kept for a sufficient duration of time as determined by the commissioner to establish to the commissioner's satisfaction that the fees are appropriate.

TABLE I
MAXIMUM FEES IN DOLLARS

<u>TITLE 36</u> <u>SECTION</u>	<u>PROCESSING</u> <u>FEE</u>	<u>CERTIFICATION</u> <u>FEE</u>
<u>656, sub-§1, ME, Pollution Control Facilities</u>		
<u>A. Water pollution control facilities with capacities at least 4,000 gallons of waste per day and §1760, sub-§29, water pollution control facilities</u>	<u>\$250</u>	<u>\$20</u>
<u>B. Air pollution control and §1760, sub-§30, air pollution control facilities</u>	<u>250</u>	<u>20</u>
<u>TITLE 38</u> <u>SECTION</u>	<u>PROCESSING</u> <u>FEE</u>	<u>LICENSE</u> <u>FEE</u>
<u>362-A, Experiments</u>	<u>\$40</u>	<u>\$160</u>
<u>413, Waste discharge license</u>		
<u>A. Residential</u>	<u>225</u>	<u>75</u>
<u>B. Commercial</u>		

<u>1. Flow of less than 2,000 gallons per day</u>	<u>2,400</u>	<u>640</u>
<u>2. Flow of 2,000 to 20,000 gallons per day inclusive</u>	<u>2,400</u>	<u>2,000</u>
<u>3. Flow of greater than 20,000 gallons per day</u>	<u>2,400</u>	<u>4,800</u>
<u>C. Industrial minor (based upon EPA list of major and minor source discharges)</u>		
<u>1. Discharges of cooling water, sanitary wastewater or treated storm water only</u>	<u>1,500</u>	<u>480</u>
<u>2. All others</u>	<u>1,500</u>	<u>6,000</u>
<u>D. Industrial major (based upon EPA list of major source discharges)</u>		
<u>1. Discharge of cooling water or sanitary wastewater only</u>	<u>4,800</u>	<u>3,000</u>
<u>2. All others</u>	<u>4,800</u>	<u>8,800</u>
<u>E. Publicly owned treatment works</u>		
<u>1. Flow of less than or equal to 50,000 gallons per day and no significant industrial component</u>	<u>100</u>	<u>400</u>
<u>2. Flow of greater than 50,000 gallons per day, but less than 0.5 million gallons per day and no significant industrial component</u>	<u>100</u>	<u>1,400</u>
<u>3. Flow of at least 0.5 million gallons per day, but less than 5 million gallons per day and no significant industrial component</u>	<u>100</u>	<u>3,600</u>
<u>4. Flow of at least 5 million gallons per day or a significant industrial component</u>	<u>300</u>	<u>5,400</u>
<u>F. Special discharges</u>		
<u>1. Aquatic pesticides</u>	<u>130</u>	<u>75</u>
<u>2. Dredge spoils</u>	<u>130</u>	<u>75</u>
<u>418, Log storage</u>	<u>55</u>	<u>25</u>
<u>421, Solid waste, 300-foot variance</u>	<u>1,400</u>	<u>100</u>
<u>451, Mixing zones</u>	<u>1,200</u>	<u>2,200</u>
<u>451-A, Time schedule variances</u>	<u>25</u>	<u>25</u>
<u>480-E, Natural resources protection</u>		

<u>A. Great ponds</u>	<u>75</u>	<u>50</u>
<u>B. Alteration of rivers streams or brooks</u>	<u>150</u>	<u>50</u>
<u>C. Freshwater wetlands</u>	<u>100</u>	<u>50</u>
<u>D. Coastal wetlands and sand dunes</u>	<u>3,500</u>	<u>1,500</u>
<u>485-A. Site location</u>		
<u>A. Affordable housing subdivisions</u>	<u>50/lot</u>	<u>50/lot</u>
<u>A-1. Other subdivisions with public water and sewers</u>	<u>175/lot</u>	<u>175/lot</u>
<u>A-2. Other subdivisions</u>	<u>250/lot</u>	<u>250/lot</u>
<u>B. Structures</u>	<u>4,000</u>	<u>2,000</u>
<u>C. Mining</u>	<u>1,500</u>	<u>1,000</u>
<u>D. Other</u>	<u>1,000</u>	<u>1,000</u>
<u>543. Oily waste discharge</u>	<u>40</u>	<u>160</u>
<u>560. Vessels at anchorage</u>	<u>125</u>	<u>100</u>
<u>587. Ambient air quality or emissions standards variances</u>	<u>5,050</u>	<u>50</u>
<u>590. Air emissions licenses</u>		
<u>A. Greater than or equal to 1,000 tons per year of any criteria air pollutant</u>	<u>10,050</u>	<u>1,200</u>
<u>B. Greater than or equal to 100 tons per year, but less than 1,000 tons per year of any criteria air pollutant</u>	<u>5,050</u>	<u>400</u>
<u>C. Greater than or equal to 50 tons per year, but less than 100 tons per year of any criteria air pollutant</u>	<u>1,050</u>	<u>100</u>
<u>D. Less than 50 tons per year of any criteria air pollutant</u>	<u>525</u>	<u>50</u>
<u>633. Hydropower projects</u>		
<u>A. New or expanded generating capacity</u>	<u>450/MW</u>	<u>50/MW</u>
<u>B. Maintenance and repair or other structural alterations not involving an increase in generating capacity</u>	<u>150</u>	<u>50</u>
<u>1101. Sanitary districts</u>	<u>150</u>	<u>50</u>
<u>United States Code, Title 33, Chapter 26, Water Quality Certifications, in conjunction with applications for hydropower project licensing or relicensing</u>		

<u>A. Initial consultation</u>	<u>1,000</u>	<u>0</u>
<u>B. Second consultation</u>	<u>1,000</u>	<u>0</u>
<u>C. Application</u>		
<u>1. Storage</u>	<u>1,000</u>	<u>0</u>
<u>2. Generating</u>	<u>300/MW</u>	<u>50/MW</u>

TABLE II

WASTE MANAGEMENT FEES
MAXIMUM FEES IN DOLLARS

<u>TITLE 36 SECTION</u>	<u>PROCESSING FEE</u>	<u>CERTIFICATION FEE</u>
<u>1304. Waste management</u>		
<u>A. Septage facilities, other than landfill or landspreading sites</u>	<u>\$300</u>	<u>\$250</u>
<u>B. Sludge facilities, other than landfill or landspreading sites</u>	<u>550</u>	<u>500</u>
<u>C. Landspreading sites</u>	<u>300</u>	<u>100</u>
<u>D. Transfer stations</u>	<u>550</u>	<u>500</u>
<u>E. Landfills</u>	<u>4,725</u>	<u>4,500</u>
<u>F. Resource recovery and volume reduction facilities</u>	<u>1,575</u>	<u>1,500</u>
<u>G. Other, including land-applied utilization programs</u>	<u>550</u>	<u>250</u>
<u>H. Septage disposal site designation</u>	<u>50</u>	<u>25</u>

Sec. 14. 38 MRSA §411-A, sub-§4, as affected by PL 1989, c. 890, Pt. A, §40 and amended by Pt. B, §25, is further amended to read:

4. Reimbursement. The commissioner shall utilize grants under this section to reimburse individuals for the costs of removing any overboard discharge, subject to the provisions of subsection 2, when:

A. The removal occurred ~~after June 1, 1987, and prior to the effective date of this section;~~

(1) After June 1, 1987, but prior to September 30, 1989; or

(2) After September 30, 1989, but was carried out according to plans and specifications approved by the commissioner in advance of construction but prior to the offering of a grant under this section;

B. The removal resulted in the elimination of sources of contamination to shellfish areas or public nuisance conditions; and

C. The removal was the direct result of an unsuccessful licensing application under section 414-A, sub-

section 1-B or former section 464, subsection 4, paragraph G.

Sec. 15. 38 MRSA §421, last ¶, as affected by PL 1989, c. 890, Pt. A, §40 and amended by Pt. B, §43, is further amended to read:

Notwithstanding this section, if the department determines from an examination of soil conditions, ground water characteristics, climatic conditions, topography, the nature and amount of the solid waste and other appropriate factors, that the deposit of solid waste within an area less than 300 feet from any classified body of surface water; will not result in an unlicensed direct or indirect discharge of pollutants to that body of surface water, it may, after notice, permit the deposit of solid waste within that area, upon terms and conditions as it determines necessary. Permits issued pursuant to this section are for a term of not more than ~~2~~ 5 years but may be renewed for successive ~~2-year~~ 5-year terms after reexamination pursuant to this chapter.

Sec. 16. 38 MRSA §467, sub-§9, ¶B, as repealed and replaced by PL 1989, c. 764, §10, is amended to read:

B. Presumpscot River, tributaries - Class A unless otherwise specified.

(1) All tributaries entering below the outlet of Sebago Lake - Class B.

(2) Crooked River and its tributaries, except as otherwise provided, excluding existing impoundments and excluding that area of the river previously impounded at Scribners Mill - Class AA.

(3) Stevens Brook (Bridgton) - Class B.

(4) Mile Brook (Casco) - Class B.

Sec. 17. 38 MRSA §467, sub-§12, ¶A, as amended by PL 1989, c. 764, §12, is further amended to read:

A. Saco River, main stem.

(1) From the Maine-New Hampshire boundary to its confluence with the impoundment of the Swan's Falls Dam - Class A.

(2) From its confluence with the impoundment of the Swan's Falls Dam to a point located 1,000 feet below the Swan's Falls Dam - Class A.

(3) From a point located 1,000 feet below the Swan's Falls Dam to its confluence with the impoundment of the Hiram Dam - Class AA.

(4) From its confluence with the impoundment of the Hiram Dam to a point located 1,000 feet below the Hiram Dam - Class A.

(5) From a point located 1,000 feet below the Hiram Dam to its confluence with the Little Ossipee River - Class AA.

(6) From its confluence with the Little Ossipee River to its confluence with Swan Pond Stream - Class A.

(7) From its confluence with Swan Pond Stream to tidewater - Class B.

Sec. 18. 38 MRSA §469, sub-§7, ¶C, as repealed and replaced by PL 1989, c. 764, §29, is amended to read:

C. Cutler.

(1) All tidal waters except those waters in Machias Bay and Little Machias Bay north of a line running from the town line due east to the southernmost point of Cross Island; thence running northeast to the southeasternmost point of Cape Wash Island; thence running northeast to the westernmost point of Deer Island; thence running due north to the mainland; and those waters lying ~~northeast~~ northwest of a line running from the easternmost point of Western Head to the easternmost point of Eastern Knubble - Class SA.

Sec. 19. 38 MRSA §483-A, as affected by PL 1989, c. 890, Pt. A, §40 and amended by Pt. B, §88, is further amended to read:

§483-A. Prohibition

No person may construct or cause to be constructed or operate or cause to be operated or, in the case of a subdivision, sell or lease, offer for sale or lease or cause to be sold or leased, any development requiring approval under this article without first having obtained approval for this construction, operation, lease or sale from the department. A person having an interest in, or undertaking an activity on, a parcel of land affected by an order or permit issued by the department may not act contrary to that order or permit.

Sec. 20. 38 MRSA §608-A, as amended by PL 1989, c. 869, Pt. C, §9 and as affected by c. 890, Pt. A, §40 and amended by Pt. B, §176, is repealed and the following enacted in its place:

§608-A. Soil decontamination

Any rotary drum mix asphalt plant not located within an area classified by the board as nonattainment for ozone may process up to 10,000 cubic yards of soil contaminated

by gasoline or #2 fuel oil per year. The 10,000 cubic yards per year without an air emissions permit pursuant to section 590 limit may be exceeded with written authorization from the commissioner. The plant owner or operator shall notify the commissioner at least 24 hours prior to processing the contaminated soil and specify the contaminating fuel and quantity, origin of the soil and fuel and the disposition of the contaminated soil. The owner or operator shall maintain records of these activities for 6 years.

Sec. 21. 38 MRSA §1305, sub-§6, as amended by PL 1985, c. 27, is further amended to read:

6. Municipal septage sites. Each municipality shall provide for the disposal of all refuse, effluent, sludge and any other materials from all septic tanks and cesspools located within the municipality. In addition, any person may provide a site for disposal of septage. Before making application to the Department of Environmental Protection for approval of any site, that person shall first have written approval for the site location from the municipality in which it is located. The municipal officers shall approve, after hearing, any such private site if it finds that the site ~~does not constitute a hazard to the health or safety of the residents of the municipality~~ complies with municipal ordinances and with local zoning and land use controls.

Sec. 22. 38 MRSA §1317-A, as enacted by PL 1979, c. 730, §2, is amended to read:

§1317-A. Discharge prohibited

The discharge of hazardous matter into or upon any waters of the State, or into or upon any land within the ~~state's~~ State's territorial boundaries or into the ambient air is prohibited unless licensed or authorized under state or federal law. For purposes of this section, the discharge of gaseous hazardous matter into the ambient air includes discharges within buildings or structures from sources that are not encapsulated within secondary containment. The discharge must be reported and removed as provided under section 1318, subsection 2.

Sec. 23. 38 MRSA §1319-E, sub-§1, ¶F, as enacted by PL 1989, c. 874, §10, is amended to read:

F. A one-time allocation of \$100,000 to the department and the Maine Land Use Regulation Commission to develop mining rules pursuant to section 349-A. This allocation must be repaid by any preapplication fees assessed pursuant to section 352, subsection 4-A, ~~or any federal funds received by the department to develop mining rules.~~

Sec. 24. Transition.

1. The Health and Environmental Testing Laboratory in the Bureau of Health, Department of Human Services is the successor to the Division of Laboratory Services in the Department of Environmental Protection.

2. All existing rules and procedures in effect as established by the Division of Laboratory Services on the effective date of this Act remain in effect until rescinded, revised or amended by proper authority.

3. All contracts, agreements and compacts of the Division of Laboratory Services existing on the effective date of this Act continue in effect until rescinded, revised or amended by proper authority.

4. Notwithstanding the provisions of the Maine Revised Statutes, Title 5, section 1585, all accrued expenditures, assets, liabilities, balances or appropriations, allocations, transfers, revenues or other available funds from an account of the former Division of Laboratory Services must be transferred to the proper accounts by the State Controller upon the request of the State Budget Officer and with the approval of the Governor.

5. Authorized positions and incumbent personnel in the Division of Laboratory Services are transferred to the Health and Environmental Testing Laboratory. The following provisions apply to any state personnel transferred to the Health and Environmental Testing Laboratory.

A. The employees retain their accrued fringe benefits, including vacation and sick leave, health and life insurance and retirement benefits.

B. Employees who are members of collective bargaining units on the effective date of this Act remain members in their respective bargaining units and retain all rights and benefits provided by their collective bargaining agreements with respect to state service.

C. Employees who are members of the Maine State Retirement System remain members of the Maine State Retirement System.

D. Employees transferred from the Department of Environmental Protection retain all seniority rights and privileges and any attendant rights and privileges, as provided in applicable collective bargaining agreements with regard to their employment in the Department of Environmental Protection for a period of 2 years from the effective date of this Act.

The Department of Administration, Bureau of Human Resources, shall assist with the orderly implementation of these provisions.

6. All records, property and equipment previously belonging to or allocated for the use of the former Division of Laboratory Services must be reviewed by the designee of the Commissioner of Environmental Protection and the Director of the Health and Environmental Testing Laboratory; the Commissioner of Environmental Protection and the Commissioner of Human Services shall review their recommendations and authorize the appropriate transfers to the Health and Environmental Testing Laboratory.

7. The certification program and fee schedule rules provided in Title 22, section 567 must be adopted no later than January 1, 1993.

Sec. 25. Allocation. The following funds are allocated from Other Special Revenue to carry out the purposes of this Act.

	1991-92	1992-93
ENVIRONMENTAL PROTECTION, DEPARTMENT OF		
Laboratory Special Revenue Account		
Positions	(-18.5)	(-18.5)
Personal Services	(\$743,407)	(\$804,874)
All Other	(273,466)	(312,958)
Capital Expenditures	(334,000)	(259,000)
Provides for the deallocation of funds to transfer the Department of Environmental Protection laboratory staff and general operating expenses to the Department of Human Services, Bureau of Health.		
DEPARTMENT OF ENVIRONMENTAL PROTECTION		
TOTAL	(\$1,350,873)	(\$1,376,832)
HUMAN SERVICES, DEPARTMENT OF		
Bureau of Health		
Positions	(18.5)	(18.5)
Personal Services	\$743,407	\$804,874
All Other	273,466	312,958
Capital Expenditures	334,000	259,000
Provides for the allocation of funds for positions and general operating funds transferred from the Department of Environmental Protection to staff and operate the Health and Environmental Testing Laboratory within the Bureau of Health.		
DEPARTMENT OF HUMAN SERVICES		
TOTAL	\$1,350,873	\$1,376,832
TOTAL ALLOCATIONS	\$-0-	\$-0-

Sec. 26. Effective date. Those sections of this Act that enact the Maine Revised Statutes, Title 22, chapter 157-A, amend Title 22, section 2602-A, subsection 2, repeal and replace Title 38, section 342, subsection 4, paragraph A and repealed Title 38, section 342-A take effect July 1, 1991.

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

Effective June 24, 1991, unless otherwise indicated.

CHAPTER 500

H.P. 407 - L.D. 590

An Act to Amend the Exemption of Certain Divisions from the Definition of Subdivision

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

Whereas, the transfer of a security interest for property should not trigger review of the real estate under municipal subdivision or site location of development laws; and

Whereas, this legislation allows a lender to foreclose on a mortgage of a lot exempted from subdivision review without triggering review; 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. 30-A MRSA §4401, sub-§4, ¶D, as amended by PL 1989, c. 772, §2, is further amended to read:

D. A division accomplished by devise, condemnation, order of court, gift to a person related to the donor by blood, marriage or adoption or a gift to a municipality or by the transfer of any interest in land to the owner of land abutting that land does not create a lot or lots for the purposes of this definition, unless the intent of the transferor in any transfer or gift within this paragraph is to avoid the objectives of this ~~section~~ ~~subchapter~~. If the real estate exempt under this paragraph by a gift to a person related to the donor by blood, marriage or adoption is transferred within 5 years to another person not related to the donor of the exempt real estate by blood, marriage or adoption, then ~~that~~ the previously exempt division creates a lot or lots for the purposes of this subsection.

Sec. 2. 30-A MRSA §4401, sub-§4, ¶I is enacted to read: