

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND FIFTEENTH LEGISLATURE

SECOND SPECIAL SESSION

December 12, 1991 to January 7, 1992

SECOND REGULAR SESSION

January 8, 1992 to March 31, 1992

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NON-EMERGENCY LAWS IS
JUNE 30, 1992

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
1992

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
SECOND REGULAR SESSION

of the
ONE HUNDRED AND FIFTEENTH LEGISLATURE

1991

tional emission controls or mitigating measures are fully operational as soon as practicable but in no case later than 24 months after the department issues the license renewal or amendment, except as provided in this subsection. After a showing by the licensee that it can not install and bring to full operation required emission controls or mitigating measures within the 24-month period, the department may establish a later date for the installation and operation.

7. Compliance with federal law. The department has the authority to deny an air emission license for a new or modified major emitting source when it determines that the source will not comply with the requirements imposed pursuant to the Federal Clean Air Act, Title 1, Part C, subpart 2, as amended, related to the impairment of visibility in mandatory Class 1 federal areas.

See title page for effective date.

CHAPTER 659

H.P. 1263 - L.D. 1832

An Act Allowing Municipalities to Grant Limited Set-back Variances for Single-family Dwellings

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

Sec. 1. 30-A MRSA §4353, sub-§4, as amended by PL 1991, c. 47, §1, is further amended to read:

4. Variance. Except as provided in subsections 4-A and 4-B, the board may grant a variance only when strict application of the ordinance to the petitioner and the petitioner's property would cause undue hardship. The term "undue hardship" as used in this subsection means:

- A. The land in question can not yield a reasonable return unless a variance is granted;
- B. The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
- C. The granting of a variance will not alter the essential character of the locality; and
- D. The hardship is not the result of action taken by the applicant or a prior owner.

Under its home rule authority, a municipality may, in a zoning ordinance, adopt additional limitations on the granting of a variance, including, but not limited to, a provision that a variance may be granted only for a use permitted in a particular zone.

Sec. 2. 30-A MRSA §4353, sub-§4-A, as enacted by PL 1991, c. 47, §2, is amended to read:

4-A. Disability variance. The board may grant a variance to a property owner for the purpose of making that property accessible to a person with a disability who is living on the property. The board shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the property by the person with the disability. The board may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives on the property. For the purposes of this subsection, a disability has the same meaning as a physical or mental handicap under Title 5, section 4553 and the term "structures necessary for access to or egress from the property" is defined to include railing, wall or roof systems necessary for the safety or effectiveness of the structure.

Sec. 3. 30-A MRSA §4353, sub-§4-B is enacted to read:

4-B. Set-back variance for single-family dwellings. A municipality may adopt an ordinance that permits the board to grant a set-back variance for a single-family dwelling. An ordinance adopted under this subsection may permit a variance from a set-back requirement only when strict application of the zoning ordinance to the petitioner and the petitioner's property would cause undue hardship. The term "undue hardship" as used in this subsection means:

- A. The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
- B. The granting of a variance will not alter the essential character of the locality;
- C. The hardship is not the result of action taken by the applicant or a prior owner;
- D. The granting of the variance will not substantially reduce or impair the use of abutting property; and
- E. That the granting of a variance is based upon demonstrated need, not convenience, and no other feasible alternative is available.

An ordinance adopted under this subsection is strictly limited to permitting a variance from a set-back requirement for a single-family dwelling that is the primary year-round residence of the petitioner. A variance under this subsection may not exceed 20% of a set-back requirement and may not be granted if the variance would cause

the area of the dwelling to exceed the maximum permissible lot coverage.

See title page for effective date.

CHAPTER 660

S.P. 797 - L.D. 1996

An Act to Amend the Laws Governing Telecommunications Interexchange Carrier Selection

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

Whereas, there is an immediate need to amend the law to avoid placing local exchange carriers in the untenable position of complying with conflicting state and federal requirements thereby resulting in increased costs and administrative burdens; 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. 35-A MRSA §7506, as enacted by PL 1991, c. 318, §2, is repealed.

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

Effective March 13, 1992.

CHAPTER 661

H.P. 1415 - L.D. 2027

An Act to Expand the Definition of "Tenant" in the Laws Pertaining to Mobile Home Parks

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

Sec. 1. 10 MRSA §9098, sub-§4 is enacted to read:

4. Return of security deposit to renter. Notwithstanding the definition of "tenant" in section 9091, subsection 5, this section applies to a person who rents a mobile home and rents the mobile home park lot on

which the mobile home is located and from whom a mobile home park operator collects a security deposit.

Sec. 2. 10 MRSA §9099, sub-§6 is enacted to read:

6. Applicability to renter. Notwithstanding the definition of "tenant" in section 9091, subsection 5, this section applies to a person who rents a mobile home and rents the mobile home park lot on which the mobile home is located from a mobile home park operator.

See title page for effective date.

CHAPTER 662

S.P. 828 - L.D. 2132

An Act to Amend the Laws Concerning High School Equivalency Certificates

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

Sec. 1. 20-A MRSA §257, as amended by PL 1989, c. 525, §1, is repealed and the following enacted in its place:

§257. High school equivalency diplomas

1. Issuance of diploma. The commissioner shall issue a high school equivalency diploma to a person who:

A. Is at least 18 years of age, if that person:

(1) Has completed a formal training program approved by the commissioner; and

(2) Has demonstrated, through procedures prescribed by the commissioner, attainment of a general educational development comparable to that of a secondary school graduate; or

B. Is 17 years of age, if that person:

(1) Has not been in attendance for one year or more at a public school or a private school approved by the department pursuant to chapter 117, or has documented an immediate need for a high school equivalency diploma to the superintendent of schools for the school administrative unit in which that person resides, and has received written approval for the issuance of a high school equivalency diploma from the superintendent;