

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

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TITLE 3, SECTION 163-A, SUBSECTION 4.

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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

Sec. 4. 19 MRSA §762, sub-§3, as enacted by PL 1979, c. 578, §5, is amended to read:

3. Court. "Court" means any ~~district or superior court~~ District Court.

Sec. 5. 19 MRSA §763, as amended by PL 1983, c. 583, §26, is further amended to read:

§763. Filing of complaint; jurisdiction

Proceedings under this chapter ~~shall~~ must be filed, heard and determined in the District Court ~~or Superior Court~~ of the division ~~or county~~ in which either the plaintiff or the defendant resides. If the plaintiff has left ~~his~~ the plaintiff's residence to avoid abuse, ~~he~~ the plaintiff may bring an action in the division ~~or county~~ of ~~his~~ the plaintiff's previous residence or ~~of his~~ of his new residence.

The District Court has jurisdiction over protection from abuse petitions. If a District Court judge is not available in the division in which a complaint requesting a temporary order is to be filed, the complaint may be presented to any other District Court judge or to any Superior Court justice who has the same authority as a District Court judge to grant or deny the temporary order.

Sec. 6. 19 MRSA §765, sub-§2, as amended by PL 1989, c. 862, §13, is further amended to read:

2. Temporary orders. The court may enter any temporary orders authorized under subsection 4 as it considers necessary to protect the plaintiff or minor child from abuse, on good cause shown in an ex parte proceeding, which the court shall hear and determine as expeditiously as practicable after the filing of a complaint. Immediate and present danger of abuse to the plaintiff or minor child constitutes good cause. Any order remains in effect pending a hearing pursuant to subsection 1. ~~If the complaint is filed initially in the Superior Court, the justice, after authorizing any temporary order under this section, may order that further proceedings be transferred to the District Court of the division in which either the plaintiff or the defendant resides.~~

Sec. 7. 19 MRSA §965, sub-§3, ¶A, as amended by PL 1985, c. 495, §13, is further amended to read:

A. When there is no judge available in the District Court having venue or the District Court court-house is closed and no other provision can be made for the shelter of an abused family or household member or minor child, a complaint may be filed before presented to any District Court Judge judge or Superior Court Justice. Upon a showing of good cause, as defined in subsection 2, the court may enter any temporary orders authorized under subsection 4 as it ~~deems~~ considers necessary to protect the plaintiff or minor child from abuse.

Sec. 8. 19 MRSA §965, sub-§3, ¶B, as repealed and replaced by PL 1981, c. 420, §5, is amended to read:

B. If a complaint is ~~filed~~ presented under this subsection, that complaint and any order issued pursuant to it ~~shall~~ must be forwarded immediately to the clerk of the District Court or Superior Court having venue for filing.

Sec. 9. 19 MRSA §965, sub-§4, ¶B, as enacted by PL 1979, c. 578, §§5 and 7, is amended to read:

B. Threatening, assaulting, molesting, harassing, attacking or otherwise disturbing the peace of the plaintiff;

Sec. 10. 19 MRSA §766, sub-§1, ¶A, as enacted by PL 1979, c. 578, §§5 and 7, is amended to read:

A. Directing the defendant to refrain from the threatening, assaulting, molesting, harassing, attacking or otherwise abusing the plaintiff and any minor children residing in the household;

Sec. 11. 19 MRSA §766, sub-§1, ¶G, as amended by PL 1989, c. 834, Pt. B, §12 and c. 862, §17, is repealed and the following enacted in its place:

G. Ordering the payment of temporary support for the dependent party, or any child in the dependent party's custody in accordance with chapter 7, subchapter I-A, or both, when there is a legal obligation to support that person, that child, or both;

See title page for effective date.

CHAPTER 761

H.P. 1459 - L.D. 2071

An Act to Amend the Laws Regarding Licensing of Gravel Pits

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

Sec. 1. 38 MRSA §489-A, sub-§1, ¶¶ C and D, as enacted by PL 1989, c. 207, §2, are amended to read:

C. Structures as described in section 482, subsection 6, paragraph A, ~~which~~ that occupy a total floor area of 100,000 square feet or more but less than 150,000 square feet of floor area; ~~or~~

D. Structures as described in section 482, subsection 6, paragraph B, ~~which~~ that occupy a ground

area in excess of 3 acres but less than 7 acres of nonrevegetated land; or

Sec. 2. 38 MRSA §489-A, sub-§1, ¶E is enacted to read:

E. Sand, fill or gravel pit mining operations consisting of 5 or more acres.

Sec. 3. 38 MRSA §489-A, sub-§2, ¶D-1 is enacted to read:

D-1. Land use regulations have been adopted that regulate all sand, fill or gravel pit mining operations consisting of 5 or more acres. The regulations must be determined by the board to be at least as stringent as the criteria set forth in section 484;

Sec. 4. 38 MRSA §489-A, sub-§2, ¶E, as enacted by PL 1989, c. 207, §2, is amended to read:

~~E. A professional planning staff to provide professional planning assistance and advice to the municipal reviewing authority has been retained or the municipality has otherwise arranged to provide professional planning assistance to advise the municipal reviewing authority on project review. The municipality has adequate resources to administer and enforce the provisions of its ordinances;~~

See title page for effective date.

CHAPTER 762

H.P. 1671 - L.D. 2347

An Act to Amend the Radioactive Waste Laws

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

Sec. 1. 38 MRSA §1503, sub-§1-A is enacted to read:

1-A. Authority possession of low-level radioactive waste. “Authority possession of low-level radioactive waste” means the authority has received actual delivery of and has accepted the low-level radioactive waste at an authority facility.

Sec. 2. 38 MRSA §1540, sub-§1, as amended by PL 1989, c. 480, §17, is further amended to read:

1. Strict liability. Notwithstanding any provision of law to the contrary, except as otherwise expressly provided in section 1540-A, any person, including the authority, engaged in low-level radioactive waste disposal or storage activities provided in this chapter, ~~shall be is~~

subject to liability without fault for property damage, bodily injury or death resulting from those activities. Any defendant in an action under this subsection may be ~~jointly and severally~~ liable for actual damages only as provided in section 1540-A.

Sec. 3. 38 MRSA §1540, sub-§2, as enacted by PL 1987, c. 530, §4, is repealed.

Sec. 4. 38 MRSA §1540, sub-§3, as amended by PL 1989, c. 480, §17, is repealed.

Sec. 5. 38 MRSA §1540, sub-§4, as amended by PL 1989, c. 480, §17, is further amended to read:

4. Insurance. The authority shall purchase, or require any of its contractors to purchase, insurance or other financial protection, including establishing, by rule, a separate self-insurance fund established as a trust with assets that may not be commingled with other funds, against the site failure sufficient to cover any foreseeable problems during the life of the facility plus a reasonable reserve for unforeseen contingencies. The cost of insurance purchased by the authority ~~shall~~ must be included in the assessment and fees charged by the facility under sections 1535 and 1536. The authority shall monitor the size of any self-insurance fund established pursuant to this subsection. By July 1, 1993, the authority shall establish by rule a mechanism to refund on a prorated basis the full balance in any self-insurance fund in the event the authority no longer proposes to site a facility in the State and the authority has no continuing liability. The authority shall report to the joint standing committee of the Legislature having jurisdiction over radioactive waste matters by January 1, 1994 and biannually thereafter on the status and form of any self-insurance fund established under this subsection.

Sec. 6. 38 MRSA §1540-A is enacted to read:

§1540-A. Liability scheme

The liability imposed under section 1540 for damages caused by low-level radioactive waste is apportioned as follows.

1. Liability for low-level radioactive waste prior to authority possession. Prior to authority possession of low-level radioactive waste, each generator, owner or transporter of low-level radioactive waste is liable for actual damages caused by the low-level radioactive waste of that generator, owner or transporter.

2. Liability for low-level radioactive waste in authority possession. Following the authority taking possession of low-level radioactive waste, liability for actual damages caused by the low-level radioactive waste is apportioned in the following order.