

# 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

THE GENERAL EFFECTIVE DATE FOR  
SECOND REGULAR SESSION  
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.

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J.S. McCarthy Company  
Augusta, Maine  
1992

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**PUBLIC LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED AT THE**  
**SECOND REGULAR SESSION**

**of the**  
**ONE HUNDRED AND FIFTEENTH LEGISLATURE**

**1991**

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(4) The specific reason or reasons why the disclosure is, or may be, relevant to a proceeding or investigation.

The Attorney General shall retain physical control of the information until the conclusion of the investigation or proceeding for which the information was requested, after which the information must be returned immediately to the State Tax Assessor.

### Sec. B-19. Transition provision.

1. The incumbent director of the Bureau of Intergovernmental Drug Enforcement serves as the Director of the Maine Drug Enforcement Agency. Personnel now employed by the Bureau of Intergovernmental Drug Enforcement remain employed as personnel with the Maine Drug Enforcement Agency and the time period for tours of duty for incumbent investigative agents, pursuant to Title 25, section 2955, subsection 4, commences from the effective date of this Act.

2. All existing rules and procedures in effect, in operation or adopted by the Bureau of Intergovernmental Drug Enforcement or any of its administrative units or officers, are continued in effect until rescinded, revised or amended by the proper authority.

3. All existing contracts, leases, agreements, compacts and grants issued prior to the effective date of this Act, continue to be valid under the terms of issuance either until expiration or rescision, amendment or revocation and are transferred to the Maine Drug Enforcement Agency on the effective date of this Act.

4. The Director of the Maine Drug Enforcement Agency has the authority to enter into such contracts or agreements or to apply for such grants, modification to grants or money as may be necessary to carry forth the work of the Bureau of Intergovernmental Drug Enforcement. Nothing in this Act may be construed to violate any requirements of any granting agency, including, but not limited to, those imposed by the federal Bureau of Justice Assistance.

5. Notwithstanding any other provision of law, all accrued expenditures, assets, liabilities, balances of funds, transfers, revenues or other available funds in an account or subdivision of an account of the Bureau of Intergovernmental Drug Enforcement must be reallocated or reappropriated to the Maine Drug Enforcement Agency by the State Controller.

6. Any positions authorized and allocated subject to the personnel laws to the Bureau of Intergovernmental Drug Enforcement are transferred to the Maine Drug Enforcement Agency and may continue to be authorized.

7. All records, property and equipment previously belonging to or allocated for the use of the Bureau of

Intergovernmental Drug Enforcement become the property of the Maine Drug Enforcement Agency on the effective date of this Act.

8. All existing forms, licenses, letterheads and similar items bearing the name of or referring to the Bureau of Intergovernmental Drug Enforcement may be used by the Maine Drug Enforcement Agency until existing supplies of those items are exhausted.

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

Effective April 8, 1992.

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## CHAPTER 838

### S.P. 922 - L.D. 2369

#### An Act to Further Enhance and Protect Maine's Great Ponds

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

**Sec. 1. 5 MRSA §12004-I, sub-§24-B** is enacted to read:

<u>24-B.</u>	<u>Great Pond</u>	<u>Not Autho-</u>	<u>38 MRSA</u>
<u>Environment</u>	<u>Task Force</u>	<u>rized</u>	<u>§1842</u>

**Sec. 2. 12 MRSA §7792, sub-§5**, as amended by PL 1991, c. 301, §2, is further amended to read:

**5. Restrictions for airmobiles.** Rules restricting the operation of airmobiles in fish or wildlife preserves, conservation areas or other areas where the operation may harm the natural environment; ~~and~~

**Sec. 3. 12 MRSA §7792, sub-§6**, as enacted by PL 1991, c. 301, §3, is amended to read:

**6. Scalloping permitted by rule; Frenchboro area.** Rules permitting the taking of scallops in the Frenchboro area, as defined in section 6954-A, subsection 1, except that the rules may not permit the use of drags more than 30 inches wide and may not permit the use of drag ropes more than 3/8 inch in diameter; ~~and~~

**Sec. 4. 12 MRSA §7792, sub-§7** is enacted to read:

7. Areas off limits to watercraft. Rules to define areas off limits to all watercraft during time periods critical for wildlife protection.

**Sec. 5. 12 MRSA §7792**, as amended by PL 1991, c. 301, §§2 and 3, is further amended by adding at the end a new paragraph to read:

Rules adopted pursuant to this section must be written in a clear and easy-to-understand format for educational purposes. These rules must be attached to and distributed with each watercraft registration form together with a summary of the rules and information on how to prevent water contamination and minimize wildlife disturbance.

**Sec. 6. 30-A MRSA §4215, sub-§2, ¶¶B and C,** as amended by PL 1989, c. 104, Pt. C, §§8 and 10, are further amended to read:

B. A replacement for an existing ~~waste water~~ wastewater disposal system has been constructed so that it substantially complies with departmental rules and applicable municipal ordinances; or

C. The dwelling unit's ~~waste water~~ wastewater is connected to an approved sanitary sewer system; or,

**Sec. 7. 30-A MRSA §4215, sub-§2, ¶D,** as amended by PL 1989, c. 104, Pt. A, §42 and Pt. C, §§8 and 10, is repealed.

**Sec. 8. 30-A MRSA §4326, sub-§3, ¶C,** as enacted by PL 1989, c. 104, Pt. A, §45 and Pt. C, §10, is amended to read:

C. Protect, maintain and, when warranted, improve the water quality of each water body pursuant to Title 38, chapter 3, subchapter I, article 4-A and ensure that the water quality will be protected from long-term and cumulative increases in phosphorus from development in great pond watersheds;

**Sec. 9. 30-A MRSA §4326, sub-§3, ¶H,** as enacted by PL 1989, c. 104, Pt. A, §45 and Pt. C, §10, is amended to read:

H. Ensure that the value of historical and archeological resources is recognized and that protection is afforded to those resources that merit it; and

**Sec. 10. 30-A MRSA §4326, sub-§3, ¶I,** as amended by PL 1991, c. 622, Pt. F, §29, is further amended to read:

I. Encourage the availability of and access to traditional outdoor recreation opportunities, including, without limitation, hunting, boating, fishing and hiking; and encourage the creation of greenbelts, public parks, trails and conservation easements. Each municipality should identify and encourage the protection of undeveloped shoreland and other areas identified in the local planning process as meriting such protection; and

**Sec. 11. 30-A MRSA §4326, sub-§3, ¶J** is enacted to read:

J. Develop management goals for great ponds pertaining to the type of shoreline character, intensity of surface water use, protection of resources of state significance and type of public access appropriate for the intensity of use of great ponds within a municipality's jurisdiction.

**Sec. 12. 30-A MRSA §4404, sub-§§15 and 16,** as enacted by PL 1989, c. 878, Pt. A, §86, are amended to read:

**15. River, stream or brook.** Any river, stream or brook within or abutting the proposed subdivision has been identified on any maps submitted as part of the application. For purposes of this section, "river, stream or brook" has the same meaning as in Title 38, section 480-B, subsection 9; and

**16. Storm water.** The proposed subdivision will provide for adequate storm water management;

**Sec. 13. 30-A MRSA §4404, sub-§17,** as enacted by PL 1989, c. 762, §3 and affected by §4, is amended to read:

**17. Spaghetti-lots prohibited.** If any lots in the proposed subdivision have shore frontage on a river, stream, brook, great pond or coastal wetland as these features are defined in Title 38, section 480-B, none of the lots created within the subdivision have a lot depth to shore frontage ratio greater than 5 to 1; and

**Sec. 14. 30-A MRSA §4404, sub-§18** is enacted to read:

**18. Lake phosphorus concentration.** The long-term cumulative effects of the proposed subdivision will not unreasonably increase a great pond's phosphorus concentration during the construction phase and life of the proposed subdivision.

**Sec. 15. 30-A MRSA §4406, sub-§4** is enacted to read:

**4. Permit display.** A person issued a permit pursuant to this subchapter in a great pond watershed shall have a copy of the permit on site while work authorized by the permit is being conducted.

**Sec. 16. 38 MRSA §3, first ¶,** as repealed and replaced by PL 1987, c. 655, §3, is amended to read:

In all harbors wherein channel lines have been established by the municipal officers, as provided in section 2, and in all other coastal and tidal waters and harbors and great ponds where mooring rights of individu-

als are claimed to be invaded and protection is sought of the harbor master, the harbor master shall assign and indicate only to the masters or owners of boats and vessels the location ~~which that~~ they may occupy for mooring purposes and shall change the location of those moorings from time to time when the crowded condition of that harbor or great pond, the need to conform to section 7-A or other conditions render the change desirable.

**Sec. 17. 38 MRSA §410-I, sub-§2**, as enacted by PL 1991, c. 345, is amended to read:

**2. Ranking of watersheds.** In cooperation with the commissioner, the agencies identified in subsection 1 shall identify those watersheds that should receive highest priority for corrective action for nonpoint source pollution and those actions recommended in great pond watersheds to control phosphorus runoff.

**Sec. 18. 38 MRSA §410-J, sub-§4**, as enacted by PL 1991, c. 345, is amended to read:

**4. Development.** The commissioner shall develop best management practice guidelines to reduce and prevent nonpoint source pollution from development-related activities. State agencies shall follow these guidelines in construction or remodeling activities for state buildings and other capital improvements. The commissioner shall provide guidance and technical assistance to the ~~Department of Economic and~~ Office of Community Development and municipalities to support implementation through growth management programs required authorized by the growth management laws, Title 30-A, chapter 187, subchapter II and municipal subdivision ordinances.

**Sec. 19. 38 MRSA §410-K**, as enacted by PL 1991, c. 345, is amended to read:

**§410-K. Program review**

Prior to January 1, 1993, the commissioner shall submit to the joint standing committee of the Legislature having jurisdiction over energy and natural ~~resources~~ resource matters a report detailing the effectiveness of the program and making recommendations for program improvements and fee amounts for permit applications under chapter 3, subchapter I, articles 5-A and 6. The commissioner shall make recommendations on the advisability of enacting statutory or regulatory exemptions from the water quality discharge licensing requirements of section 413 for those activities conducted in compliance with best management practice guidelines under this article. The commissioner shall submit with these recommendations an analysis of the legal and enforcement issues raised by these exemptions, specifically, the need to adopt by rule best management practice guidelines. In recommending fees pursuant to this section, the commissioner shall consider the cost of technical review

and compliance inspection for best management practices and shall recommend fees that cover these costs.

**Sec. 20. 38 MRSA §417-A** is enacted to read:

**§417-A. Manure spreading**

When the ground is frozen, a person may not spread manure on agricultural fields within a great pond watershed unless this activity is in accordance with a conservation plan for that land on file with a state soil and water conservation district.

**Sec. 21. 38 MRSA §419, sub-§1, ¶C-1** is enacted to read:

C-1. "Household laundry detergent" as used in this section means a cleaning agent used primarily in private residences for washing clothes.

**Sec. 22. 38 MRSA §419, sub-§2-A** is enacted to read:

**2-A. Household laundry detergent.** After July 1, 1993, a person may not sell or offer for sale in this State a household laundry detergent that contains more than 0.5% phosphorus by weight expressed as elemental phosphorus.

**Sec. 23. 38 MRSA §438-A, sub-§1**, as amended by PL 1991, c. 46, §2, is further amended to read:

**1. Land use guidelines.** In accordance with Title 5, chapter 375, subchapter II, the Board of Environmental Protection shall adopt, and from time to time shall update and amend, minimum guidelines for municipal zoning and land use controls ~~which that~~ are designed to carry out the legislative purposes described in section 435 and the provisions of this article. These minimum guidelines ~~shall~~ must include provisions governing building and structure size, setback and location; and establishment of resource protection, general development, limited residential, commercial fisheries and maritime ~~activities~~ activity zones and other zones. Within each zone, the board shall prescribe uses ~~which that~~ may be allowed with or without conditions and shall establish criteria for the issuance of permits and nonconforming uses, land use standards and administrative and enforcement procedures. These guidelines must also include a requirement for a person issued a permit pursuant to this article in a great pond watershed to have a copy of the permit on site while work authorized by the permit is being conducted. The board shall comprehensively review and update its guidelines and shall reevaluate and update the guidelines at least once every 4 years.

A. Minimum guidelines adopted by the board under this subsection may not require the issuance of a municipal permit for the repair and maintenance of an existing road culvert or for the replacement

of an existing road culvert, as long as the replacement culvert is:

- (1) Not more than one standard culvert size wider in diameter than the culvert being replaced;
- (2) Not more than 25% longer than the culvert being replaced; and
- (3) Not longer than 75 feet.

Ancillary culverting activities, including excavation and filling, are included in this exemption. A person repairing, replacing or maintaining an existing culvert under this paragraph shall ensure that erosion control measures are taken to prevent sedimentation of the water and that the crossing does not block fish passage in the water course.

**Sec. 24. 38 MRSA §480-E, sub-§6** is enacted to read:

**6. Permit display.** A person issued a permit pursuant to this article for activities in a great pond watershed shall have a copy of the permit on site while work authorized by that permit is being conducted. Activities exempt by rule from the requirements of this article are not required to be in compliance with this subsection.

**Sec. 25. 38 MRSA §485-A, sub-§4** is enacted to read:

**4. Permit display.** A person issued a permit pursuant to this article for activities in a great pond watershed shall have a copy of the permit on site while work authorized by that permit is being conducted.

**Sec. 26. 38 MRSA c. 20** is enacted to read:

## **CHAPTER 20**

### **PROTECTION OF MAINE LAKES**

#### **§1841. Declaration of policy**

Maine's great ponds are an important element of the State's economy and traditional way of life. Their abundance and relatively high water quality are precious resources in light of the growing inadequacy of water supplies and the deterioration of natural settings and habitat in many other states. The use of great ponds as a source for drinking water, recreation and power production is vital to the State.

To protect the public trust, the State's great ponds must be protected from degradation. They must be managed according to watershed boundaries, while a diversity of lake setting types within each region of the State is maintained. Potable water from the State's great ponds should require minimal treatment.

A primary goal of the protection of the State's great ponds is to ensure that consistent land use management policies and regulations are applied throughout the direct watershed of each great pond.

The State's goals in managing the surface uses of great ponds are to avoid or minimize conflicts among recreational users, energy producers, shoreland owners and other users; maintain traditional water-dependent businesses; and ensure that the intensity of use allowed on a great pond is in keeping with its capacity to accommodate that use.

#### **§1842. Great Pond Task Force**

There is established, pursuant to Title 5, section 12004-I, subsection 24-B, the Great Pond Task Force, referred to in this chapter as the "task force," to coordinate the State's great pond protection efforts.

**1. Composition.** The task force is composed of the State Planning Director or the director's designee, who serves as chair; the Commissioner of Conservation, the Commissioner of Environmental Protection, the Commissioner of Transportation, the Commissioner of Agriculture, Food and Rural Resources and the Commissioner of Inland Fisheries and Wildlife or the commissioners' designees; the Director of the Division of Health Engineering within the Department of Human Services or the director's designee; the Director of the Natural Resources Center at the University of Maine or the director's designee; and 4 public members appointed by the Governor representing environmental concerns, recreational concerns, the concerns of landowners and the interests of water utilities.

**2. Terms.** Public members are appointed for 3-year terms, except initial terms are as follows: one public member is appointed for a one-year term; one public member is appointed for a 2-year term; and 2 public members are appointed for 3-year terms. A member may not serve more than 2 consecutive 3-year terms.

**3. Duties.** The task force shall:

**A.** In developing the management strategy as directed under section 1843, solicit input from the public, municipal officers and interested organizations;

**B.** Develop guidelines for state rules governing surface uses of great ponds that avoid or minimize conflicts between user groups;

**C.** Develop guidelines to establish a great pond classification system according to the intensity of development and use of the great pond. This system should be as consistent with the classification system used by the Maine Land Use Regulation Commission as possible;

D. Develop guidelines, recommended siting procedures and recommended standards for state construction of public access sites and recommend policies for siting permanent or temporary public toilets at boat launching facilities funded by the State;

E. Develop a plan for strengthening enforcement for violations occurring on and around great ponds through training, equipping and funding municipal enforcement. This plan must include a review of appropriate funding mechanisms, including dedicated funds, and recommendations for streamlining the enforcement process for violations occurring on and around great ponds;

F. In updating the great ponds management strategy, reevaluate the department's phosphorus allocation method and how it can be applied in the State;

G. Educate the public about activities detrimental to water quality in great ponds, including the use of lawn fertilizers and pesticides;

H. Subject to available funding, develop a plan for phasing out substandard wastewater disposal systems around great ponds pursuant to this chapter; and

I. Work with the Department of Human Services to study how to improve the removal of phosphorus in wastewater disposal systems and mechanisms to accomplish this process.

#### **§1843. Great ponds management strategy**

The task force shall develop a state great ponds management strategy in keeping with the goals of section 1841 by July 1, 1993. The strategy must be reviewed and updated at least every 5 years. The strategy must:

**1. Goals.** Include a statement of goals for great ponds that includes but is not limited to:

A. Maintaining water quality in the State's great ponds or, where water quality is already degraded, restoring it so that algal blooms do not occur;

B. Ensuring that water quality is protected from long-term and cumulative increases in pollution;

C. Maintaining the ecological functions, biological diversity and important habitat of the natural ecosystem;

D. Avoiding the increase of natural hazards such as flooding;

E. Protecting the quality of drinking water;

F. Maintaining the traditional use and character of great ponds and their environs; and

G. Ensuring that the public can gain reasonable access to all great ponds.

**2. Prevention efforts.** In allocating state resources for great ponds management, give priority to preventing the deterioration of water quality over restoration efforts; and

**3. Research.** Include a research plan to determine significant existing or potential threats to water quality and other special values.

**Sec. 27. Phaseout of substandard wastewater disposal systems.** Subject to available funding, the Great Pond Task Force shall develop a plan to phase out substandard wastewater disposal systems within 100 feet of great ponds based on available resources and the risk to great ponds. The plan must consist of the following components:

1. A compilation of available data to identify:

A. The possible number of substandard wastewater disposal systems within 100 feet of great ponds;

B. The great ponds in this State that are most at risk from malfunctioning or substandard wastewater disposal systems;

C. Great ponds of unusual public value because of their use as public drinking water supplies and other important functions; and

D. Unique areas that pose unusual problems or have particularly acute problems;

2. A plan for compliance that recommends an attainable compliance date. This plan must include a ranking of priorities for replacement;

3. An educational component to inform the public of the need to upgrade substandard wastewater disposal systems;

4. Research into public and private financial resources to accomplish these goals. This includes community grants potential, any state or federal funding opportunities and the potential for public bond money; and

5. Through local cooperation with municipalities, lake associations, watershed districts and water utilities, the identification of:

A. Local problem areas and solutions;



B. Long-term needs for properties behind shorefront lots to accommodate subsurface wastewater disposal systems; and

C. Opportunities for access to appropriate land for subsurface wastewater disposal systems to serve lakefront lots.

**Sec. 28. Great Pond Task Force reporting.**

The Great Pond Task Force shall report to the joint standing committee of the Legislature having jurisdiction over energy and natural resource matters on or before February 15, 1994 on its findings and recommendations under the Maine Revised Statutes, Title 38, chapter 20. The task force shall include any recommendations for legislation to further its goals.

**Sec. 29. Training programs.** The Department of Environmental Protection shall undertake the following training activities:

1. Emphasize best management practices as a top priority in its existing programs for training people who conduct land use activities and in developing training aids and educational materials. A person who participates in and successfully completes a training program must receive a certificate from the department. The department shall keep a master list of certified people and make it available upon request;

2. Work with the Attorney General's office and the Environmental Law Committee of the Maine State Bar Association to provide periodic training for judges on the purpose and importance of the State's environmental laws; and

3. Work with state, local and county public safety, conservation and environmental protection agencies and organizations to intensify cross-training programs for enforcement and regulatory personnel.

**Sec. 30. Enforcement.** The Department of Inland Fisheries and Wildlife shall report to the Joint Standing Committee on Energy and Natural Resources before July 7, 1992 on the interest by municipalities in and the cost of implementing a program for municipal enforcement of recreational boating laws funded by an increase in boater registration fees. The Great Pond Task Force shall report its recommendations for streamlining enforcement of great pond protection laws to the Second Regular Session of the 116th Legislature.

**Sec. 31. Standish boat ramp.** The Town of Standish may not close the existing boat ramp on Sebago Lake nor may the Portland Water District deny access to the boat ramp by the public until another boat ramp for Sebago Lake in the Town of Standish is available to the public. This section does not apply if the Department of Human Services determines that the use of the public boat ramp is unreasonably threatening the use of Sebago Lake as a public water supply.

**Sec. 32. Repeal.** Section 31 of this Act is repealed January 1, 2002.

See title page for effective date.

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## CHAPTER 839

H.P. 1679 - L.D. 2356

### An Act to Strengthen the Campaign Finance Reporting Laws

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

Whereas, the changes included in this legislation must take effect immediately in order to apply fully to campaign activities in the 1992 election 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. 21-A MRSA §1003, sub-§§1 and 2,** as amended by PL 1989, c. 504, §§1 and 31, are further amended to read:

**1. Investigations.** The commission may investigate to determine the facts concerning the registration of ~~any~~ any a candidate, treasurer, political committee or political action committee and contributions by or to and expenditures by ~~any~~ any a person, candidate, treasurer, political committee or political action committee. For this purpose, the commission may subpoena witnesses and records and take evidence under oath. ~~Any~~ Any a person or political action committee that fails to obey the lawful subpoena of the commission or to testify before it under oath ~~shall~~ must be punished by the Superior Court for contempt ~~on~~ upon application by the Attorney General on behalf of the commission.

**2. Investigations requested.** ~~Any~~ Any a person may apply in writing to the commission requesting an investigation concerning the registration of ~~any~~ any a candidate, treasurer, political committee or political action committee and contributions by or to and expenditures by ~~any~~ any a person, candidate, treasurer, political committee or political action committee. The commission shall review the application and shall make the investigation if the reasons stated for the request show sufficient grounds for believing that a violation may have occurred.