

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND FIFTEENTH LEGISLATURE

THIRD SPECIAL SESSION

October 1, 1992 to October 6, 1992

FOURTH SPECIAL SESSION

October 16, 1992

ONE HUNDRED AND SIXTEENTH LEGISLATURE

FIRST REGULAR SESSION

December 2, 1992 to July 14, 1993

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NON-EMERGENCY LAWS IS

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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
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PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION

of the
ONE HUNDRED AND SIXTEENTH LEGISLATURE

1993

CHAPTER 333

S.P. 470 - L.D. 1462

An Act to Facilitate Oil Spill Cleanup Operations

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

Whereas, unless this legislation is enacted as an emergency measure, the provisions of the Maine Revised Statutes, Title 38, sections 413 and 543 will apply to mechanical oil skimming operations, thereby possibly hampering recovery efforts in the event of an oil spill; 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. 38 MRSA §413, sub-§2-G is enacted to read:

2-G. Exemptions; oil discharge response. A person may not be considered in violation of this section for the discharge of oil to surface waters of the State if the discharge occurs in the process of recovering, containing, cleaning up or removing an oil spill to surface waters and is undertaken in compliance with the instructions of the commissioner or the commissioner's designee.

Sec. 2. 38 MRSA §543, 2nd ¶, as affected by PL 1989, c. 890, Pt. A, §40 and amended by Pt. B, §108, is further amended to read:

Notwithstanding the prohibition of this section, the department may license the discharge of waste, refuse or effluent, including natural drainage contaminated by oil into or upon any coastal waters if, and only if, it finds that ~~such~~ the discharge will be receiving the best available treatment and that ~~such~~ the discharge will not degrade existing water quality ~~nor~~, perceptibly violate the classification of the receiving waters, ~~nor~~ or create any visible sheen upon the receiving waters. A license is not required and a person may not be considered in violation of this section for the discharge of oil to surface waters of the State if the discharge occurs in the process of recovering, containing, cleaning up or removing an oil spill to surface waters and is undertaken in compliance with the instructions of the commissioner or the commissioner's designee.

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

Effective June 11, 1993.

CHAPTER 334

H.P. 114 - L.D. 156

An Act Authorizing Presidential Preference Primary Elections in the State

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

Sec. 1. 21-A MRSA §335, sub-§5, ¶B-1, as enacted by PL 1987, c. 797, §1, is amended to read:

B-1. For a candidate for the office of President of the United States, at least ~~2,000~~ 1,000 and not more than ~~3,000~~ 1,500 voters;

Sec. 2. 21-A MRSA §408 is enacted to read:

§408. Repeal

This subchapter is repealed July 1, 1995.

Sec. 3. 21-A MRSA c. 5, sub-c. V is enacted to read:

SUBCHAPTER V**PRESIDENTIAL PREFERENCE PRIMARY ELECTIONS****§411. Determination and date of primary**

1. Determination of primary. When the state committee of a political party certifies that there is a contest among candidates for nomination as the presidential candidate of the party and that the state committee votes to conduct a presidential primary election at the state committee's convention the year before the primary, the State shall hold a presidential primary election.

2. Date of primary. The presidential preference primary must be held on the same day as the presidential primary for the State of New Hampshire or, if that state holds no presidential primary, on the first Tuesday in March of the presidential election year.

§412. Petitions or filing fees

A candidate for the office of president must either file a petition or pay a filing fee to the Secretary of State for that candidate's name to be placed on the ballot.

1. Petitions. A candidate for the office of president who does not pay a filing fee to the Secretary of State pursuant to subsection 2 must file with the Secretary of State a petition with at least 4,000 and not more than 6,000 voters' signatures. By July 1st of the year preceding each presidential election year, the Secretary of State shall prepare and make available petitions for circulation by persons desiring to be contestants in the state presidential preference primary of any party. The petitions must meet the requirements of sections 335 and 336, excluding section 335, subsections 6 and 8 and must be filed at least 45 days before the presidential preference primary election.

2. Filing fees. A candidate for the office of president who does not file a petition with the Secretary of State pursuant to subsection 1 must pay a \$2,500 filing fee to the Secretary of State. A candidate must pay the filing fee at the time that candidate files a declaration of candidacy.

§413. Ballot preparation

The Secretary of State shall prepare ballots for the presidential preference primary election in accordance with section 601-A.

§414. Candidate eligibility

The following provisions govern the Secretary of State's selection of presidential candidates to appear on the ballot.

1. Inclusion on ballot. The ballot must include the name of any person who is a member of a political party that has qualified to participate in a primary election under subchapter I and who meets at least one of the following conditions as determined by the Secretary of State.

A. The person has qualified for a presidential primary in any other state at least 3 weeks before this State's primary.

B. The person has filed a petition with the Secretary of State that meets the requirements of section 412. The Secretary of State shall determine if a petition meets the requirements of section 412, subject to challenge and appeal under section 337.

2. Notification of candidates. The Secretary of State shall determine the names of the persons to be placed on the ballot under subsection 1. The Secretary of State shall promptly notify those persons that their names will appear on the ballot and shall advise those persons of the steps that they must take if they do not wish their names to appear on the ballot.

3. Withdrawal of candidates. A person who has received notice of inclusion on the ballot may withdraw from the election by filing an affidavit with the Secretary of State requesting under oath that the candidate be withdrawn from the election. The Secretary of State is not required to reprint ballots to remove the name of a candidate if the Secretary of State receives notice of the candidate's withdrawal after the ballots are printed. If the Secretary of State receives notice of a candidate's withdrawal at least 2 weeks before the election, the Secretary of State shall provide municipal election officials with signs to post at the polls notifying voters of the candidate's withdrawal.

§415. Selection of delegates

Selection of delegates to a national presidential nominating convention is determined under this section.

1. Identification of delegates. The state committee of any political party, in its sole discretion, may call presidential caucuses for the purpose of allowing persons enrolled in that party to select the individual delegates and alternates to be pledged to each potential presidential candidate. If the state committee of the political party in whose primary a candidate is participating has not called delegate selection caucuses, the candidate shall file with the Secretary of State, at least 2 weeks before the presidential preference primary election, a list of names of delegates ordered by priority of selection equal in number to the number of delegates and alternates available, as determined by the party, for that party's convention.

2. Selection of delegates. The Secretary of State shall determine the delegates elected and notify each candidate and the credentials committee of each party's national convention of the elected delegates on the following basis.

A. Delegates and alternates to each party's national nominating convention must be divided among the candidates of that party in proportion to the number of votes cast for those candidates in that party's primary election.

B. Delegates and alternates elected for each candidate must be determined in the order of the list submitted by the candidate or determined by party caucuses under subsection 1.

3. Challenge to seating of delegates. If a successful challenge is made at any national convention to the seating of delegates selected under this subchapter, and the challenge is based on a claim that this subchapter violates the party's constitutionally protected right to determine the composition of a state's delegation to its national convention, the Secretary of State shall report to the Legislature by December 1st of the year in which the challenge is made. The report must include recom-

mendations for curing any defect in the law identified at the time of the challenge.

§416. Effective date

This subchapter takes effect July 1, 1995.

Sec. 4. 21-A MRSA §601-A, as enacted by PL 1987, c. 797, §3, is amended to read:

§601-A. Presidential preference primary ballot

The Secretary of State shall prepare the presidential preference primary ballots according to the following provisions.

1. Arrangement. The ballot must be arranged in one column.

2. Content. The ballot must contain the items listed in this section.

A. The following instructions must be printed in bold type at the top of the ballot.

“MAKE A CROSS (X) OR A CHECK MARK (✓) IN THE SQUARE AT THE LEFT OF THE NAME OF THE CANDIDATE FOR WHOM YOU WISH TO VOTE. YOU MAY VOTE FOR ONE PERSON ONLY. YOU MAY VOTE FOR A PERSON WHOSE NAME DOES NOT APPEAR ON THE BALLOT BY WRITING IT OR PASTING A STICKER WITH THAT PERSON’S NAME ON IT IN THE PROPER BLANK SPACE AND MARKING A CROSS (X) OR A CHECK MARK (✓) IN THE PROPER SQUARE AT THE LEFT. DO NOT ERASE NAMES.

~~IF YOU WISH TO VOTE FOR UNCOMMITTED, MAKE A CROSS (X) OR A CHECK MARK (✓) IN THE SQUARE AT THE LEFT OF THE WORD “UNCOMMITTED.” MARK ONLY ONE SQUARE.”~~

B. The ballot must contain the name, without any title, of each candidate arranged alphabetically with the last name first in block capital letters, followed by the first name and middle name or initial, or followed by the first name or first initial and the middle name. The name of each candidate may be printed on the ballot in only one space.

~~C. The ballot must contain the word “uncommitted” following the list of candidates.~~

D. A square ~~shall~~ **must** be printed at the left side of and close to the name of each candidate ~~and uncommitted space~~, so that a voter may designate any choice clearly by a cross (X) or a check mark (✓).

E. On the front and back of the folded ballot must be printed “Official (name of political party) Presidential Preference Primary Ballot;” and the date of the election ~~and a facsimile of the signature of the Secretary of State.~~

3. Distinctively colored. The ballots must be printed separately for each political party on paper of a distinctive color: ~~White~~ white for the party ~~which~~ that cast the greatest number of votes for Governor at the last gubernatorial election; yellow for the 2nd highest; blue for the 3rd highest; and green for the 4th highest. The Secretary of State shall choose a distinctive color for ballots for any other political party.

See title page for effective date.

CHAPTER 335

S.P. 89 - L.D. 243

An Act to Allow the Transfer of Surplus Lands from the State Nursery

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

Whereas, the buildings on the state nursery property are vacant and will deteriorate over time, resulting in a loss of value; and

Whereas, there is a need to make the property available this spring for agricultural or forestry purposes in time for the upcoming growing season; and

Whereas, the Legislature has previously authorized the sale of this land; and

Whereas, in addition there is another parcel that should be transferred to another unit of State Government, the University of Maine; 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. 38 MRSA §8003, sub-§3, ¶M, as amended by PL 1987, c. 308, §10, is further amended to read:

M. The director is authorized, with the consent of the commissioner, to sell, grant, lease, transfer or otherwise convey any real or personal property un-