

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

THE GENERAL EFFECTIVE DATE FOR

FIRST REGULAR SESSION

NON-EMERGENCY LAWS IS

OCTOBER 13, 1993

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
1993

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION

of the
ONE HUNDRED AND SIXTEENTH LEGISLATURE

1993

Whereas, the statute allowing for outside review of Department of Environmental Protection permit applications is repealed on July 1, 1993; and

Whereas, the department has found the provision for outside review of applications to be an important and useful aid; 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 §341-D, sub-§5, as enacted by PL 1989, c. 890, Pt. A, §13 and affected by §40, is amended by amending the first paragraph to read:

5. Requests for reconsideration. Within 30 days of a decision by the board, any person aggrieved by the decision may petition the board in writing for a person aggrieved by a decision of the board on a permit or license application may petition the board once to reconsider that decision, except that a person may not petition the board to reconsider a decision that is an appeal or review of a final license or permit decision made by the commissioner under subsection 4, paragraph A. A petition for reconsideration must be made in writing within 30 days after the board's decision and may be made for:

Sec. 2. 38 MRSA §344-A, sub-§5, as enacted by PL 1991, c. 471, is repealed.

Sec. 3. 38 MRSA §352, sub-§5-A, as amended by PL 1991, c. 824, Pt. C, §4, is further amended by amending the first paragraph 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 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. This subsection is repealed July 1, 1993 1995.

Sec. 4. 38 MRSA §352, sub-§5-B, as enacted by PL 1991, c. 591, Pt. U, §2, is amended by amending the first paragraph to read:

5-B. Accounting system. This subsection takes effect July 1, 1993 1995. 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 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.

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

Effective June 16, 1993.

CHAPTER 357

H.P. 996 - L.D. 1337

An Act to Clarify Child Support Laws

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

Whereas, ambiguities exist in the expedited paternity laws that have created a situation in which the benefits of these laws can not be realized, thus severely limiting the number of paternity cases that can be processed in any given year; and

Whereas, this limitation restricts the amount of money reimbursed to the State for the costs of the aid to families with dependent children program, restricts the number of cases in which child support can be paid to families utilizing the aid to families with dependent children program and threatens the ability of the State to comply with federal law; 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. 19 MRSA §281, as enacted by PL 1967, c. 325, §2, is repealed and the following enacted in its place:

§281. Judgment

1. Support. Judgments under this subchapter may be for periodic payments that may vary in amount. The court may order payments to be made to the person to whom the support is owed or to some person, corporation or agency designated to administer payments under the supervision of the court.

2. Parental rights and responsibilities. The court may order an initial allocation of parental rights and responsibilities. The order of the court must provide notice that if either party objects to the allocation, that party may file a complaint pursuant to section 214 and that an order from that action supersedes this initial allocation of parental rights and responsibilities. It is within the court's discretion to award or allocate parental rights and responsibilities under this subchapter and the Department of Human Services is not a party to this issue. In resolving parental rights and responsibilities issues, the court may not delay entering a determination of paternity and an initial order concerning child support.

Sec. 2. 19 MRSA §522, sub-§8, as enacted by PL 1991, c. 256, is amended to read:

8. Other relief. Grant such other relief as the court determines just and proper, including an initial allocation of parental rights and responsibilities as allowed by section 281.

Sec. 3. 19 MRSA §525, as enacted by PL 1991, c. 256, is amended to read:

§525. Failure of alleged father to deny paternity

If the alleged father fails to file a written denial of paternity with the department within 20 days after service of notice upon him, the department's attorney may file the record of the proceeding in a court as a paternity proceeding action. ~~This filing constitutes a filing under the Maine Rules of Civil Procedure, Rule 3. The filing of the record, along with proof of service pursuant to section 520, constitutes a filing under the Maine Rules of Civil Procedure, Rule 3(1) and further service is not required. The alleged father's failure to file a written denial with the department constitutes a default under the Maine Rules of Civil Procedure, Rule 55(a). The department shall forward to the alleged father by ordinary mail a copy of any request for a default judgment. The mailing of the request to the alleged father's last known address constitutes adequate notice of the default proceeding and further notice is not required.~~

Sec. 4. 19 MRSA §527, as enacted by PL 1991, c. 256, is repealed and the following enacted in its place:

§527. Refusal of alleged father to submit to blood or tissue tests

If the alleged father denies paternity and subsequently fails to submit to blood testing, the record may be filed in court as a paternity action and the department may seek an adjudication of paternity pursuant to section 277. The alleged father's refusal to submit to a blood test constitutes a refusal to submit under section 277. The filing of the record, along with proof of service pursuant to section 520, constitutes compliance with the Maine Rules of Civil Procedure, Rule 3(1). Notice of the filing of this paternity action and a request under section 277 must be sent by ordinary mail to the alleged father. Within 20 days of the mailing of this notice, the alleged father may assert any defense, in law or fact. The department shall forward to the alleged father by ordinary mail a copy of any request for a default judgment or an order pursuant to section 277. If the alleged father does not notify the court in writing within 20 days of the date the department's request was mailed that he opposes the relief requested by the department, the court may grant the relief requested without a hearing. Any notice mailed must contain the substance of this subsection.

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

Effective June 16, 1993.

CHAPTER 358**H.P. 561 - L.D. 758****An Act Regarding Automobile Air Emission Standards**

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

Sec. 1. 38 MRSA 585-D is enacted to read:

§585-D. New motor vehicle emission standards

Subject to the provisions of this section, the Board may adopt and enforce standards that meet the requirements of the federal Clean Air Act, Section 177, 42 United States Code, Section 7507 relating to control of emissions from new motor vehicles or new motor vehicle engines. These standards, known as a "low-emission vehicle program" must be designed to prevent air pollution and achieve and maintain ambient air quality standards within the State. The board may implement a low-emission vehicle program only when:

1. New England states adoption. Massachusetts, Connecticut and at least one other New England state, excluding this State, have adopted a low-emission vehicle program that meets the requirements of the federal Clean Air Act, Section 177, 42 United States Code, Sec-