

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

G. Endanger the life or physical safety of law enforcement personnel.

Sec. 2. 16 MRSA §621, as enacted by PL 1979, c. 433, §2, is amended to read:

§621. Information and records of the Attorney General

Nothing in this subchapter ~~shall require~~ requires dissemination of information or records of the Attorney General, ~~State Police or Bureau of Identification~~ that are declared to be confidential under Title 5, section 200-D ~~or Title 25, section 1631.~~

Sec. 3. 25 MRSA §1631, as amended by PL 1991, c. 729, §§4 and 5, is repealed.

See title page for effective date.

CHAPTER 377

H.P. 844 - L.D. 1149

An Act to Amend the Enforcement Provisions of the Bureau of Taxation

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

Sec. 1. 36 MRSA §175, sub-§2, as amended by PL 1991, c. 820, §2, is further amended to read:

2. Failure to file or pay taxes; determination to prevent renewal, reissuance or other extension of license or certificate. If the State Tax Assessor determines that any person who holds a state-issued license or certificate of authority to conduct a profession, trade or business has neglected or refused to file any returns at the time required under this Title or to pay any a tax liability due under this Title that has been demanded, ~~other than taxes due pursuant to Part 2,~~ and the person continues to fail to file or pay after at least 2 specific written ~~requests to do so~~ notices, each giving 30 days to respond, are sent by certified mail or served by a civil officer, then the assessor shall notify the person in writing that refusal to file the required tax return or to pay the overdue tax liability may result in loss of license or certificate of authority. If the person continues for a period in excess of 30 days from notice of possible denial of renewal or reissuance of a license or certificate of authority to fail to file or show reason why the person is not required to file or if the person continues not to pay, the State Tax Assessor shall notify the person in writing of the determination to prevent renewal, reissuance or extension of the license or certificate of authority by the issuing agency. A review of this determination is available by requesting a petition for reconsideration under section 151, subject to appeal to the Superior Court in accordance with the

Maine Administrative Procedure Act. Either by failure to proceed to the next step of appeal or by exhaustion of the steps of appeal, the determination of the assessor's right to prevent renewal or reissuance becomes final unless otherwise determined by appeal. In any event, the license or certificate of authority in question remains in effect until all appeals are taken to their final conclusion.

Sec. 2. 36 MRSA §175, sub-§6 is enacted to read:

6. Certificate of good standing. The State Tax Assessor must issue a certificate of good standing to the licensee conditioned upon an agreement to complete obligations under this Title. If the licensee fails to honor the agreement, the State Tax Assessor may notify the licensee and the licensing authority to the determination to revoke the license. A review of this determination is available by requesting a petition for reconsideration under section 151, subject to appeal to the Superior Court in accordance with the Maine Administrative Procedure Act. Either by failure to proceed to the next step of appeal or by exhaustion of the steps of appeal, the determination of the assessor's right to revoke becomes final unless otherwise determined by appeal. The licensing board shall on receipt of the finalized notice to revoke, revoke the license within 30 days. The bureau and the licensee may agree to nonbinding mediation for an agreement to complete obligations.

Sec. 3. Report. The State Tax Assessor shall report to the joint standing committee of the Legislature having jurisdiction over taxation matters for the first session of the 117th Legislature on the operation, efficiency and effectiveness of collecting taxes through the power to prevent renewal, reissuance or other extension of license or certificate of authority to conduct a profession, business or trade.

See title page for effective date.

CHAPTER 378

H.P. 966 - L.D. 1297

An Act to Amend Certain Laws Governing Solid Waste Management

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

Whereas, without emergency action in the First Regular Session of the 116th Legislature, industrial boilers that combust certain mixed paper, corrugated cardboard or office paper to generate heat, steam or electricity will not be exempt from the definition of solid waste facility after July 1, 1993; and

Whereas, it is the intent of the Legislature that those facilities continue to be exempt from that definition after July 1, 1993; 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 §421, as amended by PL 1991, c. 499, §15, is repealed.

Sec. 2. 38 MRSA §352, sub-§5-A, in that part designated "TABLE I" in that part relating to "TITLE 38, SECTION 421", is repealed.

Sec. 3. 38 MRSA §352, sub-§5-B, in that part designated "TABLE I" in that part relating to "TITLE 38, SECTION 421", is repealed.

Sec. 4. 38 MRSA §1303-C, sub-§31, ¶C, as enacted by PL 1991, c. 492, §2, is amended to read:

C. An industrial boiler that combusts mixed paper, corrugated cardboard or office paper to generate heat, steam or electricity if:

- (1) The mixed paper, corrugated cardboard or office paper would otherwise be placed in a landfill;
- (2) The market value of the mixed paper, corrugated cardboard or office paper as a raw material for the manufacture of a product with recycled content is less than its value to the facility owner as a fuel supplement;
- (3) The mixed paper, corrugated cardboard or office paper is combusted as a substitute for, or supplement to, fossil or biomass fuels that constitute the primary fuels combusted in the industrial boiler; and
- (4) The boiler combusts no other forms of solid waste except as provided in this subsection.

~~This paragraph is repealed on July 1, 1993.~~

Sec. 5. 38 MRSA §1310-N, sub-§6, as amended by PL 1991, c. 644, §1, is further amended to read:

6. Terms and compliance schedules. Licenses Except as provided in subsection 6-B, licenses are issued under the terms and conditions as the department may prescribe, and for a term not to exceed 5 years. The

department may establish reasonable time schedules for compliance with this article and rules adopted by the board. ~~Notwithstanding any rules adopted pursuant to this section, A licensed or unlicensed municipal solid waste landfill operating on December 31, 1991 may continue to operate until December 31, 1992, unless the commissioner finds that continued operation of a landfill poses an immediate hazard to the public health or the environment, including, without limitation, a threat to a public or private water supply.~~

Sec. 6. 38 MRSA §1310-N, sub-§6-B is enacted to read:

6-B. Solid waste facilities licensed under rules valid on or after May 24, 1989. A solid waste facility license issued under applicable solid waste management rules valid on or after May 24, 1989 remains in effect unless modified, revoked or suspended under section 341-D, subsection 3. These licensees must:

A. Comply with applicable operating rules adopted by the board;

B. Comply with annual facility reporting rules adopted by the board; and

C. Beginning 5 years after the date of issuance of the license, pay an annual facility reporting fee established by the commissioner. The annual fee established in this paragraph must be an amount equal to 20% of the relicensing fee that would have applied to that facility.

Sec. 7. 38 MRSA §1310-P, as affected by PL 1989, c. 890, Pt. A, §40 and amended by Pt. B, §§243 and 244, is repealed.

Sec. 8. 38 MRSA §1310-S, sub-§2, as affected by PL 1989, c. 890, Pt. A, §40 and amended by Pt. B, §249, is further amended to read:

2. Public hearing. The department ~~shall~~ may hold an adjudicatory public hearing within the municipality in which the facility may be located or in ~~such other a~~ convenient location in the vicinity of the proposed facility ~~as the municipal officers may agree.~~ The hearing must be conducted in accordance with Title 5, chapter 375, subchapter IV.

Sec. 9. 38 MRSA §§1310-Y and 1310-Z are enacted to read:

§1310-Y. Financial assurance

An owner or operator of a solid waste disposal facility licensed under section 1310-N shall provide the department assurance of its financial ability to satisfy the estimated cost of corrective action for known releases from the facility and its financial capacity to satisfy the

estimated cost of closure and postclosure care and maintenance at the facility for a period of at least 30 years after closure. The board may adopt rules that increase or decrease that postclosure care period, as long as those rules are consistent with applicable federal rules.

1. Acceptable forms of financial assurance. Acceptable forms of financial assurance are:

A. A letter of credit;

B. A surety bond;

C. An escrow account;

D. A reserve account calculated in a manner consistent with the United States Internal Revenue Code;

E. An irrevocable trust account; or

F. In the case of a municipal solid waste disposal facility, any of the allowable financial assurance mechanisms set forth in applicable federal rules.

2. Report. An owner or operator of a solid waste disposal facility shall annually prepare a report containing a sworn statement providing the year-end balance of any escrow, trust or reserve account established under this section. That report must be submitted to the commissioner by March 31st of each year or such other date as the commissioner may designate.

§1310-Z. Laboratory analyses

Laboratory analyses required in support of the licensing, operation, closure or postclosure care of a solid waste facility must be performed by a qualified laboratory. Six months after the adoption of laboratory certification rules required by Title 22, section 567, all laboratories must be certified or exempted from certification pursuant to those rules.

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

Effective June 16, 1993.

CHAPTER 379

S.P. 425 - L.D. 1334

An Act to Amend the Maine Civil Rights Act Regarding Violations of Constitutional Rights

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

Sec. 1. 5 MRSA §4684-A is enacted to read:

§4684-A. Civil rights

For purposes of this chapter and Title 17, section 2931, a person has the right to engage in lawful activities without being subject to physical force or violence, damage or destruction of property, trespass on property or the threat of physical force or violence, damage or destruction of property or trespass on property motivated by reason of race, color, religion, sex, ancestry, national origin, physical or mental disability or sexual orientation.

See title page for effective date.

CHAPTER 380

S.P. 157 - L.D. 488

An Act Concerning the Operation of Agency Liquor Stores

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

Whereas, the 115th Legislature adopted legislation to provide for the closure of state liquor stores; and

Whereas, the closure of some stores has been stalled pending clarification of the 10-mile rule; and

Whereas, the closure of these additional stores will result in immediate savings to the General Fund; and

Whereas, the legislative intent is to afford a smooth transition for existing agency liquor store licensees and to provide for a reasonable application procedure for future license applicants; 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. 28-A MRSA §453, sub-§1, ¶B, as enacted by PL 1987, c. 45, Pt. A, §4, is repealed.

Sec. 2. 28-A MRSA §453, sub-§1, ¶C, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

C. The proposed agency liquor store is not within ~~10~~ 3.5 miles of an existing state liquor store or an