

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

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

Sec. 1. 3 MRSA §24 is enacted to read:

§24. Floor leaders; term limitation

A person may not serve in the Senate for more than 3 consecutive legislative bienniums in each of the following positions: party floor leader or assistant party floor leader. Service in either capacity in the Senate before December 2, 1992 or service as a party floor leader, assistant party floor leader or whip in the House of Representatives is not included in the calculation of years served.

Sec. 2. 3 MRSA §44 is enacted to read:

§44. Floor leaders; term limitation

A person may not serve in the House of Representatives for more than 3 consecutive legislative bienniums in each of the following offices: party floor leader, assistant party floor leader or whip. Service in such capacity before December 2, 1992 or service as a party floor leader or assistant party floor leader in the Senate is not included in the calculation of years served.

Sec. 3. **Retroactivity.** This Act takes effect retroactively to December 2, 1992.

See title page for effective date.

CHAPTER 412

H.P. 963 - L.D. 1294

An Act to Ensure Implementation of the Federal Clean Air Act Amendments of 1990

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

Sec. 1. 38 MRSA §353-A, sub-§1, as enacted by PL 1991, c. 384, §8, and as affected by §16, is amended to read:

1. **Fees assessed.** After the effective date of this section, a licensee must pay an annual fee assessed on the sum of all licensed allowable air pollutants, except for carbon monoxide, as follows:

Annual licensed emissions in tons	Per ton fee
1 - 1,000	\$2 \$5
1,001 - 4,000	\$4 \$10
over 4,001	\$8 \$15

Sec. 2. 38 MRSA §353-A, sub-§1-A is enacted to read:

1-A. **Annual fee surcharge.** Beginning November 1, 1994, a licensee shall pay an annual fee surcharge of \$10 per every 1,000 air quality units as defined in section 582, subsection 11-E.

Sec. 3. 38 MRSA §353-A, sub-§§3, 4 and 6, as enacted by PL 1991, c. 384, §8, and affected by §16, are amended to read:

3. **Schedule.** The fee for existing licenses must be paid on the anniversary date of the license. This date, once established, remains the scheduled date for paying the annual fee, regardless of future changes of the anniversary date. The annual fee for new applications must be estimated and paid at the time of filing the application. When the processing of the application is complete, the final annual fee is determined. Any additional amount is due prior to the issuance of the license. Any overpayment must be refunded. If the application is denied, 50% of the initial annual fee must be refunded. The effective date of the license becomes the anniversary date.

4. **Maximum and minimum fees.** The minimum annual fee is ~~\$100~~ \$250 per year. ~~The maximum annual fee is \$100,000 per year.~~ The maximum annual fee is \$150,000 per year. Beginning November 1, 1994, the minimum annual fee surcharge is \$100 per year and the maximum annual fee surcharge is \$50,000 per year.

6. **Electrical generating facilities.** The annual fee for an electrical generating facility owned or operated by a regulated electric utility that has operated the facility at not more than 20% of its capacity factor over the most recent 4-year period is calculated on the 20% capacity factor. If the facility exceeds the 20% capacity factor in any calendar year, the annual fee is based on ~~actual~~ licensed allowable emissions.

Sec. 4. 38 MRSA §353-A, sub-§9 is enacted to read:

9. **Funds used solely for air pollution control activities.** The money collected from the annual air emission fees must be used solely for air pollution control activities.

Sec. 5. 38 MRSA §569-A, sub-§5, ¶¶A and B, as enacted by PL 1991, c. 817, §26, are amended to read:

A. Until January 1, 1994 and after January 1, 1998, a fee is assessed of 44¢ per barrel of gasoline; 25¢ per barrel of refined petroleum products and their by-products other than gasoline, liquid asphalt and #6 fuel oil, including #2 fuel oil, kerosene, jet fuel and diesel fuel; and ~~40¢~~ 4¢ per barrel of #6 fuel oil. The fee is assessed on the first transfer of those

products by oil terminal facility licensees, as defined in section 542, subsection 7, and on a person required to register with the commissioner under section 545-B who first transports oil into the State. The fee is not assessed on petroleum products that are exported from this State. These fees must be paid monthly on the basis of records certified to the commissioner. This subsection does not apply to waste oil transported into the State in any motor vehicle that has a valid license issued by the department for the transportation of waste oil pursuant to section 1319-O and is subject to fees established under section 1319-I.

B. After January 1, 1994, the fees assessed in paragraph A increase to 48¢ per barrel of gasoline and 27¢ per barrel of refined petroleum products and their by-products other than gasoline, liquid asphalt and #6 fuel oil, including #2 fuel oil, kerosene, jet fuel and diesel fuel. The fee is not assessed on petroleum products that are exported from this State. The fees assessed on #6 fuel oil remain at 4¢ per barrel. This paragraph is repealed on January 1, 1998.

Sec. 6. 38 MRSA §569-A, sub-§6, as enacted by PL 1991, c. 817, §26, is amended to read:

6. Allocation from Ground Water Oil Clean-up Fund. From the fees assessed in subsection 5, 6¢ per barrel of gasoline, refined petroleum products and their by-products, other than liquid asphalt and #6 fuel oil, must be transferred by the department upon receipt as follows.

A. Sixty-two and one half percent of the 6¢ per barrel fee must be transferred to the Finance Authority of Maine for deposit in the Underground Oil Storage Replacement Fund, and after \$3,000,000 has been transferred to the Maine State Housing Authority pursuant to paragraph B, 100% of the 6¢ per barrel fee must be transferred to the Finance Authority of Maine.

B. Thirty-seven and one half percent of the 6¢ per barrel fee must be transferred to the Maine State Housing Authority for deposit in the Housing Opportunities for Maine Fund to be used initially for loans and grants to finance the costs of removal, disposal, replacement or abandonment of underground oil storage facilities and tanks located on owner-occupied or residential rental property, which facilities and tanks have been identified by the department as leaking or posing an environmental threat or as having been abandoned. After \$3,000,000 has been transferred, the Maine State Housing Authority does not receive a percentage of the 6¢ per barrel fee.

After an aggregate sum of \$10,000,000 has been transferred to the Finance Authority of Maine and an aggregate sum of \$3,000,000 has been transferred to the Maine State Housing Authority pursuant to this subsection, the per barrel fee assessed pursuant to subsection 5 must be reduced by 6¢ per barrel.

Sec. 7. 38 MRSA §582, sub-§§11-D and 11-E are enacted to read:

11-D. Air quality score. "Air quality score" means a score given to a hazardous air pollutant by the Department of Human Services based on the sum of qualitative scores, plus the standard deviation, in 4 categories: carcinogenicity, mutagenicity, reproductive effects and acute effects.

11-E. Air quality units. "Air quality units" means the result of the Department of Human Services' toxicity score for a hazardous air pollutant multiplied by the estimated emissions of that hazardous air pollutant.

Sec. 8. Study. The Commissioner of Environmental Protection shall form a committee comprised of the community regulated by air quality laws and other parties interested in air quality. The committee shall study alternatives to the annual surcharge required in the Maine Revised Statutes, Title 38, section 353-A, subsection 1-A and the impact of the federal Clean Air Act on portions of the State that are in attainment of federal ozone standards. The committee shall report its findings and recommendations to the Joint Standing Committee on Energy and Natural Resources no later than January 15, 1994.

Sec. 9. Allocation. The following funds are allocated from the Other Special Revenue to carry out the purposes of this Act.

	1993-94	1994-95
ENVIRONMENTAL PROTECTION, DEPARTMENT OF		
Air Quality Control		
Positions	(16.0)	(21.0)
Personal Services	\$283,000	\$766,480
All Other	185,453	252,972
Capital Expenditures	100,000	380,511
Provides for the allocation of funds in fiscal year 1993-94 to allow the staggered hiring of 6 Environmental Specialist III positions, 8 Environmental Specialist II positions and 2 Assistant Engineer positions and operating costs for the implementation of the federal Clean Air Act amendments of 1990. Also provides for the allocation of		

funds in fiscal year 1994-95 for 2 additional Environmental Specialist II positions, 2 additional Assistant Engineer positions, one additional Informational Systems Support Specialist position and operating costs for the implementation of the federal Clean Air Act amendments of 1990.

DEPARTMENT OF ENVIRONMENTAL PROTECTION
TOTAL

\$568,453	\$1,399,963
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Sec. 10. Effective date. Section 1 of this Act takes effect November 1, 1993.

See title page for effective date, unless otherwise indicated.

CHAPTER 413

H.P. 92 - L.D. 122

An Act to Maintain the Integrity of Commodity Tax Accounts

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

Whereas, a commodity tax is levied and imposed on a specific industry to benefit that industry; and

Whereas, a commodity tax funds programs essential to maintaining the viability of the industry; and

Whereas, reduction in funding to these programs is detrimental to these industries and impacts the overall economic health of the State; 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. PL 1991, c. 780, Pt. WW, §2 is amended to read:

Sec. WW-2. Calculation; transfer. Notwithstanding the Maine Revised Statutes, Title 5, section 1585, the State Budget Officer shall calculate the amount in sections 4 to 9 of this Part that applies against each General Fund, Highway Fund, Federal Expenditure, Other Special Revenue, internal service fund and enterprise fund

account for all departments and agencies based on the total General Fund appropriations and various allocations to those accounts. The State Budget Officer shall cause the calculated amount to be transferred from each account, except that savings achieved in the Maine Blueberry Commission, the Maine Potato Board, the Maine Sardine Council, the Maine Dairy Promotion Board, the Maine Dairy and Nutrition Council and the Lobster Promotion Council as a result of the reduced weekly work schedule may not be transferred and must remain available for other purposes.

Sec. 2. PL 1991, c. 780, Pt. WW, §7, under the caption "ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF," in that part relating to Departments and Agencies - State-wide, 3rd line is repealed and the following enacted in its place:

Personal Services	(\$1,330,009)
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Sec. 3. PL 1991, c. 780, Pt. KKK, §1 is amended to read:

Sec. KKK-1. Calculation and transfer. Notwithstanding the Maine Revised Statutes, Title 5, section 1585, the State Budget Officer shall calculate the amount in sections 6 to 9 of this Part that applies against each General Fund, Other Special Revenue, enterprise or internal service fund account for all departments and agencies based on the total appropriations and allocations to those accounts, except for the following accounts: General Purpose Aid to Local Schools; Education in the Unorganized Territory; Debt Service - Treasury; Teacher Retirement; Aid to Families with Dependent Children; Aid to Families with Dependent Children - Foster Care; General Assistance; Maine Health Program; Intermediate Care - Payments to Providers; Medical Care - Payments to Providers; Bureau of Rehabilitation; ~~and Bureau of Rehabilitation - Vocational Rehabilitation; Maine Blueberry Commission; Maine Potato Board; Maine Sardine Council; Maine Dairy Promotion Board; Maine Dairy and Nutrition Council; and Lobster Promotion Council.~~ In addition, the amount of funds appropriated or allocated for higher education programs, grants to municipalities and schools and grants to public and private organizations are excepted from this calculation. The State Budget Officer shall cause the calculated amount to be transferred from each account.

Sec. 4. PL 1991, c. 780, Pt. KKK, §7, under the caption "ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF," in that part relating to Departments and Agencies - State-wide, 2nd line is repealed and the following enacted in its place:

Unallocated	(\$888,808)
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Sec. 5. Organizational study. The Maine Blueberry Commission, the Maine Potato Board, the Maine