

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

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

tion of Maine, Article IX, Section 21, two thirds of all of the members elected to each House have determined it necessary to enact this measure.

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

Sec. 1. 30-A MRSA §876, as enacted by PL 1991, c. 495, is repealed.

See title page for effective date.

CHAPTER 450

S.P. 292 - L.D. 862

An Act to Clarify Mandatory Waiver Authority Concerning Construction Requirements

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

Sec. 1. 5 MRSA §4594-D, sub-§9, as amended by PL 1993, c. 410, Pt. X, §2, is further amended to read:

9. Waivers; variance. Builders of facilities governed by subsection 7 may file a petition with the State Fire Marshal requesting a waiver or variance of the standards of construction. If the representative of the Office of the State Fire Marshal determines in cases covered by mandatory plan review that compliance with this section and its rules is not technologically feasible or would result in excessive and unreasonable costs without any substantial benefit to persons with physical disability, the State Fire Marshal may provide for modification of, or substitution for, these standards. In all petitions for variance or waiver, the burden of proof is on the party requesting a variance or waiver to justify its allowance.

Requests for waivers or variances for buildings covered by mandatory plan review are heard by a designee of the Office of the State Fire Marshal. A decision must be provided in writing to the party requesting the waiver or variance.

Sec. 2. 5 MRSA §4594-E is enacted to read:

§4594-E. Waivers for existing buildings

Owners of places of public accommodation built, renovated, remodeled or enlarged between September 1, 1974 and January 1, 1991 may apply to the Office of the State Fire Marshal until September 30, 1994 for a waiver or variance from the standards of construction for accessibility requirements. If the Office of the State Fire Marshal determines that compliance with applicable requirements is not technologically feasible or will result in excessive and unreasonable cost in terms of current dollars without any substantial benefit to persons with physical

disabilities, it may provide for modification of or substitution of standards. In all petitions for variance or waiver, the burden of proof is on the party requesting a variance or waiver to justify its allowance.

A request for a waiver or variance under this subsection must be processed and may be appealed in the same manner as waivers and variances under section 4594-D, subsections 9 and 10.

The Commissioner of Public Safety shall adopt, in accordance with requirements of the Maine Administrative Procedure Act, a schedule of fees for the examination of requests for waivers pursuant to this section and section 4594-D. The fees must be credited to the State Fire Marshal to defray the expenses of that office. Any balance of the fees may not lapse, but must be carried forward for the same purpose.

See title page for effective date.

CHAPTER 451

H.P. 224 - L.D. 292

An Act to Provide a Deterrent to Child Sexual Abuse

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

Sec. 1. 17-A MRSA §254, sub-§3, as enacted by PL 1975, c. 499, §1, is amended to read:

3. Sexual abuse of minors is a Class D crime, except that sexual abuse of minors is a Class C crime when:

A. The actor is more than 10 years older than the other person;

B. The actor knows the other person is related within the 2nd degree of consanguinity; or

C. The actor has 2 or more prior Maine convictions for violations of this section. For purposes of this subsection, the dates of both of the prior convictions must precede the commission of the offense being enhanced by no more than 5 years, although both prior convictions may have occurred on the same day. The date of a conviction is deemed to be the date that sentence is imposed, even though an appeal was taken. The date of a commission of an offense is presumed to be that stated in the complaint, information or indictment, notwithstanding the use of the words "on or about" or the equivalent.

Sec. 2. 17-A MRSA §255, sub-§2, as enacted by PL 1975, c. 499, §1, is amended to read:

2. Unlawful sexual contact is a Class D crime, except that a violation of subsection 1, paragraph C or G is a Class C crime, and a violation of this section when the actor has 2 or more prior Maine convictions for violations of this section is a Class C crime. For purposes of this subsection, the dates of both of the prior convictions must precede the commission of the offense being enhanced by no more than 5 years, although both prior convictions may have occurred on the same day. The date of a conviction is deemed to be the date that sentence is imposed, even though an appeal was taken. The date of a commission of an offense is presumed to be that stated in the complaint, information or indictment, notwithstanding the use of the words "on or about" or the equivalent.

Sec. 3. 17-A MRSA §556, sub-§2, as enacted by PL 1975, c. 499, §1, is amended to read:

2. Incest is a Class D crime, except that a violation of this section when the actor has 2 or more prior Maine convictions for violations of this section, is a Class C crime. For purposes of this subsection, the dates of both of the prior convictions must precede the commission of the offense being enhanced by no more than 5 years, although both prior convictions may have occurred on the same day. The date of a conviction is deemed to be the date that sentence is imposed, even though an appeal was taken. The date of a commission of an offense is presumed to be that stated in the complaint, information or indictment, notwithstanding the use of the words "on or about" or the equivalent.

See title page for effective date.

CHAPTER 452

H.P. 907 - L.D. 1222

An Act to Amend the Maine Tree Growth Tax Law and the Farm and Open Space Tax Laws

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

Sec. 1. 36 MRSA §573, sub-§3, ¶C, as amended by PL 1981, c. 711, §3, is further amended to read:

C. Deed restrictions, restrictive covenants or organizational charters which that prevent commercial harvesting of trees or require a primary use of land other than commercial harvesting and which that were effective prior to January 1, 1982; or

Sec. 2. 36 MRSA §573, sub-§3, ¶D, as amended by PL 1981, c. 711, §3, is repealed.

Sec. 3. 36 MRSA §574-B, sub-§1, as amended by PL 1989, c. 637, §4, is further amended to read:

1. Forest management and harvest plan. A forest management and harvest plan has been prepared for the parcel and updated every 10 years. The landowner shall file a sworn statement with the municipal assessor in a municipality or the State Tax Assessor for parcels in the unorganized territory that a management plan has been prepared for the parcel. A landowner with a parcel taxed pursuant to this subchapter on September 30, 1989 has until April 1, 1999; to comply with this requirement and until the plan is prepared or April 1, 1999, whichever is earlier, will be subject to the applicability provisions under this section as it existed on April 1, 1982;

A landowner with a parcel taxed pursuant to this subchapter for a property tax year beginning before April 1, 1994 when the parcel was less than 100 acres and the sole use of the land was harvesting of trees for personal use shall:

A. By April 1, 1995, file a sworn statement that a revised management plan has been prepared for the parcel of forest land;

B. Apply for classification under the open space laws pursuant to section 1106-A; or

C. Notwithstanding section 581, withdraw from tree growth classification pursuant to this paragraph for the 1994 tax year.

For withdrawal from tree growth classification under this paragraph, the entire parcel subject to that classification in 1993 must be withdrawn from classification for the 1994 tax year. Persons electing to withdraw under this paragraph shall notify the assessor before April 1, 1994 and pay a penalty equal to the taxes that would have been assessed on the first day of April for the 5 tax years, or any lesser number of tax years starting with the year in which the property was first classified, preceding such withdrawal had such real estate been assessed in each of those years at its fair market value on the date of withdrawal less all taxes paid on that real estate over the preceding 5 years and interest at the legal rate from the date or dates on which those amounts would have been payable. If there is a change in use of the property before April 1, 1999, an additional penalty must be assessed equal to the difference between the back taxes paid under this paragraph and the amount that would have been assessed if the land had been withdrawn on April 1, 1994 under section 581 plus interest at the legal rate from April 1, 1994. The procedure for withdrawal provided in this paragraph is intended to be an alternative to the procedure in section 581;

Sec. 4. 36 MRSA §578, sub-§1, as amended by PL 1989, c. 857, §76, is further amended by amending the 3rd paragraph to read: