

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SIXTEENTH LEGISLATURE

SECOND REGULAR SESSION

January 5, 1994 to April 14, 1994

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JULY 14, 1994

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

(1) The name of any domestic corporation or limited partnership or limited liability company organized under the laws of this State or any foreign corporation or foreign limited partnership or foreign limited liability company authorized to transact business or to carry on activities in this State;

(2) A name the exclusive right to which is, at the time, reserved under section 404 or 604; Title 13-A, section 302; or Title 13-B, section 302;

(3) A name that is registered under section 406 or 606; Title 13-A, section 303; or Title 13-B, section 303;

(4) The assumed name of a corporation or limited partnership or limited liability company as provided in section 405 or 605; Title 13-A, section 307; or Title 13-B, section 308; or

(5) A mark registered under Title 10, chapter 301-A.

Sec. B-10. 36 MRSA §4641-C, sub-§15, ¶C, as enacted by PL 1993, c. 398, §4, is amended to read:

C. From a trustee, nominee or straw party to the beneficial owner; ~~and~~

Sec. B-11. 36 MRSA §4641-C, sub-§16, as enacted by PL 1993, c. 398, §4, is amended to read:

16. Certain corporate, partnership and limited liability company deeds. Deeds between a family corporation, partnership ~~or~~ limited partnership or limited liability company and its stockholders ~~or~~ partners or members for the purpose of transferring real property in the organization, dissolution or liquidation of the corporation, partnership ~~or~~ limited partnership or limited liability company under the laws of this State, ~~provided that if~~ the deeds are given for no actual consideration other than shares, interests or debt securities of the corporation, partnership ~~or~~ limited partnership or limited liability company. For purposes of this subsection a family corporation, partnership ~~or~~ limited partnership or limited liability company is a corporation, partnership ~~or~~ limited partnership or limited liability company in which the majority of the voting stock of the corporation, or of the interests in the partnership ~~or~~ limited partnership or limited liability company is held by and the majority of the stockholders ~~or~~ partners or members are persons related to each other, including by adoption, as descendants or as spouses of descendants of a common ancestor who was also a transferor of the

real property involved, or persons acting in a fiduciary capacity for persons so related-; and

Sec. B-12. 36 MRSA §4641-C, sub-§17 is enacted to read:

17. Limited liability company deeds. Deeds to a limited liability company from a corporation, a general or limited partnership or another limited liability company, when the grantor or grantee owns an interest in the limited liability company in the same proportion as the grantor's or grantee's interest in or ownership of the real estate being conveyed.

Sec. B-13. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

1994-95

SECRETARY OF STATE, DEPARTMENT OF THE

Bureau of Administrative Services and Corporations

All Other	\$7,500
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Provides funds for ongoing printing, postage and one-time software design costs to implement the establishment of limited liability corporations.

See title page for effective date.

CHAPTER 719

S.P. 665 - L.D. 903

An Act to Bring the Department of the Attorney General into Conformity with the Criminal History Record Information Laws

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

Sec. 1. 5 MRSA §200-D, as enacted by PL 1975, c. 715, §1, is repealed.

Sec. 2. 10 MRSA §1109, sub-§4, as enacted by PL 1989, c. 750, is amended to read:

4. Confidentiality. Information received by the Department of the Attorney General as a result of this

reporting requirement is a confidential investigative record under Title 5, section 200-D.

Sec. 3. 10 MRSA §1675, as enacted by PL 1991, c. 836, §3, is amended to read:

§1675. Confidentiality

Information received by the Department of the Attorney General pursuant to sections 1673 and 1674 constitutes a confidential investigative record under Title 5, section 200-D.

Sec. 4. 10 MRSA §8003-B, sub-§3, as enacted by PL 1989, c. 173, is amended to read:

3. Attorney General records. The provision or disclosure of investigative records of the Department of the Attorney General to a departmental employee designated by the commissioner or to a complaint officer of a board or commission does not constitute a waiver of the confidentiality, ~~provided under Title 5, section 200-D~~, of those records for any other purposes. Further disclosure of those investigative records ~~shall be~~ is subject to Title 16, section 614 and the discretion of the Attorney General.

Sec. 5. 16 MRSA §611, sub-§4, as enacted by PL 1979, c. 433, §2, is amended to read:

4. Criminal justice agency. "Criminal justice agency" means a federal, state, district, county or local government agency or any subunit thereof ~~which~~ that performs the administration of criminal justice under a statute or executive order, and ~~which that~~ allocates a substantial part of its annual budget to the administration of criminal justice. Courts ~~shall be deemed to be~~ and the Department of the Attorney General are considered criminal justice agencies.

Sec. 6. 16 MRSA §611, sub-§8, as amended by PL 1983, c. 787, §1, is further amended to read:

8. Intelligence and investigative information. "Intelligence and investigative information" means information collected by criminal justice agencies or at the direction of criminal justice agencies in an effort to anticipate, prevent or monitor possible criminal activity, including operation plans of the collecting agency or another agency, or information compiled in the course of investigation of known or suspected crimes, civil violations and prospective and pending civil actions. ~~It~~ "Intelligence and investigative information" does not include information that is criminal history record information.

Sec. 7. 16 MRSA §614, sub-§1, as repealed and replaced by PL 1993, c. 376, §1, is repealed and the following enacted in its place:

1. Limitation on dissemination of intelligence and investigative information. Reports or records that contain intelligence and investigative information and that are prepared by, prepared at the direction of or kept in the custody of a local, county or district criminal justice agency; the Bureau of State Police; the Department of the Attorney General; the Maine Drug Enforcement Agency; the Office of State Fire Marshal; the Department of Corrections; or the criminal law enforcement units of the Department of Marine Resources or the Department of Inland Fisheries and Wildlife are confidential and may not be disseminated if there is a reasonable possibility that public release or inspection of the reports or records would:

A. Interfere with law enforcement proceedings;

B. Result in public dissemination of prejudicial information concerning an accused person or concerning the prosecution's evidence that will interfere with the ability of a court to impanel an impartial jury;

C. Constitute an unwarranted invasion of personal privacy;

D. Disclose the identity of a confidential source;

E. Disclose confidential information furnished only by the confidential source;

F. Disclose trade secrets or other confidential commercial or financial information designated as such by the owner or source of the information or by the Department of the Attorney General;

G. Disclose investigative techniques and procedures or security plans and procedures not generally known by the general public;

H. Endanger the life or physical safety of any individual, including law enforcement personnel;

I. Disclose conduct or statements made or documents submitted by any person in the course of any mediation or arbitration conducted under the auspices of the Department of the Attorney General;

J. Disclose information designated confidential by some other statute; or

K. Identify the source of complaints made to the Department of the Attorney General involving violations of consumer or antitrust laws.

Sec. 8. 16 MRSA §621, as amended by PL 1993, c. 376, §2, is repealed.

Sec. 9. 16 MRSA §623 is enacted to read:

§623. Attorney General fees

The Attorney General shall analyze the impact of this conformity provision upon the Department of the Attorney General. The Department of the Attorney General shall submit a report to the joint standing committee of the Legislature having jurisdiction over judiciary matters to the First Regular Session of the 117th Legislature on this analysis and recommend a funding mechanism. The funding mechanism must include a fee for services to cover the costs associated with providing access and copying of records available to the public under this chapter.

Sec. 10. 22 MRSA §1885, sub-§1, as enacted by PL 1991, c. 814, §1, is amended to read:

1. Investigative powers. The Attorney General, at any time after an application is filed under section 1883, subsection 2, may require by subpoena the attendance and testimony of witnesses and the production of documents in Kennebec County or the county in which the applicants are located for the purpose of investigating whether the cooperative agreement satisfies the standards set forth in section 1883, subsection 4. All documents produced and testimony given to the Attorney General are ~~investigative records under Title 5, section 200-D~~ confidential. The Attorney General may seek an order from the Superior Court compelling compliance with a subpoena issued under this section.

Sec. 11. Effect of repeal of Maine Revised Statutes, Title 5, section 200-D. Reports and records that were created prior to the effective date of this Act that were confidential pursuant to the Maine Revised Statutes, Title 5, section 200-D at the time of their creation continue to be confidential after the effective date of this Act as provided in former Title 5, section 200-D. The confidentiality of intelligence and investigative information contained in reports and records prepared by or at the direction of the Department of the Attorney General after the effective date of this Act is governed by Title 16, section 614.

Sec. 12. Effective date. This Act takes effect July 1, 1995, except that that section of this Act that enacts the Maine Revised Statutes, Title 16, section 623 takes effect 90 days after adjournment of the Second Regular Session of the 116th Legislature.

Effective July 1, 1995, unless otherwise indicated.

CHAPTER 720

H.P. 1080 - L.D. 1446

An Act to Establish an Ambient Water Toxics Program

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

Sec. 1. 38 MRSA §420-B is enacted to read:

§420-B. Surface water ambient toxic monitoring program

The discharge of pollutants from certain direct and indirect sources into the State's waters introduces toxic substances, as defined under section 420, into the environment. In order to determine the nature, scope and severity of toxic contamination in the surface waters and fisheries of the State, the commissioner shall conduct a scientifically valid monitoring program.

The program must be designed to comprehensively monitor the lakes, rivers and streams and marine and estuarine waters of the State on an ongoing basis. The program must incorporate testing for suspected toxic contamination in biological tissue and sediment, may include testing of the water column and must include biomonitoring and the monitoring of the health of individual organisms that may serve as indicators of toxic contamination. This program must collect data sufficient to support assessment of the risks to human and ecological health posed by the direct and indirect discharge of toxic contaminants.

1. Development of monitoring plans and work programs. The commissioner shall:

A. Prepare a plan every 5 years that outlines the monitoring objectives for the following 5 years, resources to be allocated to those objectives and a plan for conducting the monitoring, including methods, scheduling and quality assurance; and

B. Prepare a work program each year that defines the work to be conducted that year toward the objectives of the 5-year plan. This work program must identify specific sites, the sampling media and the contaminants that will be tested.

(1) The commissioner shall consider the following factors when selecting monitoring sites for the annual work program:

(a) The importance of the water body to fisheries, wildlife and humans;