

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

distribute, administer and analyze lobster logbook requirements.

DEPARTMENT OF MARINE RESOURCES

TOTAL \$23,815

See title page for effective date.

CHAPTER 727

H.P. 1274 - L.D. 1718

An Act to Protect Maine Children from Child Pornography Contraband

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

Sec. 1. 17 MRSA §2923, sub-§3, as enacted by PL 1977, c. 628, §1, is amended to read:

3. Penalty. Dissemination of sexually explicit materials is a Class C crime, ~~except that any person convicted of this crime shall be sentenced by imprisonment for not less than 2 years. If the State pleads and proves a prior conviction under this section, then the crime is a Class B crime, except that any person convicted of this 2nd crime shall be sentenced by imprisonment for not less than 5 years. The court shall not suspend either minimum term of imprisonment unless it sets forth in detail, in writing, the reasons for suspending the sentence. The court shall consider the nature and circumstances of the crime, the physical and mental well being of the minor, the history and character of the defendant, and shall only suspend the minimum term if it is of the opinion that the exceptional features of the case justify the imposition of another sentence.~~

Sec. 2. 17 MRSA §2924 is enacted to read:

§2924. Possession of sexually explicit materials

1. Definitions. As used in this section, the term "sexually explicit conduct" means any of the following acts:

- A. Sexual act, as defined in Title 17-A, section 251, subsection 1, paragraph C;
- B. Bestiality;
- C. Masturbation;
- D. Sadomasochistic abuse for the purpose of sexual stimulation;

E. Lewd exhibition of the unclothed genitals, anus or pubic area of a person. An exhibition is considered lewd if the depiction is designed for the purpose of eliciting or attempting to elicit a sexual response in the intended viewer; or

F. Conduct that creates the appearance of the acts in paragraphs A to D and also exhibits any uncovered or covered portions of the genitals, anus or pubic area.

2. Offense. A person is guilty of possession of sexually explicit material if that person intentionally or knowingly transports, exhibits, purchases or possesses any book, magazine, print, negative, slide, motion picture, videotape or other mechanically reproduced visual material that the person knows or should know depicts another person engaging in sexually explicit conduct, and:

A. The other person has not in fact attained the age of 14 years; or

B. The person knows or has reason to know that the other persons has not attained the age of 14 years.

3. Defense. It is a defense to a prosecution under this section that the person depicted was the spouse of the person possessing the sexually explicit material at the time the material was produced.

4. Age of person depicted. The age of the person depicted may be reasonably inferred from the depiction. Competent medical evidence or other expert testimony may be used to establish the age of the person depicted.

5. Penalty. Possession of sexually explicit material is a Class D crime. If the State pleads and proves a prior conviction under this section, the crime is a Class C crime.

6. Contraband. Any material that depicts a person who has not attained the age of 14 years engaging in sexually explicit conduct is declared to be contraband and may be seized by the State.

See title page for effective date.

CHAPTER 728

H.P. 1312 - L.D. 1767

An Act to Establish the Public Access to Maine Waters Fund

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