

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE

FIRST REGULAR SESSION
December 7, 1994 to June 30, 1995

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 29, 1995

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
1995

C. In a private place, the actor exposes the actor's genitals with the intention that the actor be seen by another person in that private place under circumstances that the actor knows are likely to cause affront or alarm.

2. For purposes of this section "public place" includes, but is not limited to, motor vehicles ~~which~~ that are on a public way.

2-A. It is a defense to prosecution under subsection 1, paragraph C, that the other person previously lived or currently is living in the same household as the actor.

3. ~~Public indecency~~ Indecent conduct is a Class E crime.

See title page for effective date.

CHAPTER 73

H.P. 176 - L.D. 224

**An Act to Clarify the Laws
Regarding the Location of Transfer
Stations on Islands**

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

Sec. 1. 38 MRSA §1310-N, sub-§2-D, ¶A, as repealed and replaced by PL 1993, c. 680, Pt. A, §37, is repealed and the following enacted in its place:

A. For a transfer station on an island that is not connected to the mainland by a road, the department shall establish setback distances on a case-specific basis in accordance with this paragraph:

(1) No predetermined minimum setback from a property boundary, residence or public road established in statute or rule applies. A proposed setback from such a location must be reasonable and compatible with the abutting land use. If all abutting landowners give written approval to the location of the handling site, the department shall find that the proposed setback to a property boundary, residence or public road is reasonable and compatible with abutting land use. If all abutting landowners do not give written approval, the department shall make an independent determination of the reasonableness and the compatibility of the setback to a property boundary, residence or public road.

(2) No predetermined minimum setback from an active or closed landfill established

in statute or rule applies. The proposed setback from an active or closed landfill must be reasonable and compatible with the abutting land use. The department shall make an independent determination of the reasonableness and compatibility of the proposed setback to an active or closed landfill.

(3) To the fullest extent possible, the department shall ensure that the handling site of a transfer station on an island is located in a manner that minimizes any adverse impact on the island residents.

Sec. 2. 38 MRSA §1310-N, sub-§2-D, ¶B, as repealed and replaced by PL 1993, c. 680, Pt. A, §37, is amended to read:

B. For all other transfer stations, the handling site may not be within 250 feet of any abutting property boundary, unless:

(1) The department finds the use of the abutting property to be a conforming use compatible with the operation of a transfer station on the proposed location. If the department finds ~~an~~ use of the abutting property to be ~~a conforming use compatible,~~ the handling site may be within 250 feet of any permanent structure on that abutting property; or

(2) The municipality obtains the written permission of all property owners within 250 feet of the proposed handling site.

Sec. 3. Rules. By January 1, 1996, the Department of Environmental Protection shall adopt or amend rules as necessary to define a compatible use under section 2 of this Act.

See title page for effective date.

CHAPTER 74

H.P. 186 - L.D. 245

**An Act to Ensure Children's
Protection against Rabies by
Requiring Proof of Rabies
Vaccination of Pets at Day Care
Facilities and Home Babysitting
Services**

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

Sec. 1. 22 MRSA §8302, sub-§5 is enacted to read:

5. Rules regarding rabies vaccinations for pets. The commissioner shall adopt rules regarding rabies vaccinations for pets residing on the premises of licensed day care facilities and registered home babysitting services to ensure that pets have current and appropriate rabies vaccinations.

See title page for effective date.

CHAPTER 75

H.P. 194 - L.D. 253

An Act Concerning Municipal Shellfish Conservation Program Penalties

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

Sec. 1. 12 MRSA §6671, sub-§10, ¶A, as enacted by PL 1993, c. 281, §4, is amended to read:

A. For harvesting shellfish from a closed area or digging shellfish without a license:

- (1) For the first offense, a fine of not less than \$300 and not more than \$1,500; and
- (2) For subsequent offenses, a fine of not less than \$500 and not more than \$1,500.

The court may not suspend a fine imposed under this paragraph or impose a penalty other than the monetary payment of a fine as provided in this paragraph; or

See title page for effective date.

CHAPTER 76

H.P. 226 - L.D. 304

An Act Concerning the Offset of Workers' Compensation Benefits by Social Security Benefits

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

Sec. 1. 39-A MRSA §221, sub-§3, ¶A, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

A. The employer's obligation to pay or cause to be paid weekly benefits other than benefits under

section 212, subsection 2 or 3 is reduced by the following amounts:

(1) Fifty percent of the amount of the old-age insurance benefits received or being received under the United States Social Security Act. For injuries occurring on or after October 1, 1995, such a reduction may not be made if the old-age insurance benefits had started prior to the date of injury or if the benefits are spouse's benefits;

(2) The after-tax amount of the payments received or being received under a self-insurance plan or a wage continuation plan or under a disability insurance policy provided by the same employer from whom benefits under section 212 or 213 are received if the employee did not contribute directly to the plan or to the payment of premiums regarding the disability insurance policy. If the self-insurance plans, wage continuation plans or disability insurance policies are entitled to repayment in the event of a workers' compensation benefit recovery, the insurance carrier shall satisfy the repayment out of funds the insurance carrier has received through the coordination of benefits provided for under this section;

(3) The proportional amount, based on the ratio of the employer's contributions to the total insurance premiums for the policy period involved, of the after-tax amount of the payments received or being received by the employee pursuant to a disability insurance policy provided by the same employer from whom benefits under section 212 or 213 are received, if the employee did not contribute directly to the payment of premiums regarding the disability insurance policy;

(4) The after-tax amount of the pension or retirement payments received or being received pursuant to a plan or program established or maintained by the same employer from whom benefits under section 212 or 213 are received, if the employee did not contribute directly to the pension or retirement plan or program;

(5) The proportional amount, based on the ratio of the employer's contributions to the total contributions to the plan or program, of the after-tax amount of the pension or retirement payments received or being received by the employee pursuant to a plan or program established or maintained by the same employer from whom benefits under section 212 or 213 are received, if the