

# 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**

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**J.S. McCarthy Company**  
**Augusta, Maine**  
**1995**

A. A licensed professional forester must participate in the development of the ordinance;

B. A face-to-face meeting must take place during the development of the ordinance between representatives of the department and municipal officials involved in developing the ordinance. Discussion at the meeting must include, but is not limited to, the timber harvesting goals of the municipality;

C. The municipality shall hold a public hearing to review a proposed ordinance at least 45 days before a vote is held on the ordinance. The municipality shall provide public notice of the hearing according to the method the municipality uses for its regular public meetings; and

D. The municipality shall notify the department of the public hearing and provide the department with a copy of the proposed ordinance that will be reviewed at the hearing at least 30 days before the date of the hearing.

The proposed ordinance may be revised after the public hearing. The revised ordinance or the proposed ordinance, if no changes are made following the public hearing, must be submitted to the legislative body of the municipality in accordance with the procedures the municipality uses for adopting ordinances.

The department must provide a municipality guidance on how the municipality may use sound forestry practices to achieve its timber harvesting goals.

**Sec. 2. Application.** This Act applies to municipal ordinances enacted after the effective date of this Act. This Act applies to the portions of existing ordinances that are amended after the effective date of this Act, but not to the portions of existing ordinances that are not amended.

See title page for effective date.

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## CHAPTER 123

H.P. 167 - L.D. 215

### An Act to Amend the Laws Regarding Consent Agreements of the Department of Environmental Protection

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

**Sec. 1. 4 MRSA §18, sub-§6**, as amended by PL 1989, c. 702, Pt. E, §1, is further amended to read:

**6. Fees.** When the court refers parties to the Court Mediation Service after the filing of a complaint or petition under Title 19, section 214 or 581, or Title 19, chapter 13, the court shall assess the parties a fee to be apportioned equally between the parties, unless the court otherwise directs. The court may not assess the parties any fees beyond the initial fee, unless one or both of the parties files under Title 19, section 214 or 581, or Title 19, chapter 13, a motion to amend a final decree, a motion to enforce a final decree or a motion for contempt. When the court refers the parties to the Court Mediation Service after the filing under Title 19, section 214 or 581, or Title 19, chapter 13, of a motion to amend a final decree, a motion to enforce a final decree or a motion for contempt, the court shall assess the parties another fee to be apportioned equally between the parties, unless the court otherwise directs.

A party may file an in forma pauperis application for waiver of a fee. If the court finds that the party does not have sufficient funds to pay the fee, it shall order the fee waived.

When the court refers parties to the Court Mediation Service pursuant to Title 38, section 347-A, subsection 4, paragraph E, the court shall assess a fee to be apportioned equally among the parties. The fee must be deposited in the dedicated account created in subsection 6-A. The court shall set the fees at a level sufficient to cover the full cost of mediation services provided pursuant to Title 38, section 347-A, subsection 4, paragraph E.

**Sec. 2. 4 MRSA §18, sub-§6-A** is enacted to read:

**6-A. Environmental Mediation Fund.** The Environmental Mediation Fund is established as a nonlapsing, dedicated fund within the Administrative Office of the Courts. Fees collected for mediation services rendered pursuant to Title 38, section 347-A, subsection 4, paragraph E must be deposited in the fund. The Administrative Office of the Courts shall use resources in the fund to cover the costs of providing mediation services as required under that law.

**Sec. 3. 38 MRSA §347-A, sub-§4, ¶B**, as enacted by PL 1993, c. 204, §2, is amended to read:

B. All proposed administrative consent agreements sent to the alleged violator must be accompanied by written correspondence from the department, in language reasonably understandable to a citizen, explaining the alleged violator's rights and responsibilities with respect to the proposed administrative consent agreement. The correspondence must include an explanation of the factors considered by the commissioner in determining the proposed civil penalty, a state-

ment indicating that the administrative consent agreement process is a voluntary mechanism for resolving enforcement matters without the need for litigation and an explanation of the department's procedures for handling administrative consent agreements. The correspondence must also specify a reasonable time period for the alleged violator to respond to the proposed administrative consent agreement and offer the opportunity for a meeting with department staff to discuss the proposed agreement. Consent agreements shall, to the greatest extent possible, clearly set forth all the specific requirements or conditions with which the alleged violator must comply.

**Sec. 4. 38 MRSA §347-A, sub-§4, ¶E** is enacted to read:

E. When the department and the alleged violator can not agree to the terms of a consent agreement and the department elects to bring an enforcement action in District Court pursuant to section 342, subsection 7, the District Court shall refer the parties to mediation if either party requests mediation at or before the time the alleged violator appears to answer the department's complaint. The parties must meet with a mediator appointed by the Court Mediation Service created in Title 4, section 18 at least once and try in good faith to reach an agreement. After the first meeting, mediation must end at the request of either party. If the parties have been referred to mediation, the action may not be removed to Superior Court until after mediation has occurred.

**Sec. 5. Allocation.** The following funds are allocated from Other Special Revenue funds to carry out the purposes of this Act.

	1995-96	1996-97
<b>JUDICIAL DEPARTMENT</b>		
<b>Environmental Mediation Fund</b>		
All Other	\$1,000	\$1,000
Provides funds to pay for environmental mediation services.		

See title page for effective date.

**CHAPTER 124**

**H.P. 204 - L.D. 263**

**An Act to Permit Law Enforcement Officers to Transport Truants Back to School**

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

**Sec. 1. 20-A MRSA §5051, sub-§2, ¶F** is enacted to read:

F. When a student is determined habitually truant and in violation of section 5001-A, the school board may notify the local law enforcement department of the decision. After this notification, a local law enforcement officer who sees a truant may offer to transport the truant to the appropriate school if the truant and the truant's parent or guardian provide verbal consent and if the truant:

- (1) Is off school grounds during school hours; and
- (2) Is not under the supervision of school personnel.

See title page for effective date.

**CHAPTER 125**

**H.P. 297 - L.D. 401**

**An Act to Continue Protection Under a Protection From Abuse Order**

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

**Sec. 1. 19 MRSA §766, sub-§2,** as amended by PL 1985, c. 495, §14, is further amended to read:

**2. Duration.** Any protective order or approved consent agreement ~~shall be~~ is for a fixed period not to exceed ~~one year~~ 2 years. At the expiration of that time, the court may extend an order, upon motion of the plaintiff, for such additional time as it ~~deems~~ determines necessary to protect the plaintiff or minor child from abuse. The court may continue the order in effect until the hearing under section 765, subsection 1 on the motion to extend. Upon motion by either party, for sufficient cause, the court may modify the order or agreement from time to time as circumstances require.

See title page for effective date.