

# 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**

**CHAPTER 126****H.P. 409 - L.D. 566****An Act to Clarify Protection of  
Surface Waters in the Licensing of  
Solid Waste Facilities****Be it enacted by the People of the State of  
Maine as follows:****Sec. 1. 38 MRSA §1310-N, sub-§1-A** is enacted to read:

**1-A. Surface water protection.** The department may not issue a license for a solid waste facility if it finds that the proposed facility will cause an unreasonable threat to the quality of a classified body of surface water. In determining whether the proposed facility poses an unreasonable threat, the department shall require the applicant to provide evidence demonstrating that:

A. The soils on the proposed facility site are suitable to the nature of the undertaking;

B. An appropriate erosion and sedimentation control plan has been developed and will be implemented on the site; and

C. The proximity of any classified surface water bodies to the proposed solid waste facility has been considered during the site selection process and during the development of the erosion and sedimentation control plan.

**Sec. 2. 38 MRSA §1310-U, 2nd ¶,** as repealed and replaced by PL 1991, c. 66, Pt. A, §38, is amended to read:

Under the municipal home rule authority granted by the Constitution of Maine, Article VIII, Part Second and Title 30-A, section 3001, municipalities, except as provided in this section, may enact ordinances with respect to solid waste facilities that contain standards the municipality finds reasonable, including, without limitation, conformance with federal and state solid waste rules; fire safety; traffic safety; levels of noise heard outside the facility; distance from existing residential, commercial or institutional uses; ground water protection; surface water protection; erosion and sedimentation control; and compatibility of the solid waste facility with local zoning and land use controls, provided that the standards are not more strict than those contained in this chapter and in chapter 3, subchapter I, articles 5-A and 6 and the rules adopted under these

articles. Municipal ordinances must use definitions consistent with those adopted by the board.

See title page for effective date.

**CHAPTER 127****H.P. 456 - L.D. 622****An Act to Expand the Jurisdiction of  
the Consumer Advisory Board of the  
Department of Mental Health and  
Mental Retardation by Giving Board  
Members and its Staff Direct Access  
to All Areas of Agencies that Serve  
Clients of the Department of Mental  
Health and Mental Retardation and  
People with Autism****Be it enacted by the People of the State of  
Maine as follows:****Sec. 1. 34-B MRSA §1216,** as enacted by PL 1989, c. 349, §2, is amended to read:**§1216. Consumer Advisory Board**

**1. Responsibilities.** The Consumer Advisory Board, as established by the ~~Pineland Consent Decree~~ ~~community consent decree~~, Consumer Advisory Board et al. v. Glover, No. 91-321-P-C (D. Me., September 28, 1994), functions as an independent oversight body which that carries out responsibilities pursuant to ~~appendices A and B~~ of this section, the consent decree and subsequent agreements approved by the United States District Court for the District of Maine. The Consumer Advisory Board may review alleged abuse, exploitation or neglect or an alleged dehumanizing practice or violation of rights of any client of the Division of Mental Retardation. The Consumer Advisory Board shall promote the normalization and habilitation of persons with mental retardation or autism.

**2. Maine Tort Claims Act.** The Consumer Advisory Board members and staff act as employees of the State, as defined in Title 14, section 8102, subsection 1, when engaged in official duties specified in the consent judgment or this section or assigned by the board.

**3. Access to information.** With regard to any institution, facility, agency or other provider serving clients of the Division of Mental Retardation or when any client of the division resides or participates in work or in a program, the Consumer Advisory Board members and staff must be given direct access to all living, work and program areas and to all living, work and program area records, including, but not limited to, records related to any personal planning process,