

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE

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IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4

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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Sec. 2. 38 MRSA §1310-U, 2nd ¶, as repealed and replaced by PL 1991, c. 66, Pt.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,

and must be given access to the personnel, but not personnel records. The chief advocate of the Department of Mental Health and Mental Retardation may release to the Consumer Advisory Board information pertaining to alleged abuse, exploitation or neglect or an alleged dehumanizing practice or violation of rights of a person with mental retardation or autism. The Consumer Advisory Board shall keep any confidential information disclosed to it or discovered by it confidential, as required by section 1207.

4. Repeal. This section is repealed one year after the United States District Court releases the State from all obligations under the community consent decree, *Consumer Advisory Board et al. v. Glover*, No. 91-321-P-C (D. Me., September 28, 1994).

See title page for effective date.

CHAPTER 128

S.P. 261 - L.D. 697

An Act Governing Privileged Communications between Victims of Domestic Violence and Their Advocates

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

Sec. 1. 16 MRSA §53-B is enacted to read:

§53-B. Privileged communications to victim advocate; family violence

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Advocate" means an employee of or volunteer for a nongovernmental program for victims of domestic or family violence who:

(1) Has undergone at least 30 hours of training; and

(2) As a primary function with the program gives advice to, counsels or assists victims, supervises employees or volunteers who perform that function or administers the program.

B. "Victim" means a victim of domestic or family violence.

2. Privileged communication. Communications are privileged from disclosure as follows.

A. A victim may refuse to disclose and may deny permission to an advocate to disclose con-

fidential written or oral communications between the victim and the advocate and written records, notes, memoranda or reports concerning the victim.

B. Except as provided in subsection 3, a victim, advocate or advocate's agency may not be required through oral or written testimony or through production of documents to disclose to a court in criminal or civil proceedings or to any other agency or person confidential communications between the victim and the advocate.

3. Exceptions. A person may not be required to publicly disclose the address or location of a domestic or family violence shelter or safe house, except that privileged communications may be disclosed in the following cases:

A. When disclosure is required under Title 22, chapter 1071 and that disclosure is in accordance with the provisions of that chapter;

B. When a court in the exercise of its discretion determines the disclosure of the information necessary to the proper administration of justice, an inspection of records may be held in camera by the judge to determine whether those records contain relevant information. This proceeding does not entitle an opposing party to examine the records unless those records are made available by the court; or

C. When a victim dies or is incapable of giving consent and disclosure is required for an official law enforcement investigation or criminal proceeding regarding the cause of that victim's death or incapacitation.

See title page for effective date.

CHAPTER 129

H.P. 565 - L.D. 766

An Act to Allow the Submetering of Electric Rates in Campgrounds

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

Sec. 1. 35-A MRSA §313 is enacted to read:

§313. Submetering permitted in campgrounds

A campground owner or operator may submeter electric service to campground sites within the campground in accordance with this section, as long as electric service is not provided to any particular