

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals
(may include minor formatting differences from printed original)

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

section 1013-A and who is involved in decision making for a political action committee organized to advance the election of that candidate;

Sec. 2. 21-A MRSA §1063 is enacted to read:

§1063. Constitutional officers and State Auditor

The Secretary of State, the Treasurer of State, the Attorney General, the State Auditor, or any individual running for these offices, may not form a political action committee or be involved in decision making for or solicit contributions to a political action committee.

See title page for effective date.

CHAPTER 168

S.P. 317 - L.D. 898

An Act to Amend the Procedures for Conducting a School District Referendum

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

Sec. 1. 20-A MRSA §1353, sub-§2, as amended by PL 1989, c. 502, Pt. A, §52, is further amended to read:

2. Voting. Voting ~~shall~~ must be held and conducted as follows.

A. The voting at ~~referendum~~ referenda held in towns ~~shall~~ must be held and conducted in accordance with Title 30-A, sections 2524 and 2528 to 2532, even though the town has not accepted the provisions of Title 30-A, sections 2524 and 2525. The facsimile signature of the clerk under Title 30-A, section 2528, subsection 6, paragraph F, ~~shall~~ must be that of the ~~chairman~~ chair of the board of directors. If a district referendum is called to be held simultaneously with any statewide election, the voting in towns ~~shall~~ must be held and conducted in accordance with Title 21-A, except that the duties of the Secretary of State ~~shall~~ must be performed by the board and if the statewide election is a primary election, any registered voter may vote in the referendum. The absentee voting procedure of Title 21-A ~~shall~~ must be used, except the duties of the Secretary of State ~~shall~~ must be performed by the board.

B. The voting at ~~referendum~~ referenda in cities ~~shall~~ must be held and conducted in accordance with Title 21-A, including the absentee voting procedure, except that the duties of the Secretary

of State ~~shall~~ must be performed by the board of directors and if the statewide election is a primary election, any registered voter may vote in the referendum.

See title page for effective date.

CHAPTER 169

S.P. 268 - L.D. 719

An Act to Change the Restricted Area around Aquaculture Pens from 500 to 300 Feet

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

Sec. 1. 12 MRSA §6402-C is enacted to read:

§6402-C. Suspension based on 2 or more convictions of dragging within the prohibited area surrounding aquaculture operations

For any person convicted of a 2nd or subsequent offense of section 6957, subsection 1, the commissioner shall suspend the license authorizing the activity in which the person was engaged at the time of the violation. The suspension is for 5 years from the date of conviction.

Sec. 2. 12 MRSA §6957, as enacted by PL 1993, c. 723, §1, is amended to read:

§6957. Fishing near floating equipment

1. Prohibition. A person may not operate a vessel using drags, otter trawls, pair trawls, beam trawls, scottish seines or midwater trawls to fish for or take finfish, shellfish, sea urchins or any other marine organisms within ~~500~~ 300 feet of any suspended culture floating cages, tray racks or other floating equipment authorized in a lease issued by the commissioner under section 6072, if the equipment is marked in accordance with subsection 1-A.

1-A. Markings. The owner of a suspended culture floating cage, tray rack or other floating equipment shall mark the area in which a vessel is prohibited under subsection 1 with at least 4 anchors, each marked by a yellow buoy at least 2 feet in diameter.

2. Penalty. A violation of ~~this section~~ subsection 1 is a Class D crime, except that, notwithstanding Title 17-A, section 1301, the court shall impose a

minimum fine is ~~\$500~~ and of \$1,000 that may not be suspended.

See title page for effective date.

CHAPTER 170

H.P. 804 - L.D. 1121

An Act to Establish Standards for Preadmission Assessments for Long-term Care Services

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

Sec. 1. 22 MRSA §1822-A, as enacted by PL 1993, c. 410, Pt. FF, §8, is amended to read:

§1822-A. Notice to nursing facility applicants

If an applicant to a nursing facility has not received a preadmission assessment in accordance with section 3174-I, the nursing facility shall provide to the applicant and any relative or friend assisting the applicant a notice prepared by the department regarding ~~the availability of~~ preadmission assessment. The notice must indicate that preadmission assessment is available, ~~that all applicants are urged to have a preadmission assessment, that prospective Medicaid recipients are required to have a preadmission assessment required~~ and that, if the applicant depletes the applicant's resources and applies for Medicaid in the future, the applicant may need to leave the nursing facility if an assessment conducted at that time finds that the applicant is not medically eligible for nursing facility services.

Sec. 2. 22 MRSA §3174-I, sub-§1, as amended by PL 1993, c. 410, Pt. FF, §10 and affected by §19, is further amended to read:

1. Needs assessment. In order to determine the most cost-effective and clinically appropriate level of long-term care services, the department or its designee shall assess the medical and social needs of each applicant to a nursing facility ~~who is reasonably expected to become financially eligible for Medicaid benefits within 180 days of admission to the nursing facility.~~ If the department chooses a designee to carry out assessments under this section, it shall ensure that the ~~designee does not have a pecuniary interest in the outcome of the assessment~~ assessments are comprehensive and objective.

A. The assessment must be completed prior to admission or, if necessary for reasons of the person's health or safety, as soon after admission as possible.

B. The department shall determine whether the services provided by the facility are medically and socially necessary and appropriate for the applicant and, if not, what other services, such as home and community-based services, would be more clinically appropriate and cost effective.

B-1. For persons with severe cognitive impairments who have been assessed and found ineligible for nursing facility level care, the department, through the Bureau of Elder and Adult Services, community options unit, shall review the assessment and provide case management to assist consumers and caregivers to receive appropriate services.

C. The department shall inform both the applicant and the administrator of the nursing facility of the department's determination of the services needed by the applicant and shall provide information and assistance to the applicant in accordance with subsection 1-A.

~~D. Until such time as the applicant becomes financially eligible to receive Medicaid benefits, the department's determination is advisory only. If the advisory determination is that the applicant is not medically eligible for Medicaid reimbursement for nursing facility services, the applicant must be advised that the applicant may be required to leave the nursing facility when the applicant no longer has the resources to pay for the services and an appropriate placement has been identified.~~

E. The department shall perform a reassessment of the individual's medical needs when the individual becomes financially eligible for Medicaid benefits.

(1) If the individual, at both the admission assessment and any reassessment ~~within 180 days of admission~~, is determined not to be medically eligible for the services provided by the nursing facility, and is determined not to be medically eligible at the time of the determination of financial eligibility, the nursing facility is responsible for providing services at no cost to the individual until such time as a placement at the appropriate level of care becomes available. After a placement becomes available at an appropriate level of care, the nursing facility may resume billing the individual for the cost of services.

(2) If the individual is initially assessed as needing the nursing facility's services, but reassessed as not needing them at the time the individual is found financially eligible, then Medicaid shall reimburse the nursing