

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

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FIRST REGULAR SESSION
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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

4. Hearings. A party to a hearing is entitled to be heard ~~and to have the subpoenas issued by the commission in the manner described in Title 5, section 9060 9056.~~

Sec. 4. 35-A MRSA §1321, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

§1321. Orders altered or amended

The commission may at any time rescind, alter or amend any order it has made including an order fixing any rate or rates, tolls, charges or schedules, ~~provided only if it gives the public utility and all parties to the original proceeding, to the extent practical, written notice as provided in section 1304 and after opportunity for those parties to be heard as provided in section 1304 present evidence or argument, as determined appropriate by the commission.~~ Certified copies of amended orders ~~shall~~ **must** be served and take effect as provided for original orders.

See title page for effective date.

CHAPTER 227

H.P. 906 - L.D. 1282

**An Act to Correct Obsolete
References to Justices of the Peace**

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

Sec. 1. 23 MRSA §3101 is amended to read:

§3101. Call of meetings

When 4 or more persons are owners and occupants of a private way or bridge, any 3 of them may make written application to a ~~justice of the peace~~ notary public to call a meeting, who may issue ~~his a~~ his a warrant setting forth the time, place and purpose ~~thereof of the meeting~~, a copy of which ~~shall~~ **must** be posted at some public place in the town 7 days before such time. When so assembled, they may choose a clerk and a surveyor, to be sworn, and they may determine what repairs are necessary and the materials to be furnished or amount of money to be paid by each owner ~~therefor for the repairs~~ and the manner of calling future meetings.

Sec. 2. 33 MRSA §1053 is amended to read:

§1053. Appraisal if value \$10 or more

Every finder of lost goods or stray beasts of the value of \$10 or more shall, within 2 months after finding and before using them to their disadvantage, procure a warrant from the town clerk or a ~~justice of the peace~~ notary public, directed to 2 persons

appointed by said clerk or ~~justice~~ notary, not interested except as inhabitants of the town, returnable at said clerk's office within 7 days from its date, to appraise said goods under oath.

Sec. 3. 33 MRSA §1054 is amended to read:

§1054. Restitution to appearing owner; money or goods

If the owner of such lost money or goods appears within 6 months, and if the owner of such stray beasts appears within 2 months after said notice to the town clerk and gives reasonable evidence of ~~his~~ ownership to the finder, ~~he the owner~~ shall have restitution of them or the value of the money or goods, paying all necessary charges and reasonable compensation to the finder for keeping, to be adjudged by a ~~justice of the peace of the county~~ the district court, if the owner and finder cannot agree.

Sec. 4. 38 MRSA §851 is amended to read:

§851. Meeting of mill owners; call; object

When an owner of a mill or of the dam necessary for working ~~it the mill~~ thinks it necessary to rebuild or repair it in whole or in part, ~~he the owner~~ may apply in writing to a ~~justice of the peace~~ notary public in the county where ~~it the mill~~ is situated, or if partly in 2 counties, to a ~~justice of the peace~~ notary public in either, to call a meeting of the owners, stating the object, time and place of the meeting. ~~Such justice~~ The notary may issue ~~his a~~ his a warrant for the purpose, directed to ~~such the~~ the owner, which ~~shall~~ **must** be published in some newspaper printed in ~~such the~~ the county, if any, 3 weeks successively, the last publication to be not less than 10 nor more than 30 days before the meeting; or a true copy of the warrant may be delivered to each of said owners or left at ~~his the~~ the owner's last ~~and usual place of abode~~ known address; and either notice is binding on all the owners.

See title page for effective date.

CHAPTER 228

H.P. 685 - L.D. 936

**An Act to Clarify the Discretion of
the Commission on Governmental
Ethics and Election Practices in
Assessing Penalties**

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, it is not currently clear whether the Commission on Governmental Ethics and Election Practices has the authority to waive penalties; and

Whereas, the purpose of this legislation is to clarify the commission's discretion in this area; and

Whereas, it is essential to resolve this issue for the commission to carry out its duties and responsibilities in an effective and expeditious fashion; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 21-A MRS §1017-A, sub-§5, as enacted by PL 1991, c. 839, §23 and affected by §33, is amended to read:

5. Penalties. A party committee is subject to the penalties in section 1020, subsection 2, ~~except that the commission may waive the penalties until January 1994.~~

Sec. 2. 21-A MRS §1020, as amended by PL 1991, c. 839, §§24 and 25, is further amended to read:

§1020. Failure to file on time

1. Registration. A candidate or political committee that fails to register the name of a candidate, treasurer or political committee with the commission within the time allowed by section 1013-A, subsection 1 ~~must~~ may be assessed a forfeiture of \$50. The commission shall determine whether a registration satisfies the requirements for timely filing under section 1013-A, subsection 1.

2. Campaign finance reports. A campaign finance report is not timely filed unless a properly signed copy of the report, substantially conforming to the disclosure requirements of this subchapter, is received by the commission before 5 p.m. on the date it is due. The commission shall determine whether a required report satisfies ~~these~~ the requirements for timely filing ~~and, if determined to be late, the number of days of lateness under this subchapter. The commission may waive a penalty under this subsection in whole or in part if the commission determines the failure to report was due to mitigating circumstances or if it determines the penalty is disproportionate to the offense.~~ If the reason for the late filing is that forms required to be sent by the commission were not postmarked at least 7 days before the filing date,

the period for filing ~~shall~~ must be increased by the deficiency without penalty.

A. Except as provided in paragraph B, ~~there is~~ a penalty of \$10 ~~may be assessed~~ for each business day a report required to be filed under this subchapter is late.

B. A forfeiture of \$50 ~~must~~ may be adjudged for each business day that reports required under section 1017, subsection 2, paragraph C or D; section 1017, subsection 3-A, paragraph B or C; section 1018, subsection 2, paragraph A; or section 1019, subsection 1 are late.

C. The maximum penalty under this subsection is \$500, except in the case of penalties assessed under paragraph B, in which case the maximum penalty is \$1,000.

D. A notice of lateness ~~shall~~ must be sent to candidates and treasurers registered with the commission whose campaign finance reports are not received within 2 days of the filing deadline. That notice ~~shall~~ must be sent on the 3rd day following the deadline.

E. A late report required under section 1017, subsection 2, paragraph A, B, E or F; or section 1017, subsection 3-A, paragraph A, D or E; that is filed within 10 days of the due date is not subject to penalty.

F. A report required to be filed 6 days before an election ~~which that~~ is sent by certified or registered United States mail and postmarked at least 2 days before the deadline is not subject to penalty. Any required report may be provisionally filed by transmission of a facsimile copy of the duly executed report to the commission, as long as an original of the same report is received by the commission within 5 calendar days ~~thereafter~~ after the transmission. Reports filed after the applicable grace period are subject to penalties from the original filing deadline.

G. The commission, upon ~~determining that a report is late~~ assessing a penalty, shall notify the Secretary of State ~~of the lateness~~. The Secretary of State has the initial responsibility for collecting the full amount of any penalty within 30 days after receiving notice ~~of a late report~~ from the commission. The Secretary of State ~~shall have~~ has all necessary powers to carry out this responsibility.

H. The commission shall prepare a list of the names of candidates who are late in filing a report required under section 1017, subsection 2, paragraph C or D; or section 1017, subsection 3-A, paragraph B or C; within 30 days of the

date of the election and shall make that list available for public inspection.

3. Enforcement. Failure to pay the full amount of any penalty levied under this section is a civil violation by the candidate, political party or other person whose campaign finance activities are required by this subchapter to be reported. Thirty days after receiving notice of the ~~lateness of any report~~ assessment of a penalty, the Secretary of State shall report to the Attorney General the name of any person who has failed to pay the full amount of any penalty. The Attorney General shall enforce the violation in a civil action to collect the full outstanding amount of the penalty. This action ~~shall~~ must be brought in the Superior Court for the County of Kennebec or the District Court, 7th District, Division of Southern Kennebec.

Sec. 3. 21-A MRSA §1062, as amended by PL 1991, c. 839, §32, is further amended to read:

§1062. Failure to file on time

1. Registration. A political action committee required to register under section 1053 that fails to do so in accordance with section 1053 or that fails to provide the information required by the commission for registration ~~must~~ may be assessed a forfeiture of \$250.

2. Campaign finance reports. A campaign finance report is not timely filed unless a properly signed copy of the report, substantially conforming to the disclosure requirements of this subchapter, is received by the commission before 5 p.m. on the date it is due. The commission shall determine whether a required report satisfies ~~these~~ the requirements for timely filing ~~and, if determined to be late, the number of days of lateness under this subchapter.~~ The commission may waive a penalty under this subsection in whole or in part if the commission determines the failure to report was due to mitigating circumstances or if it determines the penalty is disproportionate to the offense.

A. Except as provided in paragraph B, ~~there is~~ a penalty of \$250 may be assessed, plus an additional penalty of \$50 for each business day beginning with the 2nd such day that a campaign finance report required to be filed under this subchapter is late, up to a maximum of \$1,000.

B. ~~There is a~~ A penalty of \$250 may be assessed for each business day that a report required to be filed under section 1059, subsection 2, paragraph B, subparagraph (1); section 1059, subsection 2, paragraph C, subparagraph (1); or section 1059, subsection 2, paragraph E is late, up to a maximum of \$2,000.

C. A notice of lateness ~~shall~~ must be sent to political action committees and treasurers registered with the commission whose campaign finance reports are not received by 2 days after the filing deadline. That notice ~~shall~~ must be sent on the 3rd day following the deadline.

D. A late report required to be filed under section 1059, subsection 2, paragraph A; section 1059, subsection 2, paragraph B, subparagraph (2); or section 1059, subsection 2, paragraph C, subparagraph (2); filed within 10 days of any deadline is not subject to penalty. Reports filed after the applicable grace period are subject to penalties from the original filing deadline.

E. A report required to be filed within 6 days before an election ~~which~~ that is sent by certified or registered United States mail and postmarked at least 2 days before the deadline is not subject to penalty. Any required report may be provisionally filed by transmission of a facsimile copy of the duly executed report to the commission, as long as an original of the same report is received by the commission within 5 calendar days ~~there~~ after after the transmission.

F. The commission, upon ~~determining that a report is late~~ assessing a penalty, shall notify the Secretary of State ~~of the lateness~~. The Secretary of State has the initial responsibility for collecting the full amount of any penalty within 30 days after receiving notice ~~of a late report~~ from the commission. The Secretary of State ~~shall have~~ has all necessary powers to carry out this responsibility.

G. The commission shall prepare a list of the names of committees that are late in filing a report required under section 1059, subsection 2, paragraph B, subparagraph (1); section 1059, subsection 2, paragraph C, subparagraph (1); or section 1059, subsection 2, paragraph E; within 30 days of the date of the election and shall make that list available for public inspection.

3. Enforcement. Failure to pay the full amount of any penalty levied under this section is a civil violation by the political action committee and its treasurer. Thirty days after receiving notice of the ~~lateness of any report~~ assessment of a penalty, the Secretary of State shall report to the Attorney General the name of any political action committee and treasurer that failed to pay the full amount of any penalty. The Attorney General shall enforce this violation in a civil action to collect the full outstanding amount of the penalty. The action ~~shall~~ must be brought in the Superior Court for the County of Kennebec or the District Court, 7th District, Division of Southern Kennebec.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.

Effective June 9, 1995.

CHAPTER 229

H.P. 739 - L.D. 1013

An Act to Facilitate the Regulation of Alcohol in Auditoriums

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

Sec. 1. 28-A MRSA §1069-A, sub-§3, as enacted by PL 1989, c. 158, §9, is repealed.

See title page for effective date.

CHAPTER 230

S.P. 72 - L.D. 160

An Act to Protect the Integrity of Seawalls and Retaining Walls

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

Sec. 1. 38 MRSA §480-W is enacted to read:

§480-W. Emergency actions to protect threatened property

Notwithstanding section 480-C, if the local code enforcement officer or a state-certified geologist determines that the integrity of a seawall, bulkhead, retaining wall or similar structure in a coastal sand dune system is destroyed or threatened, the owner of property protected by the seawall, bulkhead or similar structure may, without obtaining a permit under this article:

1. Protective materials. Place riprap, sandbags or other heavy nonhazardous material to shore up the threatened structure and replace, repair or leave the materials in place until a project designed to alleviate the threat is certified by the department and by the local code enforcement officer, and that project requires removal of the material; and

2. Strengthening of structure. Take such actions as are necessary to strengthen the seawall, retaining wall or other structure, including widening the footings and securing the structure to the sand with bolts.

If a local code enforcement officer fails to determine whether the integrity of a structure is destroyed or threatened within 12 hours of initial contact by the property owner, the property owner may proceed as if the code enforcement officer had determined that the integrity of the structure was destroyed or threatened.

See title page for effective date.

CHAPTER 231

H.P. 60 - L.D. 96

An Act to Limit Nuisance Actions and Noise Ordinances Relating to Sport Shooting Ranges

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

Sec. 1. 17 MRSA §2806 is enacted to read:

§2806. Sport shooting ranges

1. Acquisition of property near existing range. Except as provided in this subsection, a person may not maintain a nuisance action for noise against a shooting range located in the vicinity of that person's property if the shooting range was established as of the date the person acquired the property. If there is a substantial change in use of the range after the person acquires the property, the person may maintain a nuisance action if the action is brought within 3 years from the beginning of the substantial change.

2. Establishment of shooting range near existing property. A person who owns property in the vicinity of a shooting range that was established after the person acquired the property may maintain a nuisance action for noise against that shooting range only if the action is brought within 5 years after establishment of the range or 3 years after a substantial change in use of the range.

3. Dormant shooting range. If there has been no shooting activity at a range for a period of 3 years, resumption of shooting is considered establishment of a new shooting range for purposes of this section.

4. Application. This section does not limit nuisance actions against shooting ranges established after the effective date of this section.

Sec. 2. 30-A MRSA §3011 is enacted to read:

§3011. Regulation of sport shooting ranges

1. Definition. As used in this section, "sport shooting range" means an area designed and used for archery, skeet and trap shooting or other similar