

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

(4) The availability of arrangements that are less restrictive to competition and achieve the same benefits or a more favorable balance of benefits over disadvantages attributable to any reduction in competition likely to result from the agreement.

Sec. 5. 22 MRSA §1885, sub-§6, as enacted by PL 1991, c. 814, §1, is amended to read:

6. Fees and costs. If the Attorney General prevails in an action under this section, the Department of the Attorney General is entitled to an award of the reasonable costs of deposition transcripts incurred in the course of the investigation or litigation and reasonable attorney's fees, expert witness fees and court costs incurred in litigation. In addition, a nonprofit mental health care provider shall reimburse the Department of the Attorney General for the costs incurred by the department in its review of an application for a certificate of public advantage submitted by a nonprofit mental health care provider or a proposed cooperative agreement submitted to the Attorney General by a nonprofit mental health care provider prior to the filing of an application, including but not limited to the costs of retaining experts, travel and obtaining data.

Sec. 6. 22 MRSA §1887, as enacted by PL 1991, c. 814, §1, is amended to read:

§1887. Assessment

Except for state-operated mental health hospitals, all hospitals licensed by the department are subject to an annual assessment under this chapter. The department shall collect the assessment. The amount of the assessment must be based upon each hospital's gross patient service revenue. For any fiscal year, the aggregate amount raised by the assessment must be equal to the amount allocated by law to carry out the purposes of this chapter in that fiscal year. The allocation for the fiscal years 1995-96 and 1996-97 is limited to no more than \$200,000 per year. The department shall deposit funds collected under this section into a dedicated revenue account. Funds remaining in the account at the end of each fiscal year do not lapse but carry forward into subsequent years. Funds deposited into the account must be allocated to carry out the purposes of this chapter.

Sec. 7. 22 MRSA §1888, as enacted by PL 1991, c. 814, §1, is amended to read:

§1888. Review

~~The department may not accept any application under this chapter after June 30, 1995.~~ By January 1, ~~1995~~ 1999, the Attorney General and the department shall submit recommendations, along with any necessary legislation, to the joint standing committee

of the Legislature having jurisdiction over human resources matters regarding whether this chapter should be amended.

Sec. 8. Allocation. The following funds are allocated from Other Special Revenue to carry out the purposes of this Act.

	1995-96	1996-97
ATTORNEY GENERAL, DEPARTMENT OF Administration - Attorney General		
All Other	\$20,000	\$20,000
Provides funds for the cost of experts and other costs related to analyzing hospital cooperative activity.		

See title page for effective date.

CHAPTER 233

H.P. 961 - L.D. 1350

An Act to Repeal Boards That Have Not Filed Annual Reports with the Secretary of State

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

PART A

Sec. A-1. 5 MRSA §12004-H, sub-§1, as enacted by PL 1987, c. 786, §5, is repealed.

Sec. A-2. 7 MRSA §402-A, sub-§1, as amended by PL 1989, c. 503, Pt. B, §40, is repealed.

Sec. A-3. 7 MRSA §402-A, sub-§3, as enacted by PL 1981, c. 705, Pt. I, §1, is repealed.

PART B

Sec. B-1. 5 MRSA §12004-I, sub-§36-A, as enacted by PL 1989, c. 892, §1, is repealed.

Sec. B-2. 22 MRSA §4092, sub-§1-A, as enacted by PL 1989, c. 892, §2, is repealed.

Sec. B-3. 22 MRSA §4094, as enacted by PL 1989, c. 892, §3, is repealed.

PART C

Sec. C-1. 5 MRSA §12004-I, sub-§57, as amended by PL 1989, c. 878, Pt. A, §142, is repealed.

Sec. C-2. 30-A MRSA §2311, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is further amended to read:

§2311. Establishment

The municipal officers of any 2 or more municipalities; by appropriate action ~~and as authorized by Title 5, chapter 379~~, may enter into an agreement, between or among those municipalities, for the establishment of a regional council of governments.

See title page for effective date.

CHAPTER 234**H.P. 677 - L.D. 928**

**An Act to Encourage Compliance
with Environmental Laws
Administered by the Department of
Environmental Protection**

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

Sec. 1. 38 MRSA §343-C, sub-§1, as enacted by PL 1991, c. 804, Pt. C, §3, is amended to read:

- 1. Program components.** The program must:
 - A. Provide for the development, collection and coordination of information concerning compliance methods and technologies;
 - B. Provide for the encouragement of lawful cooperation among persons engaged in activities regulated by the department;
 - C. Provide assistance with pollution prevention and accidental release detection and prevention;
 - D. Ensure that a person engaging in an activity that is subject to regulation by the department is informed of that person's rights and obligations under environmental programs administered by the department, and assist persons in determining the applicable permitting and programmatic requirements of the department; and
 - E. Develop procedures to consider requests from regulated persons to modify work practice or technological compliance methods or the milestones for implementing those methods.

Any instance of noncompliance identified as a result of a person requesting assistance through the program must be corrected by that person. The commissioner is not required to initiate a formal enforcement action against a person found to be in noncompliance as a result of a request for assistance through the program. The commissioner, in cooperation with the Attorney General and in conformity with federal requirements, shall develop a written enforcement policy for responding to violations identified as a result of a small business requesting assistance through the program. The policy must outline conditions under which the department will forego civil penalties when the violation is not a recurrence of a violation for which a prior formal or informal enforcement response has been taken, the violation was inadvertent and did not result in significant environmental harm or risk to human health and the business acts promptly and responsibly to correct the violation.

Sec. 2. Report; legislation authorized. The Commissioner of Environmental Protection shall submit the written enforcement policy developed pursuant to section 1 of this Act to the members of the Joint Standing Committee on Natural Resources by February 1, 1996. The Joint Standing Committee on Natural Resources is authorized to report out legislation to the Second Regular Session of the 117th Legislature if a majority of the committee determines that legislation is advisable in response to the commissioner's policy.

See title page for effective date.

CHAPTER 235**H.P. 354 - L.D. 474**

**An Act Relating to Equipment
Start-up, Shutdown and Unavoidable
Malfunction**

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

Sec. 1. 38 MRSA §349, sub-§9, as amended by PL 1993, c. 232, §1, is further amended to read:

9. Unavoidable malfunctions. The commissioner may exempt from civil penalty an air emission or a wastewater discharge in excess of license limitations if the emission or discharge occurs during start-up or shutdown or results exclusively from an unavoidable malfunction entirely beyond the control of the licensee and the licensee has taken all reasonable steps to minimize or prevent any discharge or emission and takes corrective action as soon as possible. There may be no exemption if the malfunction is caused, entirely or in part, by poor maintenance.