

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

J.S. McCarthy Company
Augusta, Maine
1995

- A. The physician or other person in attendance ~~on at or immediately after the birth, or in the absence of such a person;~~
- B. The father; ~~or in the absence of both of these,~~
- C. The mother; ~~or in the absence of the afore-said, and in the inability of the mother;~~
- D. The person in charge of the premises where the live birth occurred.

3-A. Parentage. For the purposes of birth registration, the mother is deemed to be the woman who gives birth to the child, unless otherwise determined by a court of competent jurisdiction prior to the filing of the birth certificate. If the mother was married at the time of either conception or birth, or between conception and birth, the name of the husband must be entered on the certificate as the father of the child, unless paternity has been determined otherwise by a court of competent jurisdiction.

4. Out-of-wedlock birth. Except as otherwise provided in this subsection, ~~in the case of a child conceived and born out of wedlock, if the mother was not married at the time of either conception or birth, or between conception and birth, neither~~ the name of the putative father ~~nor any other information about the putative father may not~~ be entered on the certificate without his written consent and that of the mother. The signature of the putative father on the written consent must be acknowledged before an official authorized to take oaths. The signature of the mother on her written consent must also be acknowledged before an official authorized to take oaths. If a determination of paternity has been made by a court of competent jurisdiction, then the name of the father as determined by the court must be entered on the birth certificate without the father's or the mother's consent. If the putative father executes an acknowledgement of paternity with the department and the putative father is either named in writing by the mother as the father or is presumed to be the father based on the results of blood or tissue-typing tests, the name of the father must be entered on the birth certificate without the father's or the mother's consent.

4-A. Information verified. Either of the parents of the child or an informant shall verify the accuracy of the personal data to be entered on the certificate.

5. Certificate signed by father and mother. ~~In every case, the father or mother of the child shall sign the certificate and shall attest to the accuracy of the personal data entered thereon in time to permit its filing within the 14 days prescribed. If father and mother are unable to sign, then no signature need be required.~~

6. Disclosure of social security number. In connection with the preparation and issuance of a birth certificate pursuant to this section, section 2764 or section 2765, each parent shall furnish the social security account number, or numbers if the parent has more than one number, issued to the parent unless the State Registrar of Vital Statistics, in accordance with regulations prescribed by the Secretary of the United States Department of Health and Human Services, finds good cause for not requiring the furnishing of those numbers. The state registrar shall make numbers furnished under this subsection available to the department in its capacity as the state agency administering the State's plan under the United States Social Security Act, Title IV, Part D. Except as required by federal law, those numbers may not be recorded on the birth certificate in such a manner that the numbers would appear on a certified copy of the certificate. Except as required by federal law, the department may not use any social security number, obtained with respect to the issuance of a birth certificate, for any purpose other than for the administration of the State's plan under the United States Social Security Act, Title IV, Part D. The department shall adopt rules to implement this subsection.

See title page for effective date.

CHAPTER 261

H.P. 1096 - L.D. 1540

An Act Concerning Potato Blight Eradication and the Disposal of Cull Potatoes

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

Whereas, the practice of maintaining potato cull piles has created a threat to the potato industry in that the disease may grow and be spread to nearby potato crops; and

Whereas, the discovery of the A2 strain of late blight has raised the possibility of devastating economic losses due to this disease; and

Whereas, these potential losses could negatively affect the health, safety and welfare of the citizens of this State and the potato industry unless action is taken to remove the potato culls and potato cull piles; 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 preserva-

tion of the public peace, health and safety; now, therefore,

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

Sec. 1. 7 MRSA §1007 is repealed.

Sec. 2. 7 MRSA §1007-A is enacted to read:

§1007-A. Penalty for maintaining potato cull piles

1. Purpose. The Legislature hereby declares that the A2 strain of late blight and other potato diseases constitute a clear and present danger to the production of potatoes in the State and to a substantial portion of the economy of the State. Control of the A2 strain of late blight and other potato diseases through the control of potato cull piles could result in the saving of potato crops and improvement in the economy. In the exercise of the police power of the State, the Legislature finds that it is necessary to require the proper disposal of cull potatoes and potato cull piles and to provide a procedure for disposal of those potatoes by the department by implementing best management practices pursuant to Title 17, section 2805 when the owner or lessee of the property on which those potatoes were grown, stored or disposed of fails to comply with the requirements of this section.

2. Disposal of cull potatoes required. The owner or lessee of any real property in this State on which potato plants are grown or on which potato cull piles are maintained or disposed of shall properly dispose of potato cull piles for the purpose of killing the A2 strain of late blight and other potato diseases. The disposal must take place no later than June 10th of each year unless the commissioner designates otherwise. In addition, a person may not maintain a cull potato pile between June 10th and October 1st of each year, or between such other dates as the commissioner may designate. A person who fails to dispose properly of cull potatoes and cull potato piles as required by this section commits a civil violation for which a forfeiture not to exceed \$1,000 for each violation and not more than \$200 for each succeeding day that the violation fails to be in compliance with the requirements of this section may be adjudged.

3. Rules. The commissioner is authorized to adopt any rules necessary to implement this section in accordance with the provisions of the Maine Administrative Procedure Act, except that the commissioner may suspend the notice requirements to the extent necessary and may adopt rules without making the findings required for emergency rules under Title 5, section 8054. In adopting any rules necessary to implement this section, the commissioner shall consult with the Maine Potato Board. The commissioner may determine best management practices for the handling

of cull potatoes in accordance with Title 17, section 2805.

4. Authorization. The commissioner may properly dispose of potato culls and potato cull piles that constitute a violation of subsection 2 for the purpose of potato disease control. The commissioner or the commissioner's designee may enter on private property to effectuate the disposal and to inspect the disposal to determine whether proper disposal has been made. The commissioner has a cause of action against the owner or lessee of any real property of this State to recover the actual costs of removing and disposing of cull potatoes and cull potato piles. The commissioner or the commissioner's designee must be held harmless for any such entry on private property if the entry is related to the inspection and disposal of cull potatoes and cull potato piles.

Employees and agents of the department may enter at reasonable hours any farm where potatoes are grown or other premises where potatoes are stored, packed, loaded for shipment or handled and enter any building with the consent of the property owner, lessee, occupant or agent or, pursuant to an administrative search warrant, to inspect the farm or other premises to determine compliance with subsection 2. Notwithstanding the provisions of the Maine Rules of Civil Procedure, Rule 80E, paragraph (b), the commissioner may obtain an administrative inspection warrant pursuant to this subsection by describing the farm or other premises to be inspected and the purpose of the inspection and demonstrating that the inspection sought is reasonable and represents a minimal intrusion in furtherance of a legitimate governmental obligation of the department. This demonstration is deemed to be a demonstration of probable cause.

5. Potato Cull Removal Fund. The Potato Cull Removal Fund is established and may be used by the commissioner to enforce the provisions of this section and to pay the expenses of potato cull removal. The commissioner may receive funds from any source to be deposited into this fund, which does not lapse. If at any time the balance of the fund falls below \$15,000, any penalties collected under this section must be deposited into the fund. Whenever the balance of the fund exceeds \$15,000, any penalties collected must be deposited to the General Fund.

Sec. 3. Allocation. The following funds are allocated from Other Special Revenue to carry out the purposes of this Act.

1995-96	1996-97
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**AGRICULTURE, FOOD
AND RURAL
RESOURCES,
DEPARTMENT OF**

Potato Cull Removal Fund

All Other	\$15,000	\$15,000
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Allocates funds to authorize expenditures related to potato cull removal and enforcement.

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

Effective June 15, 1995.

CHAPTER 262

H.P. 425 - L.D. 582

An Act to Implement the Recommendations of the Commission to Study the Statutory Procedures for Local Property Tax Abatement Appeals

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

Sec. 1. 36 MRSA §271, sub-§5, as enacted by PL 1985, c. 764, §8, is amended to read:

5. Hearings. Upon receipt of an appeal, the ~~chairman~~ chair of the board shall determine whether the appeal is within the jurisdiction of the board. If the board does not have jurisdiction authority to hear the appeal, the chair shall notify all parties in writing within 10 days of making the determination. Either party may appeal to the board a decision of the chair relating to jurisdictional issues within 30 days after receiving written notice of that decision by filing a request with the board to have that decision reviewed by the board. If the board does have jurisdiction over the appeal or if either party appeals the determination that the board lacks jurisdiction, the chair shall select from the list of board members 5 persons to hear the appeal or jurisdictional issue and shall notify all parties of the time and place of the hearing. The selection of members for an appeal hearing shall be or appeal of a jurisdictional issue is based upon availability, geographic convenience and area of expertise. Three of the 5 members shall constitute a quorum.

Sec. 2. 36 MRSA §273, as enacted by PL 1985, c. 764, §8, is amended to read:

§273. Nonresidential property of \$1,000,000 or greater

~~If the owner of~~ With regard to appeals relating to nonresidential property or properties with an equalized municipal valuation of \$500,000 \$1,000,000 or greater

~~appeals to the State Board of Property Tax Review either separately or in the aggregate, as provided in sections 843 and 844, the state board shall hold a hearing de novo. For the purposes of this section, "nonresidential property" means property that is used primarily for commercial, industrial or business purposes, excluding unimproved land that is not associated with a commercial, industrial or business use.~~

Sec. 3. 36 MRSA §471-A is enacted to read:

§471-A. Board of assessment review

The legislative body of a primary assessing area consisting of only one municipality may establish a primary assessing area board of assessment review. The executive committee of a primary assessing area consisting of more than one municipality may establish a primary assessing area board of assessment review. The primary assessing area board of assessment review has the powers and duties of a municipal board of assessment review, including those provided under section 844-N.

Sec. 4. 36 MRSA §843, as amended by PL 1993, c. 395, §12, is further amended to read:

§843. Appeals

1. Municipalities. If a municipality has adopted a board of assessment review and the assessors or the municipal officers refuse to make the abatement asked for, the applicant may apply in writing to the board of assessment review within 60 days after notice of the decision from which the appeal is being taken or after the application is deemed to have been denied, and, if the board thinks the applicant is over-assessed, the applicant is granted such reasonable abatement as the board thinks proper. Except with regard to nonresidential property or properties with an equalized municipal ~~value~~ valuation of ~~\$500,000~~ \$1,000,000 or greater either separately or in the aggregate, either party may appeal from the decision of the board of assessment review directly to the Superior Court, in accordance with Rule 80B of the Maine Rules of Civil Procedure. If the board of assessment review fails to give written notice of its decision within 60 days of the date the application is filed, unless the applicant agrees in writing to further delay, the application is deemed denied and the applicant may appeal to Superior Court as if there had been a written denial ~~or the applicant may appeal to the State Board of Property Tax Review.~~

1-A. Nonresidential property of \$1,000,000 or greater. With regard to nonresidential property or properties with an equalized municipal valuation of ~~\$500,000~~ \$1,000,000 or greater either separately or in the aggregate, either party may appeal the decision of the local board of assessment review or the primary