

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

A. In Penobscot County, the municipalities and unorganized territories of Long A Township, Millinocket, Mount Chase and Stacyville, T3 Indian Purchase and T4 Indian Purchase; and the following census units of North Penobscot unorganized territory: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113, Block 114, Block 115, Block 116, Block 117, Block 118, Block 119, Block 120A, Block 120B, Block 120C, Block 120D, Block 121, Block 122, Block 123A, Block 123B, Block 123C, Block 123D, Block 124A, Block 124B, Block 125, Block 126, Block 127, Block 128, Block 129, Block 130, Block 131, Block 132, Block 133, Block 134, Block 135, Block 136, Block 137, Block 138, Block 139, Block 140, Block 141, Block 142, Block 143, Block 144, Block 145A, Block 145B, Block 146A, Block 146B, Block 147, Block 148, Block 149, Block 150, ~~Block 151B~~, Block 152, Block 153, Block 154, Block 155, ~~Block 156~~, ~~Block 157~~, ~~Block 158~~, ~~Block 159~~, ~~Block 160~~, ~~Block 161~~, ~~Block 162~~, ~~Block 163~~, Block 164, Block 165, Block 166, Block 167, Block 168, Block 169, Block 170, Block 171, Block 172, Block 173, Block 174, Block 175, Block 176A, Block 176B, Block 176C, Block 177, Block 178, Block 179, Block 180, Block 181, Block 182, Block 183, Block 184, Block 185, Block 186, Block 187, Block 188, Block 189, Block 190, Block 191, Block 192, Block 193, Block 194, Block 195, Block 196, Block 197, Block 201, Block 202, Block 207, Block 208, ~~Block 209~~, ~~Block 210~~, ~~Block 211~~, ~~Block 212~~, ~~Block 215~~, Block 267, Block 268, ~~Block 269~~, ~~Block 270~~, ~~Block 271~~, ~~Block 272~~, ~~Block 273~~, ~~Block 274~~, ~~Block 275~~, ~~Block 283~~, Block 284, ~~Block 285~~, and Block 286, ~~Block 287~~, ~~Block 288~~ and ~~Block 289~~ of Tract 019/0290; and Block 303 of Tract 019/0310.

See title page for effective date.

CHAPTER 286

H.P. 955 - L.D. 1344

An Act to Make Certain Changes to Postconviction Review

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

Sec. 1. 15 MRSA §103, as amended by PL 1981, c. 493, §2, is further amended to read:

§103. Commitment of persons acquitted on basis of mental disease or defect

When a respondent is acquitted, found not criminally responsible by reason of mental disease or mental defect ~~excluding responsibility~~, the verdict and judgment ~~shall~~ must so state. In such case the court shall order such person committed to the custody of the Commissioner of Mental Health and Mental Retardation to be placed in an appropriate institution for the mentally ill or the mentally retarded for care and treatment. Upon placement in such appropriate institution and in the event of transfer from one such institution to another of persons committed under this section, notice thereof ~~shall~~ must be given by the commissioner to the committing court.

Sec. 2. 15 MRSA §2121, sub-§1, as enacted by PL 1979, c. 701, §15, is amended to read:

1. Criminal judgment. "Criminal judgment" means a judgment of conviction of a crime ~~or~~ the orders of adjudication and disposition in a juvenile case and a judgment of not criminally responsible by reason of mental disease or defect.

Sec. 3. 15 MRSA §2124, sub-§1-A is enacted to read:

1-A. Present or future restraint by commitment to the Commissioner of Mental Health and Mental Retardation. Present restraint or impediment as a direct result of commitment to the custody of the Commissioner of Mental Health and Mental Retardation pursuant to section 103 imposed as a result of being found not criminally responsible by reason of mental disease or defect, that is challenged, or future restraint or impediment as a result of such an order of commitment that is challenged when a sentence involving imprisonment is or will be served first.

A claim for postconviction review is not allowed under this subsection relative to any court proceeding or administrative action that affects release or discharge pursuant to section 104-A:

Sec. 4. 15 MRSA §2128, sub-§5, as enacted by PL 1979, c. 701, §15, is repealed and the following enacted in its place:

5. Delay; application of equitable doctrine of laches. A petition may be dismissed if it appears that by delay in its filing the State has been prejudiced in its ability to respond to the petition or to retry the petitioner, unless the petitioner shows that it is based on grounds of which the petitioner could not have had knowledge by the exercise of reasonable diligence before the circumstances prejudicial to the State occurred. If the delay is more than 5 years following the final disposition of any direct appeal to the Maine Law Court or if an appeal is not taken within 5 years

following the running of the period within which that appeal must have been initiated, prejudice is presumed, although this presumption is rebuttable by the petitioner. For purposes of this subsection, "final disposition" means that point in time when the mandate of the Law Court is entered in the docket of the trial court and "presumption" has the same meaning as under Rule 301(a) of the Maine Rules of Evidence.

See title page for effective date.

CHAPTER 287

S.P. 525 - L.D. 1423

An Act to Amend the Laws Pertaining to the Regulation of Borrow Pits

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

Whereas, deadlines have expired for the owners or operators of medium-sized gravel pits to participate in the procedures for performance standards for medium borrow pits; and

Whereas, standards are needed for rock quarries 2 acres or less in size to allow quarry owners or operators to provide the Department of Transportation with the necessary aggregate to perform road projects during the upcoming construction season; 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. 38 MRSA §484, sub-§1, as repealed and replaced by PL 1987, c. 812, §§10 and 18, is amended to read:

1. Financial capacity. The developer has the financial capacity and technical ability to develop the project in a manner consistent with state environmental standards and with the provisions of this article. The commissioner may issue a permit under this article that conditions any site alterations upon a developer providing the commissioner with evidence that the developer has been granted a line of credit or a loan by a financial institution authorized to do business in this State as defined in Title 9-B, section 131, subsection 17-A or with evidence of any other

form of financial assurance the board determines by rule to be adequate.

Sec. 2. 38 MRSA §484, sub-§3, ¶¶D and E are enacted to read:

D. The department may issue a permit under this article for operation of a borrow pit conditioned upon the owner or operator of a borrow pit complying with rules pertaining to noise within 30 days after the commencing of processing operations.

E. Calcium chloride may be used to control dust on roads, providing the calcium chloride is applied according to the manufacturer's labeling guidelines.

Sec. 3. 38 MRSA §484-A, sub-§1, ¶¶A and B, as enacted by PL 1993, c. 350, §4, are amended to read:

A. April 1, ~~1994~~ 1995, for pits having reclaimed or unreclaimed areas that drain externally or having reclaimed or unreclaimed areas where internal drainage is achieved with berms or other structures; or

B. October 1, ~~1994~~ 1995, for pits where all reclaimed and unreclaimed lands are naturally internally drained; and

Sec. 4. 38 MRSA §484-A, sub-§2, as enacted by PL 1993, c. 350, §4, is amended to read:

2. Adherence to compliance schedule. By October 1, ~~1995~~ 1996:

A. All reclaimed and unreclaimed areas that were not naturally internally drained on October 1, 1993 are stabilized or reclaimed;

B. All other conditions existing on October 1, 1993 comply with the performance standards under article 7; and

C. All activities conducted after filing a notice of intent to comply are conducted in compliance with article 7.

Sec. 5. 38 MRSA §488, sub-§16 is enacted to read:

16. Small road quarry. A quarry regulated by the department under article 8 is exempt from review under this article.

Sec. 6. 38 MRSA §490-A, sub-§5, as enacted by PL 1993, c. 350, §5, is repealed and the following enacted in its place: