

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

Sec. 3. 38 MRSA §1316-B, sub-§§5 and 6, as enacted by PL 1991, c. 517, Pt. A, §2, are amended to read:

5. Alter. Have the physical characteristics of the stockpile site altered, including the construction of fire lanes, fire or pollution barriers or other necessary site remediation activity; ~~or~~

6. Close. Permanently close the stockpile and prohibit the use of the site for the storage or disposal of used motor vehicle tires; or

Sec. 4. 38 MRSA §1316-B, sub-§7 is enacted to read:

7. Consultation. Consult with the Office of the State Fire Marshal regarding on-site fire abatement and control measures.

See title page for effective date.

CHAPTER 315

H.P. 797 - L.D. 1114

An Act to Amend the Law Regarding the Possession of Short Lobsters

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

Sec. 1. 12 MRSA §6402-B, as enacted by PL 1993, c. 550, §1, is amended to read:

§6402-B. Suspension based on 2 or more convictions of possessing short lobsters

Notwithstanding section 6401, subsection 2, the commissioner shall suspend the lobster and crab fishing license of any ~~licenseholder~~ license holder convicted of a 2nd or subsequent offense of possessing a lobster smaller than the minimum size established in section 6431, subsection 1 if the conviction of the 2nd or subsequent offense involved possession of 3 or more lobsters smaller than that minimum size. ~~The suspension is for a period of 3 years from the date of conviction.~~

1. Second offense. For a 2nd conviction the commissioner shall suspend the license for at least one year from the date of conviction and may suspend the license for up to 3 years.

2. Third or subsequent offense. For a 3rd or subsequent conviction, the commissioner shall suspend the license for 3 years from the date of conviction and may permanently revoke the license holder's license.

3. Offenses after July 1, 1994. Subsections 1 and 2 apply only if that person's first conviction for possessing a lobster smaller than the minimum size established in section 6431, subsection 1 was for an offense that occurred after July 1, 1994.

See title page for effective date.

CHAPTER 316

S.P. 277 - L.D. 749

An Act to Prohibit Any State or Independent Agency from Establishing Private Accounts

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

Sec. 1. 5 MRSA §1541, sub-§12-A, as enacted by PL 1985, c. 761, Pt. G, §9, is repealed.

Sec. 2. 5 MRSA §1550 is enacted to read:

§1550. Conference fee accounts

If a state agency conducts a conference, workshop or seminar for which fees are charged to defray the costs of the conference, workshop or seminar, including information disseminated at these programs, the state agency must establish an account for the sole purpose of receiving and expending reasonable fees for the operation of the conference, workshop or seminar. Conference fee accounts are subject to the following.

1. Prior approval required. Any conference fee account must receive prior approval by the Department of Administrative and Financial Services through the Bureau of Accounts and Control.

2. Certain uses prohibited. Expenditures from the personal services category and transfers to other accounts are not permitted from a conference fee account. Any item, equipment or other property purchased from the capital expenditure category is state property.

3. Account balance to carry forward once. At the end of the fiscal year, any balance remaining for a given event may carry forward once and other balances lapse to the General Fund undedicated revenue.

4. Misapplication from a conference fee account. A person is guilty of misapplication from a conference fee account if that person intentionally or knowingly violates any of the restrictions contained in

this section. Misapplication from a conference fee account is a Class E crime.

See title page for effective date.

CHAPTER 317

S.P. 157 - L.D. 419

An Act to Expedite the Hearing Process Relating to the Uniform Classification System Used in Workers' Compensation Insurance

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

Sec. 1. 24-A MRSA §2320, sub-§3 is enacted to read:

3. Upon a request by a person aggrieved by the application of the rating system or an insurer, or either of their authorized representatives, the person aggrieved has the right to a hearing held by the superintendent without the matter first being heard by the rating organization or insurer pursuant to subsection 2. Such hearing must be held within 60 days following receipt by the superintendent of a written request for a hearing. At least 30 days' written notice of the date, time and place of the hearing, together with a reasonably accurate description of the subject matter of the hearing, must be provided by the superintendent to the person aggrieved, the insurer and the rating organization. Upon request by any party, the hearing may be continued to allow a reasonable period for conducting investigation of the matter, discovery and preparation of factual and legal materials for the hearing. Each party to a hearing is entitled to only one continuance. Prior to continuation of a hearing, the superintendent shall, upon not less than 5 days' notice to all parties, conduct an informal prehearing conference at which the parties shall identify the issues to be addressed at the hearing, establish a schedule for all investigation, discovery and hearing preparation reasonably necessary based upon the nature and scope of the hearing and establish a date certain for the hearing.

See title page for effective date.

CHAPTER 318

S.P. 486 - L.D. 1320

An Act to Amend the Law Pertaining to Grievance Procedures Concerning Discrimination on the Basis of Disability

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

Sec. 1. 20-A MRSA §18017 is enacted to read:

§18017. Adoption of a grievance procedure concerning discrimination on the basis of disability

The commissioner shall adopt rules pursuant to Title 5, chapter 375, subchapter II to create a grievance procedure applicable to all bodies of State Government in accordance with 45 Code of Federal Regulations, Section 84.7 and with 28 Code of Federal Regulations, Section 35.107(b). To the extent that a grievance procedure adopted under this section conflicts with a grievance procedure otherwise adopted by a state agency to comply with 45 Code of Federal Regulations, Section 84.7, the procedure adopted under this section controls, except in cases of conflict with other federal regulations.

Sec. 2. 22 MRSA §42-B, as amended by PL 1989, c. 502, Pt. A, §64, is repealed.

See title page for effective date.

CHAPTER 319

H.P. 589 - L.D. 799

An Act to Amend the Laws Governing HIV Testing at the Request of Victims of Sexual Assault

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

Sec. 1. 5 MRSA §19203, sub-§10, ¶B, as enacted by PL 1991, c. 803, §1, is amended to read:

B. A victim-witness advocate authorized by section ~~19203-E~~ 19203-F to receive the test results of a person convicted of ~~gross a sexual assault~~ crime as defined in section 19203-F, subsection 1, paragraph C, who shall disclose to a ~~petitioner~~ victim under section ~~19203-E~~ 19203-F, subsection 4.

Sec. 2. 5 MRSA §19203-A, sub-§5, as enacted by PL 1991, c. 803, §2, is amended to read:

5. Exposure from sexual crime. Consent need not be obtained when a ~~victim of gross sexual assault~~ has been exposed to the blood or body fluids of the convicted offender and the exposure creates a significant risk of infection, provided that a court order has been ~~obtained~~ issued under section ~~19203-E~~ 19203-F. The fact that an HIV test was given as a