

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE

FIRST SPECIAL SESSION
November 28, 1995 to December 1, 1995

SECOND REGULAR SESSION
January 3, 1996 to April 4, 1996

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
JULY 4, 1996

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

30 days, after the mediator files the mediator's report under subsection 12, that the landowner will be taking action in accordance with the agreement.

B. Notwithstanding any procedural restriction that would otherwise prevent reconsideration of the governmental action, a governmental entity may reconsider its decision in the underlying governmental land use action in accordance with the agreement as long as that reconsideration does not violate any substantive application or review requirement.

12. Mediator's report. Within 90 days after the landowner files an application for mediation, the mediator shall file a report with the Superior Court clerk. The mediator shall file the report as soon as possible if the mediator determines that a mediated agreement is not possible. The report must contain:

A. The names of the mediation participants, including the landowner, the governmental entity and any other persons;

B. The nature of any agreements reached during the course of mediation, which mediation participants were parties to the agreements and what further action is required of any person;

C. The nature of any issues remaining unresolved and the mediation participants involved in those unresolved issues; and

D. A copy of any written agreement under subsection 11.

13. Application. This subchapter applies to final agency actions and failures and refusals to act occurring after the effective date of this subchapter.

14. Repeal. This subchapter is repealed October 1, 2001.

Sec. 6. 5 MRSA §8056, sub-§6, as enacted by PL 1981, c. 524, §13, is amended to read:

6. Attorney General review and approval. The review required in subsection 1 ~~shall~~ may not be performed by any person involved in the formulation or drafting of the proposed rule. The Attorney General may not approve a rule if it is reasonably expected to result in a taking of private property under the Constitution of Maine unless such a result is directed by law or sufficient procedures exist in law or in the proposed rule to allow for a variance designed to avoid such a taking.

Sec. 7. 5 MRSA §8072, sub-§4, ¶¶F and G, as enacted by PL 1995, c. 463, §2, are amended to read:

F. Whether the provisionally adopted rule could be made less complex or more readily understandable for the general public; ~~and~~

G. Whether the provisionally adopted rule was proposed in compliance with the requirements of this chapter and with requirements imposed by any other provision of law; ~~and~~

Sec. 8. 5 MRSA §8072, sub-§4, ¶H is enacted to read:

H. For a rule that is reasonably expected to result in a significant reduction in property values, whether sufficient variance provisions exist in law or in the rule to avoid an unconstitutional taking, and whether, as a matter of policy, the expected reduction is necessary or appropriate for the protection of the public health, safety and welfare advanced by the rule.

Sec. 9. Allocation. The following funds are allocated from Other Special Revenue funds to carry out the purposes of this Act.

1996-97

JUDICIAL DEPARTMENT

Land Use Mediation Fund

All Other \$5,000

Allocates funds to cover the cost of providing mediation services.

See title page for effective date.

CHAPTER 538

H.P. 1205 - L.D. 1655

An Act to Conform the Maine Tax Laws for 1995 with the United States Internal Revenue Code

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

Whereas, the 90-day period would delay the processing of the 1995 income tax returns; and

Whereas, legislative action is immediately necessary to ensure continued and efficient administration of the Maine Income Tax Law and certain other state taxes; 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. 36 MRSA §111, sub-§1-A, as amended by PL 1995, c. 118, §1 and affected by §2, is further amended to read:

1-A. Code. "Code" means the United States Internal Revenue Code of 1986 and amendments to that Code as of December 31, ~~1994~~ 1995.

Sec. 2. Application. This Act applies to tax years beginning on or after January 1, 1995.

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

Effective March 14, 1996.

CHAPTER 539

H.P. 1232 - L.D. 1685

An Act to Provide Protection from Motor Vehicle Damage to Forest Lands

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

Sec. 1. 17 MRSA §3853-D, as enacted by PL 1989, c. 289, is amended to read:

§3853-D. Operating a motor vehicle on land of another

1. Damage or destruction to farmland or forest land. A person who, as a result of operating a motor vehicle on farmland or forest land in fact, damages or destroys crops, forest products, personal property or roads on that farmland or forest land, commits a Class E crime.

2. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Farmland" means land used for the production of fruits, vegetables, grains, hay or herbs that consists of 5 or more contiguous acres. The term "farmland" does not include land used for the production of wood products.

A-1. "Forest land" means land used for the production of forest products.

A-2. "Forest products" means any woody stemmed plant as well as any products that have been harvested but not yet transported from the harvesting site, including logs, pulpwood, veneer, bolt wood, wood chips, stud wood, poles, pilings, biomass, fuel wood, Christmas trees, evergreen boughs and cones for seed production.

B. "Motor vehicle" means any self-propelled vehicle not operated exclusively on tracks, including all-terrain vehicles as defined in Title 12, section 7851, but not including snowmobiles.

3. Application. This section does not apply to:

A. A landowner operating a motor vehicle on farmland or forest land owned by that landowner;

B. A person given permission by a landowner to operate a motor vehicle on farmland or forest land owned by that landowner;

C. An agent or employee of a landowner who operates a motor vehicle on farmland or forest land owned by that landowner in the scope of that agent's or employee's agency or employment; or

D. A law enforcement officer who, in an emergency and in the scope of that law enforcement officer's employment, operates a motor vehicle on farmland or forest land owned by another.

See title page for effective date.

CHAPTER 540

S.P. 651 - L.D. 1703

An Act to Confirm That Nonprofit Health Care Providers May Achieve Cost Savings on Professional and General Liability Coverage

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

Sec. 1. 24-A MRSA §6099, sub-§3, as enacted by PL 1993, c. 313, §39, is amended to read:

3. Prohibition on retention of risk. A purchasing group ~~must~~ may not purchase insurance providing for a deductible or self-insured retention applicable to the group as a whole.—~~That;~~ however coverage ~~also~~ may provide for a deductible or self-insured retention applicable to individual members.

See title page for effective date.