

# 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.**

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**J.S. McCarthy Company**  
**Augusta, Maine**  
**1995**

A. There is established in the custody of the bank a special fund, to be known as the revolving loan fund, that must be used for the following purposes:

(1) To provide loans to municipalities for acquiring, designing, planning, constructing, enlarging, repairing or improving publicly owned sewage systems and sewage treatment plants as provided in Title 38, section 411 and for implementing related management programs;

(2) For remediation of municipal landfills that affect groundwater; or

(3) For any actions authorized under the federal Clean Water Act, 33 United States Code, Sections 1251 to 1387.

**Sec. 3. 30-A MRSA §6006-A, sub-§3, ¶E,** as enacted by PL 1989, c. 48, §§27 and 31, is amended to read:

E. Facility needs, including the availability of, or likely development of, cost-effective privately owned facilities or services to meet the municipal need; and

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

Effective March 25, 1996.

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**CHAPTER 565**

**H.P. 1237 - L.D. 1697**

**An Act to Amend the Unorganized Territory Tax Laws**

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

**Sec. 1. 36 MRSA §1603,** as corrected by RR 1993, c. 1, §107, is amended to read:

**§1603. Definition of "municipal cost component"**

**1. Definition.** For the purposes of this chapter, "municipal cost component" means the cost of funding services in the Unorganized Territory Tax District ~~which that~~ would not be borne by the State if the Unorganized Territory Tax District were a municipality, but does not include a state cost allocation charge, including, without limitation, reimbursement to the General Fund for departmental functions such as accounting, personnel administration and supervision.

The "municipal cost component" ~~shall include~~ includes, but is not be limited to:

A. The cost of education, as would be determined by the Maine School Finance Act of ~~1985~~ 1995 if the unorganized territory were a municipality;

B. The cost of services the state funds in the unorganized territory that are funded locally by a municipality; the cost of forest fire protection to be included in the cost component ~~shall~~ must be determined in accordance with Title 12, section 9205-A and collected in the same manner as other portions of the municipal cost component; and

C. The cost of reimbursement by the State for services a county provides to the unorganized territory in accordance with Title 30-A, chapter 305. No county may be reimbursed for services provided on or after January 1, 1979, unless a legislative allocation is obtained pursuant to this chapter.

See title page for effective date.

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**CHAPTER 566**

**H.P. 1245 - L.D. 1707**

**An Act to Clarify the Landowner Liability Laws**

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

**Sec. 1. 14 MRSA §159-A,** as amended by PL 1993, c. 622, §1, is further amended to read:

**§159-A. Limited liability for recreational or harvesting activities**

**1. Definitions.** As used in this section, unless the context indicates otherwise, the following terms ~~shall~~ have the following meanings.

A. "Premises" means improved and unimproved lands, private ways, roads, any buildings or structures on those lands and waters standing on, flowing through or adjacent to those lands.

B. "Recreational or harvesting activities" means recreational activities conducted out-of-doors, including, but not limited to, hunting, fishing, trapping, camping, environmental education and research, hiking, sight-seeing, operating snow-traveling and all-terrain vehicles, skiing, hang-gliding, dog sledding, equine activities, boating, sailing, canoeing, rafting, biking, picnicking,

swimming or activities involving the harvesting or gathering of forest, field or marine products. It includes entry of, volunteer maintenance and improvement of, use of and passage over premises in order to pursue these activities. "Recreational or harvesting activities" does not include commercial agricultural or timber harvesting.

**2. Limited duty.** An owner, lessee, manager, holder of an easement or occupant of premises does not have a duty of care to keep the premises safe for entry or use by others for recreational or harvesting activities or to give warning of any hazardous condition, use, structure or activity on these premises to persons entering for those purposes. This subsection applies regardless of whether the owner, lessee, manager, holder of an easement or occupant has given permission to another to pursue recreational or harvesting activities on the premises.

**3. Permissive use.** An owner, lessee, manager, holder of an easement or occupant who gives permission to another to pursue recreational or harvesting activities on the premises does not thereby:

- A. Extend any assurance that the premises are safe for those purposes;
- B. Make the person to whom permission is granted an invitee or licensee to whom a duty of care is owed; or
- C. Assume responsibility or incur liability for any injury to person or property caused by any act of persons to whom the permission is granted.

**4. Limitations on section.** This section does not limit the liability that would otherwise exist:

- A. For a willful or malicious failure to guard or to warn against a dangerous condition, use, structure or activity;
- B. For an injury suffered in any case where permission to pursue any recreational or harvesting activities was granted for a consideration other than the consideration, if any, paid to the following:
  - (1) The landowner or the landowner's agent by the State; or
  - (2) The landowner or the landowner's agent for use of the premises on which the injury was suffered, provided that as long as the premises are not used primarily for commercial recreational purposes and that as long as the user has not been granted the exclusive right to make use of the premises for recreational activities; or

C. For an injury caused, by acts of persons to whom permission to pursue any recreational or harvesting activities was granted, to other persons to whom the person granting permission, or the owner, lessee, manager, holder of an easement or occupant of the premises, owed a duty to keep the premises safe or to warn of danger.

**5. No duty created.** Nothing in this section creates a duty of care or ground of liability for injury to a person or property.

**6. Costs and fees.** The court shall award any direct legal costs, including reasonable attorneys' fees, to an owner, lessee, manager, holder of an easement or occupant who is found not to be liable for injury to a person or property pursuant to this section.

See title page for effective date.

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## CHAPTER 567

### S.P. 667 - L.D. 1727

#### An Act Concerning Special Licenses in the Department of Marine Resources

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

**Sec. 1. 12 MRSA §6074, first ¶**, as amended by PL 1989, c. 204, §1, is further amended to read:

~~The commissioner may, with the advice and consent of the advisory council, issue a special license for research, aquaculture or education, which that exempts the holder from one or more marine resources' laws as to the time, place, length, condition, amount and manner of taking or possessing any a marine organism. Special licenses issued by the commissioner to employees of the department when they are acting in their capacity as employees under the direction of the commissioner or the commissioner's designated representative do not require the advice and consent of the advisory council. Except as provided in subsection 8, the commissioner may not issue a special license unless the application for that license is approved by the advisory council.~~

**Sec. 2. 12 MRSA §6074, sub-§8** is enacted to read:

**8. Council approval not required.** Approval by the advisory council is not required for a special license issued by the commissioner to the following:

- A. An employee of the department when the employee is acting under the direction of the