

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE

SECOND SPECIAL SESSION
September 5, 1996 to September 7, 1996

ONE HUNDRED AND EIGHTEENTH LEGISLATURE

FIRST REGULAR SESSION
December 4, 1996 to March 27, 1997

FIRST SPECIAL SESSION
March 27, 1997 to June 20, 1997

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 26, 1997

FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 19, 1997

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
1997

4. Relationship to other provisions. The purchase of credits from a mitigation bank or the payment of a compensation fee in no way relieves the applicant of the requirement to comply with any other provision of this article, including, but not limited to, the requirement to avoid or minimize effects on wetlands and water quality to the greatest extent practicable under section 480-X.

5. Report; evaluation. The department shall submit a report annually by February 1st to the joint standing committee of the Legislature having jurisdiction over natural resources matters regarding the wetlands compensation program. The report must include information on the amount and type of wetlands altered, the associated impact on wetland functions and values and the compensation required by the department. The information must be provided for each of the following categories: compensation projects implemented by the applicant, compensation authorized by the purchase of credits from a mitigation bank, compensation authorized by payment of compensation fees and wetland alterations for which compensation was not required.

By January 1, 2001, the department shall submit to the joint standing committee of the Legislature having jurisdiction over natural resources matters an evaluation of the effectiveness and efficiency of the compensation program developed under this section, including the amount and type of wetlands altered, the effect on wetland functions and values, an assessment of the relative environmental benefit of each compensation option, an assessment of whether coastal wetlands should be included in the program, an assessment of the requirement that the compensation project be located in the same watershed as the affected wetland and a comparison of the compensation program developed under this section with compensation prior to the effective date of this section. The department may include recommendations for extending the program and any suggested statutory changes.

6. Repeal. This section is repealed October 15, 2001. The repeal of this section does not affect any valid permits, compensation projects, credits and compensation funds issued, implemented, purchased or established pursuant to this section.

Sec. 2. Implementation. The Department of Environmental Protection may not approve a compensation project funded in whole or in part from compensation fees until the compensation fee program developed pursuant to the Maine Revised Statutes, Title 38, section 480-Z, subsection 3 has been agreed to by the United States Army Corps of Engineers, the United States Fish and Wildlife Service and the United States Environmental Protection Agency.

Sec. 3. Allocation. The following funds are allocated from the Wetlands Compensation Fund to carry out the purposes of this Act.

	1997-98	1998-99
ENVIRONMENTAL PROTECTION, DEPARTMENT OF		
Wetlands Compensation Fund		
All Other	\$957,000	\$957,000
Provides an allocation for wetlands compensation activities.		

See title page for effective date.

CHAPTER 102

H.P. 246 - L.D. 310

An Act to Permit Investigative Officers within the Employ of the Department of Corrections to Exercise the Powers of Law Enforcement Officers

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

Sec. 1. 34-A MRSA §1001, sub-§10-A is enacted to read:

10-A. Investigative officer. "Investigative officer" means an employee of the department designated by the commissioner as having the authority to conduct investigations of offenses relating to the security or orderly management of a facility administered by the department.

Sec. 2. 34-A MRSA §3011 is enacted to read:

§3011. Investigative officers

1. Exercise of law enforcement powers. Investigative officers who are certified by the Board of Trustees of the Maine Criminal Justice Academy as law enforcement officers may exercise the powers of other law enforcement officers with respect to offenses relating to the security or orderly management of a facility administered by the department, if authorized to exercise these powers by the commissioner. Investigative officers may not exercise law enforcement powers against other employees of the department. These powers are in addition to any powers the officers may otherwise have as employees of the department. Internal investigations of employ-

ees of the department must be conducted pursuant to any applicable collective bargaining agreement.

2. Working agreement. The commissioner shall negotiate a working agreement with the Department of the Attorney General concerning procedures and respective responsibilities for the exercise of law enforcement powers by investigative officers pursuant to subsection 1.

See title page for effective date.

CHAPTER 103

H.P. 328 - L.D. 450

An Act to Amend the Date for Recognizing Marginal Discharges of Mortgages

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

Sec. 1. 33 MRSA §552 is amended to read:

§552. Validation

All marginal discharges of mortgages recorded prior to ~~August 6, 1949~~ April 1, 1974, duly attested by the register of deeds as being recorded from discharge in margin of original mortgage, are validated and ~~shall~~ have the same effect as if made as provided in section 551.

See title page for effective date.

CHAPTER 104

H.P. 339 - L.D. 461

An Act to Include Domestic Water Fowl in the Animal Trespass Statutes

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

Sec. 1. 7 MRSA §4041, as amended by PL 1995, c. 351, §5, is further amended to read:

§4041. Animal trespass

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

A. "Animal control officer" or "law enforcement officer" means the animal control officer or law enforcement officer having jurisdiction over the area in which the livestock animal or domestic water fowl was found.

A-1. "Domestic water fowl" means domestic ducks, domestic geese and other domestic water fowl.

B. "Livestock animal" means dairy, feeding, beef or breeding cattle; horses; sheep; goats; donkeys; or swine.

C. "Trespass" means that a livestock animal or domestic water fowl of an owner or keeper has entered or been found on the property of another person.

2. Removal. The owner or keeper of a livestock animal or domestic water fowl ~~shall be~~ is responsible, at the owner's or keeper's expense, for removing any livestock animal or domestic water fowl found trespassing. An animal control officer or law enforcement officer may, at the owner's or keeper's expense, remove and control a livestock animal or domestic water fowl found trespassing if:

A. The owner or keeper fails to remove the livestock animal or domestic water fowl within 6 hours after having been notified by an animal control officer or law enforcement officer that a livestock animal or domestic water fowl owned or kept by the owner or keeper was trespassing; or

B. The livestock animal or domestic water fowl is an immediate danger to itself, persons or another's property.

3. Civil violation. A person commits a civil violation if a livestock animal or domestic water fowl owned or kept by that person is found trespassing and:

A. That person fails to remove the livestock animal or domestic water fowl within 6 hours after having been personally notified by an animal control officer or law enforcement officer that a livestock animal or domestic water fowl owned or kept by that person was trespassing; or

B. A livestock animal or domestic water fowl of that person had been found trespassing on a prior occasion within the 12 months immediately preceding the present trespass and the owner or keeper had, at that time, been notified by an animal control officer or law enforcement officer of that trespass.

4. Forfeiture. A forfeiture of not more than \$500 must be adjudged for a civil violation under subsection 3. In addition the court may as part of the sentencing include an order of restitution for costs incurred in removing and controlling the livestock animal or domestic water fowl.