

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

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

Sec. 1. 23 MRSA §3360-A, sub-§6-A, as enacted by PL 1991, c. 437, §8 and affected by §12, is amended to read:

6-A. Forfeitures. The forfeitures for failure to comply with this section are as follows.

A. An excavator who does not give notice of an excavation as required under subsection 3 ~~and who damages an underground facility in the course of that excavation or who undertakes the excavation in a reckless or negligent manner that poses a threat to an underground facility~~ commits a civil violation and is subject to a civil forfeiture of up to \$1,000 in addition to any other remedies or forfeitures provided by law or any liability for actual damages.

B. An underground facility operator who does not mark the location of the operator's underground facilities as required under subsection 4 commits a civil violation and is subject to a civil forfeiture of up to \$1,000 in addition to any other remedies or forfeitures provided by law or any liability for actual damages resulting from the operator's failure to mark those facilities.

Sec. 2. 23 MRSA §3360-A, sub-§§11 and 12 are enacted to read:

11. Enforcement. The system may contract with county sheriffs or appropriate municipal law enforcement entities to issue civil summonses to excavators who violate subsection 6-A, paragraph A.

12. Injunctions; costs. The owner or operator of an underground facility may commence an action in a court of competent jurisdiction seeking a temporary restraining order or injunction to prevent a person from undertaking an excavation that may result in damage to the underground facility. The court may issue a temporary restraining order or injunction if the court determines that the excavation or proposed excavation:

A. Is being conducted or is likely to be conducted in a negligent or unsafe manner; and

B. Is causing or is likely to cause damage to the underground facility.

If the owner or operator prevails in an action brought pursuant to this subsection, the owner or operator is entitled to an award of the costs of bringing the action, including reasonable attorney's fees.

See title page for effective date.

CHAPTER 230

H.P. 1088 - L.D. 1531

**An Act Requiring Progress Reports
for Mapping Significant Wildlife
Habitat**

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

Sec. 1. 38 MRSA §480-I, sub-§3 is enacted to read:

3. Progress report. The commissioner and the Commissioner of Inland Fisheries and Wildlife shall jointly report by January 1, 1998 and on or before January 1st of every odd-numbered year thereafter to the joint standing committees of the Legislature having jurisdiction over natural resource matters and inland fisheries and wildlife matters on the progress of the mapping of significant wildlife habitats.

See title page for effective date.

CHAPTER 231

H.P. 584 - L.D. 775

**An Act Concerning Applied
Aquaculture Research in the Coastal
Waters of the State**

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

Whereas, commercial aquaculture research is needed to determine the survival of particular species already under cultivation; and

Whereas, it is vital for the Commissioner of Marine Resources to have the authority to issue emergency aquaculture leases for the relocation of shellfish to protect existing aquaculture shellfish from unanticipated threats; 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. 12 MRSA §558-A, sub-§10, as enacted by PL 1991, c. 381, §1, is amended to read: