

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

(2) If the petitioner is a blood relative of the child, the court may waive the requirement of a study and report.

Sec. 6. Effective date. This Act takes effect October 1, 1997.

Effective October 1, 1997.

CHAPTER 240

S.P. 409 - L.D. 1330

An Act to Ensure Adequate Review of Maintenance Dredging

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

Sec. 1. 38 MRSA §480-E, sub-§§7 and 8 are enacted to read:

7. Individual permit; maintenance dredging. Notwithstanding section 344, subsection 7, an individual permit or consistency determination issued by the department pursuant to this article is required for maintenance dredging if the amount of material to be dredged exceeds 50,000 cubic yards.

Notwithstanding section 480-X, if an analysis of alternatives to the dredging project has been completed by the applicant within the previous 10 years pursuant to section 480-X and rules adopted to implement that section as part of an individual permit application, the applicant may update the previous analysis for purposes of obtaining a permit for maintenance dredging under this subsection.

8. Permit by rule; maintenance dredging. Maintenance dredging may be performed with a permit by rule only if the applicant has been issued an individual permit for dredging in the same location within the last 10 years.

See title page for effective date.

CHAPTER 241

H.P. 508 - L.D. 699

An Act to Clarify the General Powers of Attorney

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

Sec. 1. 18-A MRSA §5-507 is enacted to read:

§5-507. Powers of attorney-in-fact

A power of attorney that contains language appointing the attorney-in-fact to care for, manage, control and handle all of the principal's business, financial, property and personal affairs in as full and complete a manner as the principal might do does not limit the generality of the powers of the attorney-in-fact by the inclusion in the power of attorney of a list of the specific powers granted to the attorney-in-fact. Nothing in this section may be construed to broaden or add to any powers specifically enumerated in a durable health care power of attorney, whether or not the durable health care power of attorney is incorporated within any other power of attorney.

See title page for effective date.

CHAPTER 242

H.P. 767 - L.D. 1044

An Act to Clarify Requirements Pertaining to the Maine Certificate of Need Act

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

Sec. 1. 22 MRSA §304-A, sub-§1-A is enacted to read:

1-A. Acquisition of control. Any acquisition of control of a health care facility under lease, management agreement or comparable arrangement or through donation that would have required review if the acquisition of control had been by purchase, except in emergencies when such acquisition of control is at the direction of the department;

Sec. 2. 22 MRSA §308, sub-§1-A is enacted to read:

1-A. Acquisition of control. The department shall waive the requirements of section 309, subsection 1, paragraphs C and D and conduct a simplified review process in accordance with this section for an acquisition of control of health care facilities pursuant to section 304-A, subsection 1-A, if the acquisition consists of a management agreement or similar arrangement and primarily involves day-to-day operation of the facility in its current form. The department shall complete its review of arrangements qualifying for simplified review within 45 days of the filing of a completed application.

Sec. 3. Report by department. No later than January 1, 1998 the Department of Human Services shall furnish a written report to the joint standing committee of the Legislature having jurisdic-

tion over health and human services matters, setting forth the number of letters of intent, applications and requests for determination of nonapplicability that the department has received with respect to proposed or contemplated management agreements or management service contracts for health care facilities. The department shall also report on the number of nonapplicability determinations, the number of certificate of need decisions and the number of pending certificate of need review proceedings involving management agreements or management service contracts occurring between the effective date of this Act and the close of the calendar year immediately preceding the reporting deadline. The joint standing committee of the Legislature having jurisdiction over health and human services matters shall review the department's report and consider whether any legislative action is necessary to avoid overly broad certificate of need review requirements in connection with management agreements. The committee may report out any necessary legislation to the Second Regular Session of the 118th Legislature.

See title page for effective date.

CHAPTER 243

S.P. 28 - L.D. 26

An Act to Clarify Use of Tree Stands

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

Sec. 1. 12 MRSA §7406, sub-§16, ¶D, as amended by PL 1995, c. 667, Pt. A, §29, is further amended to read:

D. Damages or destroys a tree on another person's land by inserting into that tree any metallic or ceramic object to be used as, or as part of, a ladder or observation stand, unless the person has the permission of the landowner; or

Sec. 2. 12 MRSA §7406, sub-§16, ¶E, as enacted by PL 1995, c. 667, Pt. A, §30, is amended to read:

E. Except as provided in subsection 20, paragraph C, erects or uses either a portable or permanent tree ladder or stand attached to a tree on the land of another person, unless:

(1) That person has obtained verbal or written authorization to erect and use a tree ladder or stand from the landowner or the landowner's representative; and

(2) The tree ladder or stand is plainly labeled with a 2-inch by 4-inch tag identify-

ing the name and address of the person or persons authorized by the landowner to use the tree stand or ladder; and

~~(3) The tree ladder or stand is removed within 10 days after the close of the hunting season for which the ladder or stand was erected.~~

See title page for effective date.

CHAPTER 244

S.P. 229 - L.D. 798

An Act to Protect the Department of Inland Fisheries and Wildlife from Unfunded Mandates

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

Sec. 1. 12 MRSA §7019 is enacted to read:

§7019. Establishment of new programs

Any new program or service involving a mandated responsibility to the department must include provisions that specify that full funding for the new program or service is collected from those individuals who receive the service from the department.

See title page for effective date.

CHAPTER 245

H.P. 538 - L.D. 729

An Act to Amend the Maine Pharmacy Act

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

Sec. 1. 5 MRSA §12004-A, sub-§30, as amended by PL 1989, c. 503, Pt. A, §5, is repealed.

Sec. 2. 5 MRSA §12004-A, sub-§30-A is enacted to read:

30-A. Maine Board of Pharmacy \$35/Day 32 MRSA §13711

Sec. 3. 32 MRSA §13702, sub-§1, as enacted by PL 1987, c. 710, §5, is amended to read:

1. Board. "Board" means the Maine Board of Commissioners of the Profession of Pharmacy.