

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

may not be more than 3 days before the date of admission to the hospital; and

B. ~~He~~ The physician, physician's assistant, certified psychiatric clinical nurse specialist, nurse practitioner or psychologist is of the opinion that the person is mentally ill and, because of ~~his~~ that illness, poses a likelihood of serious harm.

See title page for effective date.

CHAPTER 439

H.P. 1187 - L.D. 1686

An Act to Permit the Retail Sale of Smoked Alewives

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

Sec. 1. 22 MRSA §2173 is enacted to read:

§2173. Sale of smoked alewives

Smoked alewives offered for sale need not be free of viscera prior to processing. A person who sells or offers for sale alewives smoked with the viscera shall post a clearly legible sign at the point of display of the alewives that states, "This product is not fully cooked. Eating prior to fully cooking poses a health risk."

See title page for effective date.

CHAPTER 440

H.P. 729 - L.D. 993

An Act to Prohibit the Stocking of Alewives in Tripp Pond

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

Whereas, alewives are scheduled to be stocked in Tripp Pond before March, April and May, which is before the end of the 90-day period; and

Whereas, the stocking of alewives in Tripp Pond is devastating to the lake and the fish in the lake; 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 preserva-

tion 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 §7775, sub-§1, as enacted by PL 1995, c. 121, §1, is amended to read:

1. Alewives. Alewives may not be stocked in Hogan Pond or Whitney Pond in the Town of Oxford or any waters that drain into or out of those ponds.

Sec. 2. 12 MRSA §7775, sub-§2 is enacted to read:

2. Prohibition on stocking alewives in Tripp Pond, Pond Brook and the Little Androscoggin River. Alewives may not be stocked in Tripp Pond in the Town of Poland or any waters that drain into that pond, Pond Brook in the Town of Oxford from its source at Hogan Pond and Whitney Pond to its junction with the Little Androscoggin River or in any waters of the Little Androscoggin River upstream of the Welchville Dam.

This subsection is repealed 90 days after the adjournment of the Second Regular Session of the 118th Legislature.

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

Effective June 10, 1997.

CHAPTER 441

S.P. 344 - L.D. 1121

An Act to Enhance Parental Involvement in Developing Educational Programs for Students with Disabilities

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

Sec. 1. 20-A MRSA §7207-B, sub-§3-A is enacted to read:

3-A. Notice to local school units. Prior to filing a request for investigation of noncompliance pursuant to section 7206 or for a due process hearing pursuant to this section, the parent, surrogate parent or guardian first shall attempt to resolve the controversy through discussions with the local school administrative unit. The parent, surrogate parent or guardian is barred from recovering attorney's fees in any subsequent action or proceeding if it is determined that the parent, surrogate parent or guardian unreasonably protracted

the controversy by failing to raise that controversy first with the local school administrative unit before initiating the subsequent action or proceeding.

See title page for effective date.

CHAPTER 442

S.P. 292 - L.D. 943

**An Act to Amend the Law Governing
Municipal Zoning with Respect to
Community Living Arrangements**

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

Sec. 1. 30-A MRSA §4357, as enacted by PL 1989, c. 104, Pt. A, §45 and Pt. C, §10, is repealed.

Sec. 2. 30-A MRSA §4357-A is enacted to read:

§4357-A. Community living arrangements

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

A. "Community living arrangement" means a housing facility for 8 or fewer persons with disabilities that is approved, authorized, certified or licensed by the State. A community living arrangement may include a group home, foster home or intermediate care facility.

B. "Disability" has the same meaning as the term "handicap" in the federal Fair Housing Act, 42 United States Code, Section 3602.

2. Single-family use. In order to implement the policy of this State that persons with disabilities are not excluded by municipal zoning ordinances from the benefits of normal residential surroundings, a community living arrangement is deemed a single-family use of property for the purposes of zoning.

Sec. 3. 36 MRSA §652, sub-§1, ¶C, as amended by PL 1995, c. 560, Pt. K, §82 and affected by §83, is further amended by amending subparagraph (6), division (b), subdivision (i) to read:

- (i) Property used as a nonprofit nursing home, boarding home or boarding care facility licensed by the Department of Human Services pursuant to Title 22, chapter 1665 or a community living facility arrangement as defined in Title 30-A, section 4357, ~~sub-section 2, paragraph B~~ 4357-A

or any property owned by a non-profit organization licensed or funded by the Department of Mental Health, Mental Retardation and Substance Abuse Services to provide services to or for the benefit of persons with mental illness or mental retardation;

See title page for effective date.

CHAPTER 443

H.P. 1122 - L.D. 1578

**An Act to Protect Workers and
Establish Labor Standards for
"Workfare" Participants**

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

Sec. 1. 26 MRSA §1403 is enacted to read:

**§1403. Labor standards for persons required to
work as condition of receiving public as-
sistance and affected employees**

**1. Nondisplacement of existing employees;
nonavailability for layoff replacement; nonin-
fringement on promotional opportunities or
collective bargaining agreements; labor disputes.** A participant who is required to work as a condition of receiving public assistance, as defined in Title 22, section 9-A, subsection 1, paragraph A, may not be employed in or assigned to:

A. A position that was previously filled by a regular employee when that employee is on lay-off from the same or an equivalent position or when the vacancy was created by terminating an employee or otherwise reducing the workforce;

B. An established position that is vacant;

C. A worksite where there is a labor dispute, including a strike or lockout; or

D. A worksite in a manner that violates an exist-
ing contract or collective bargaining agreement
or infringes on the promotional opportunities for
any employees.

2. Grievance procedures. The commissioner, with assistance from the department, shall adopt rules to ensure that:

A. Persons required to work as a condition of receiving public assistance have access to a grievance procedure for the purpose of resolving