

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
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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

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

Effective June 12, 1997.

CHAPTER 539

S.P. 368 - L.D. 1227

An Act to Require the Department of Transportation to Improve the Conditions of Any Road That May be Turned Over to a Municipality

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

Whereas, current law allows the Department of Transportation to transfer certain roads to municipalities, regardless of the conditions of those roads; and

Whereas, a municipality receiving responsibility for these roads could incur major expenses to repair these roads; and

Whereas, these expenses could be a financial burden to the municipality; and

Whereas, it is inequitable that the State should be allowed to transfer roads in a state of disrepair and avoid the responsibility of repairing the roads; and

Whereas, it is necessary that this legislation take effect as soon as possible to avoid further inequities; 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. 23 MRSA §754, as amended by PL 1989, c. 46, §2, is further amended to read:

§754. Town maintenance in compact areas

Except as otherwise provided, all state and state aid highways within compact or built-up sections of towns having a population of 6,000 and over, as determined by the department, ~~shall~~ must be maintained in good repair by the town in which the highways are located at the expense of the town. For the purposes of this section, compact or built-up sections include compact areas as determined by the

department in which compact sections may be intermittent and separated by a short interval or intervals of sections that are not compact. Municipalities ~~shall~~ must be notified one year in advance of changes in compact or built-up sections ~~which that~~ place additional maintenance responsibilities on the municipalities. Whenever any town neglects to maintain the highways within 14 days after notice given its municipal officers by the department, the department may proceed to make necessary repairs to that way, which ~~shall~~ must be paid for by the State and the cost thereof ~~shall~~ must be withheld from funds due the town under chapter 19, subchapter VI, Local Road Assistance Program. The amounts collected from these towns ~~shall~~ must be added to the fund for maintenance of state and state aid highways. The department may take over the maintenance of portions of controlled access highways within compact sections as it determines advisable. The department may grant these towns financial assistance as it determines advisable to carry out the purposes of this section.

When the responsibility for maintenance of a section of state or state aid highway is to be transferred to a municipality as a result of population growth, the department shall prepare a capital and maintenance plan to ensure that the section of state or state aid highway is in good repair at the time of transfer. The plan must be developed in consultation with the affected municipality. For the purpose of this section, "good repair" means actions intended to reasonably avoid nonroutine maintenance activities for a minimum of 10 years and includes consideration of ditching, culverts, major structural defects and pavement condition ratings of 3.3 or greater.

Sec. 2. Application. This Act applies to sections of state or state aid highways scheduled to be transferred to municipalities on January 1, 1997 or later because of population growth.

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

Effective June 12, 1997.

CHAPTER 540

S.P. 137 - L.D. 416

An Act to Amend the Definition of Personal Watercraft, to Prohibit the Imprudent Operation of Watercraft on Inland Waters of the State and to Assess the Effectiveness of Industry-sponsored Watercraft Safety Training and Education Programs

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

Sec. 1. 12 MRSA §7791, sub-§11-A, as enacted by PL 1989, c. 469, §1, is amended to read:

11-A. Personal watercraft. "Personal watercraft" means any motorized watercraft that is ~~less than 13 14 feet or less in hull length as manufactured, is capable of exceeding a speed of 20 miles per hour and has the capacity to carry not more than the operator and one other person while in operation~~ has as its primary source of propulsion an inboard motor powering a jet pump and is capable of carrying one or more persons in a sitting, standing or kneeling position. ~~The term "Personal watercraft" includes, but is not limited to, a jet ski, wet bike, surf jet, and miniature speedboat and hovercraft.~~ "Personal watercraft" also includes motorized watercraft whose operation is controlled by a water skier.

Sec. 2. 12 MRSA §7801, sub-§11-A is enacted to read:

11-A. Imprudent operation of watercraft. A person is guilty of imprudent operation of a watercraft if that person, while operating a watercraft on the inland or coastal waters of the State, engages in prolonged circling, informal racing, wake jumping or other types of continued and repeated activities that harass another person. This subsection may be enforced by any law enforcement officer or a person may bring a private nuisance action for a violation of this subsection pursuant to Title 17, section 2802.

Sec. 3. 12 MRSA §7901, sub-§11, as enacted by PL 1985, c. 762, §24, is amended to read:

11. Violation. A violation of section 7801, subsection 11-A, section 7857, subsection 13, 13-A, 13-B, 14, 15, 16, 17, 20 or 21 or of section 7858 is a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged, of which not more than \$50 may be suspended.

Sec. 4. 17 MRSA §2802, as amended by PL 1995, c. 65, Pt. A, §53 and affected by Pt. A, §153 and Pt. C, §15, is further amended to read:

§2802. Miscellaneous nuisances

The erection, continuance or use of any building or place for the exercise of a trade, employment or manufacture which, by noxious exhalations, offensive smells or other annoyances, becomes injurious and dangerous to the health, comfort or property of individuals, or of the public; causing or permitting abandoned wells or tin mining shafts to remain unfilled or uncovered to the injury or prejudice of others; causing or suffering any offal, filth or noisome substance to collect, or to remain in any place to the

prejudice of others; obstructing or impeding, without legal authority, the passage of any navigable river, harbor or collection of water; corrupting or rendering unwholesome or impure the water of a river, stream, pond or aquifer; imprudent operation of a watercraft as defined in Title 12, section 7801, subsection 11-A: unlawfully diverting it from its natural course or state, to the injury or prejudice of others; and the obstructing or encumbering by fences, buildings or otherwise, of highways, private ways, streets, alleys, commons, common landing places or burying grounds are nuisances within the limitations and exceptions mentioned. Any places where one or more old, discarded, worn out or junked motor vehicles as defined in Title 29-A, section 101, subsection 42, or parts thereof, are gathered together, kept, deposited or allowed to accumulate, in such manner or in such location or situation, either within or without the limits of any highway, as to be unsightly, detracting from the natural scenery or injurious to the comfort and happiness of individuals and the public, and injurious to property rights, are declared to be public nuisances.

Sec. 5. Assessment of industry safety and training efforts.

The Department of Inland Fisheries and Wildlife shall coordinate with personal watercraft distributors, dealers, rental agents and users in the State to assess the awareness of boating laws among users of personal watercraft and the extent and effectiveness of industry-sponsored personal watercraft safety training and education programs. This assessment must include, but is not limited to, estimates of the level of awareness among personal watercraft operators of general boating laws, safe boating practices, the safe operation of personal watercraft and the rate of participation by those operators in industry-sponsored safety training and education programs. The Bureau of Warden Service shall develop those estimates by tracking personal watercraft-related complaints, warrants and summonses and by assessments of observations of and contacts with those operators by wardens. The bureau shall provide the Commissioner of Inland Fisheries and Wildlife with a written summary of its conclusions about the general level of awareness among personal watercraft operators of those issues and the effectiveness of the industry-sponsored safety training programs and materials.

The Department of Inland Fisheries and Wildlife shall encourage personal watercraft distributors, dealers and rental agents to offer safety training programs and materials and shall undertake an evaluation of the current safety training and education programs offered by distributors, dealers and rental agents. That evaluation may include examples of the types of educational materials being distributed, descriptions of the training and education programs being offered, the number of distributors, dealers and rental agents offering those programs or materials and

the number of people who participate in those programs or received those materials.

The Commissioner of Inland Fisheries and Wildlife shall report to the Joint Standing Committee on Inland Fisheries and Wildlife on these assessment efforts by February 1, 1998.

Sec. 6. Report. The Commissioner of Inland Fisheries and Wildlife shall report to the joint standing committee of the Legislature having jurisdiction over inland fisheries and wildlife matters by January 1, 1999 on the number of enforcement actions taken by law enforcement officers for violations of Title 12, section 7801, subsection 11-A and the result of those enforcement actions and the number of private nuisance actions taken for those violations under Title 17, section 2802 and the result of those actions.

See title page for effective date.

CHAPTER 541

S.P. 129 - L.D. 408

An Act to Include Operation and Maintenance in the Life-cycle Costs Analysis Required for Public Improvements

Mandate preamble. This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, two thirds of all of the members elected to each House have determined it necessary to enact this measure.

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

Sec. 1. 5 MRSA §1763, as repealed by PL 1977, c. 563, §1 and reenacted by §2, is amended to read:

§1763. No facility leased without life-cycle costs

No public improvement, as defined in this chapter, or public school facility, with an area in excess of 10,000 square feet within a given building boundary, ~~shall may~~ be leased until a life-cycle costs analysis has been performed and a lease ~~shall may~~ only be approved ~~where~~ when the life-cycle costs analysis compare favorably to available like facilities.

In the event of an emergency such as a building destroyed by fire, this requirement may be waived by the Bureau of ~~Public Improvements~~ General Services.

Sec. 2. 5 MRSA §1764, as amended by PL 1989, c. 501, Pt. DD, §2, is further amended to read:

§1764. Life-cycle costs

1. Bureau of General Services to adopt rules and procedures. The Bureau of ~~Public Improvements~~ General Services shall ~~promulgate~~ adopt rules and ~~procedures~~, including energy conservation guidelines ~~which that~~ conform as a minimum to the energy efficiency building performance standards ~~promulgated~~ adopted by the Department of Economic and Community Development for conducting an energy-related life-cycle costs analysis of alternative architectural or engineering designs, or both, and shall evaluate the efficiency of energy utilization for designs in the construction and lease of public improvements and public school facilities. ~~Such Any~~ Any rules ~~and procedures shall~~ adopted take effect 90 days after the enactment of this subchapter.

2. Life-cycle costs. ~~Such Any~~ Any life-cycle costs ~~shall~~ must include:

A. The reasonably expected energy costs over the life of the building, as determined by the designer, that are required to maintain illumination, power, temperature, humidity and ventilation and all other energy-consuming equipment in a facility; ~~and~~

B. The reasonable energy-related costs of probable maintenance, including labor and materials and operation of the building-, replacement costs over the expected life of the facility and any other ownership cost issues identified by the Bureau of General Services; and

C. A comparison of energy-related and economic-related design alternatives. The Bureau of General Services may direct the designer to select, include and develop life-cycle costs for any viable alternatives that should be considered.

3. Determination of life-cycle costs. To determine the life-cycle costs, the Bureau of ~~Public Improvements~~ General Services shall ~~promulgate~~ adopt rules that ~~shall~~ include but are not limited to:

A. The orientation and integration of the facility with respect to its physical site;

B. The amount and type of glass employed in the facility and the directions of exposure;

C. The effect of insulation incorporated into the facility design and the effect on solar utilization to the properties of external surfaces;

D. The variable occupancy and operating conditions of the facility and subportions of the facility; and