

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND EIGHTEENTH LEGISLATURE

SECOND REGULAR SESSION
January 7, 1998 to March 31, 1998

SECOND SPECIAL SESSION
April 1, 1998 to April 9, 1998

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 30, 1998

SECOND SPECIAL SESSION
NON-EMERGENCY LAWS IS
JULY 9, 1998

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

B. The commissioner shall appoint 2 members who are employees of the department to represent the State's interest in maintaining health data and to ensure that information collected is available for determining public health policy.

C. All appointments must be completed by May 1, 1996.

Sec. 2. Appointment deadline. The appointment of the additional provider member pursuant to section 1 of this Act must be no later than October 15, 1998.

See title page for effective date.

CHAPTER 569

S.P. 691 - L.D. 1926

An Act to Provide Additional Time for the Public Utilities Commission to Adopt Certain Rules

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

Whereas, current law requires the Public Utilities Commission to submit certain major substantive rules for legislative review by January 1, 1998; and

Whereas, additional time is needed to prepare those rules; 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. 35-A MRSA §2102, sub-§3, as enacted by PL 1997, c. 118, §1, is amended to read:

3. Exemption for certain telephone utilities. The commission by rule may exempt a specified telephone utility or group of telephone utilities from obtaining the approval required by subsection 1 if the commission finds that the exemption will not result in unjust or unreasonable rates or inadequate service for any telephone utility customers. The commission may limit the exemption to specified geographic areas. For good cause, as provided in the rule establishing the exemption, the commission may revoke an exemption in whole or in part, including an exemption granted to a single telephone utility. A telephone utility that is

exempt from the approval requirement of subsection 1:

A. Before commencing service, shall notify the commission of its intent to commence the exempted service and provide any other information the commission may require;

B. Shall obtain the approval of the commission under subsection 1 to provide any service other than the services specified in the exemption granted by the commission under this subsection; and

C. Remains subject to any other applicable provisions of this Title and commission rules.

Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter II-A and must be submitted to the Joint Standing Committee on Utilities and Energy by January 1, ~~1998~~ 1999.

Sec. 2. Retroactivity. This Act applies retroactively to January 1, 1998.

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

Effective February 25, 1998.

CHAPTER 570

H.P. 1391 - L.D. 1944

An Act to Encourage the Use of Environmental Fines for Environmental Benefits

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

Sec. 1. 38 MRSA §349, sub-§2-A is enacted to read:

2-A. Supplemental environmental projects. In settling a civil enforcement action for any violation of any of the provisions of the laws administered by the department, including, without limitation, a violation of the terms or conditions of any order, rule, license, permit, approval or decision of the board or commissioner, the parties may agree to a supplemental environmental project that mitigates not more than 80% of the assessed penalty. "Supplemental environmental project" means an environmentally beneficial project primarily benefiting public health or the environment that a violator is not otherwise required or likely to perform.

A. An eligible supplemental environmental project is limited to the following categories:

- (1) Pollution prevention projects that eliminate all or a significant portion of pollutants at the point of generation;
- (2) Pollution reduction projects that significantly decrease the release of pollutants into a waste stream at the point of discharge to a point significantly beyond levels required for compliance;
- (3) Environmental enhancement projects in the same ecosystem or geographic area of the violation that significantly improve an area beyond what is required to remediate any damage caused by the violation that is the subject of the enforcement action;
- (4) Environmental awareness projects substantially related to the violation that provide training, publications or technical support to members of the public regulated by the department;
- (5) Scientific research and data collection projects that advance the scientific basis on which regulatory decisions are made;
- (6) Emergency planning and preparedness projects that assist state or local emergency response and planning entities in preparing or responding to emergencies; and
- (7) Public health projects that provide a direct and measurable benefit to public health.

B. Supplemental environmental projects may not be used for the following situations:

- (1) Repeat violations of the same or a substantially similar law administered by the department by the same person;
- (2) When a project is required by law;
- (3) If the violator had previously planned and budgeted for the project;
- (4) To offset any calculable economic benefit of noncompliance;
- (5) If the violation is the result of reckless or intentional conduct; or
- (6) If the project primarily benefits the violator.

Any settlement that includes a supplemental environmental project must provide that expendi-

tures are not tax deductible and are ineligible for certification as tax exempt pollution control facilities pursuant to Title 36, chapters 105 and 211.

See title page for effective date.

CHAPTER 571

S.P. 750 - L.D. 2028

An Act to Clarify the Authority of the Chief of the Bureau of Liquor Enforcement to Conduct Appeal Hearings

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

Sec. 1. 28-A MRSA §82, sub-§5, as enacted by PL 1997, c. 373, §28, is amended to read:

5. Appeals. Review all appeals from the decisions of municipal officers. ~~The bureau shall~~ chief may conduct appeal hearings or appoint a hearings officer to conduct appeal hearings. Except as provided in section 805, the decision of the chief is final. ~~The hearings officer for the bureau is the Director of the Liquor Licensing and Tax Division.~~

The ~~chief or the~~ hearings officer may conduct hearings in any licensing matter pending before the bureau. ~~The~~ If a hearings officer conducts the hearing, the ~~hearings officer~~ hearings officer, after holding the hearing, shall file with the bureau all papers connected with the case and report the findings to the chief. The chief shall render a final decision based upon the record of the hearing.

The ~~chief or the~~ hearings officer may administer oaths and issue subpoenas for witnesses and subpoenas duces tecum to compel the production of books and papers relating to any license question in dispute before the bureau or to any matter involved in a hearing. Witness fees in all proceedings are the same as for witnesses before the Superior Court and must be paid by the bureau, except that, notwithstanding Title 16, section 253, the bureau is not required to pay the fees before the travel and attendance occur;

See title page for effective date.

CHAPTER 572

S.P. 733 - L.D. 2011

An Act to Correct Certain Inconsistencies in the Marine Resources Laws