

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

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

Effective March 17, 1998.

CHAPTER 603

H.P. 1493 - L.D. 2092

An Act to Clarify Certain Laws Pertaining to the Department of Environmental Protection, Bureau of Land and Water Quality

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

Sec. 1. 38 MRSA §480-B, sub-§1, as enacted by PL 1987, c. 809, §2, is amended to read:

1. Coastal sand dune systems. "Coastal sand dune systems" means sand and gravel deposits within a marine beach system, including, but not limited to, beach berms, frontal dunes, dune ridges, back dunes and other sand and gravel areas deposited by wave or wind action. Coastal sand ~~dunes~~ dune systems may extend into ~~the~~ coastal wetlands.

Sec. 2. 38 MRSA §482, sub-§5, as amended by PL 1995, c. 704, Pt. A, §5 and affected by Pt. C, §2, is further amended by amending the first paragraph to read:

5. Subdivision. A "subdivision" is the division of a parcel of land into 5 or more lots, ~~other than lots for single family, detached, residential housing, common areas or open space,~~ to be offered for sale or lease to the general public during any 5-year period, if the aggregate land area includes more than 20 acres; ~~or the division of a parcel of land into 15 or more lots except that when all lots are for single-family, detached, residential housing, common areas or open space;~~ a "subdivision" is the division of a parcel of land into 15 or more lots to be offered for sale or lease to the general public within any 5-year period, if the aggregate land area includes more than 30 acres. The aggregate land area includes lots to be offered together with the roads, common areas, easement areas and all portions of the parcel of land in which rights or interests, whether express or implied, are to be offered. This definition of "subdivision" is subject to the following exceptions:

Sec. 3. 38 MRSA §488, sub-§18, ¶E, as enacted by PL 1995, c. 493, §7, is amended to read:

E. For purposes of this subsection only, "roundwood" means logs, bolts and other round

sections of wood as they are cut from the tree and split firewood.

Sec. 4. 38 MRSA §488, sub-§19, as amended by PL 1997, c. 485, §1, is further amended by amending the first paragraph to read:

19. Municipal capacity. A structure, as defined in section 482, subsection 6, that is from 3 acres up to and including 7 acres or a subdivision, as defined in section 482, subsection 5, that is made up of 15 or more lots for single-family, detached, residential housing, common areas or open space with an aggregate area of from 30 acres up to and including 100 acres is exempt from review under this article if located wholly within a municipality or municipalities ~~having delegated review pursuant to section 489-A or~~ meeting the criteria in paragraphs A to D as determined by the department. The planning board of the municipality in which the development is located or an adjacent municipality may petition the commissioner to review such a structure or subdivision if it has regional environmental impacts. This petition must be filed within 20 days of the receipt of the application by the municipality. State jurisdiction must be exerted, if at all, within 30 days of receipt of the completed project application by the commissioner from the municipality or within 30 days of receipt of any modification to that application from the municipality. Review by the department is limited to the identified regional environmental impacts. The criteria are as follows:

Sec. 5. 38 MRSA §489-A, sub-§4, as amended by PL 1993, c. 383, §27 and affected by §42, is further amended to read:

4. Suspension of registration. If the commissioner finds that a municipality no longer meets the criteria set forth under subsection 2 or 2-A, or is not adequately implementing those requirements, the commissioner may suspend the registration and shall notify the municipality accordingly. The notice must contain findings of fact and conclusions of law. If registration is suspended, the commissioner shall recommend actions for the municipality to come into compliance with this section. The commissioner may waive the suspension for new projects that have received at least one substantive municipal review prior to the suspension of registration. If the department determines that a municipality meets the criteria specified in section 488, subsection 19, the department shall suspend the registration for the type of development exempt from review in that municipality pursuant to section 488, subsection 19.

Sec. 6. 38 MRSA §490-D, sub-§3-A, as amended by PL 1995, c. 700, §24, is further amended to read:

3-A. Medium borrow pits unlicensed on October 1, 1993. Notwithstanding subsection 3, the following provisions apply to a medium borrow pit that on October 1, 1993 was not licensed under article 6 and on which gravel had been extracted to a level less than 5 feet above, at or below the seasonal high water table.

The medium borrow pit owner or operator may not further excavate in areas where gravel had been extracted to a level less than 5 feet above, at or below the seasonal high water table unless a variance is granted by the department.

A. The department may not require the medium borrow pit owner or operator to elevate the medium borrow pit floor to 5 feet or more above the seasonal high water table as a condition of operation.

C. The medium borrow pit owner or operator may reclaim as a pond that area of the medium borrow pit less than 5 feet above on which gravel had been extracted to a level at or below the seasonal high water table.

Sec. 7. PL 1995, c. 704, Pt. A, §23, sub-§3, as amended by PL 1997, c. 502, §12, is further amended to read:

3. A municipality with delegated authority pursuant to the Maine Revised Statutes, Title 38, section 489-A prior to the effective date of this Act continues to have delegated authority following the effective date of this Act and is presumed to have capacity pursuant to Title 38, section 488, subsection 19 as of the effective date of this Act.

Sec. 8. PL 1995, c. 704, Pt. C, §2 is amended to read:

Sec. C-2. Effective date. This Act takes effect July 1, 1997, except section 1 of this Part takes effect 90 days after adjournment of the Second Regular Session of the 117th Legislature. The following provisions take effect September 19, 1997: Part A, section 10 that amends the Maine Revised Statutes, Title 38, section 484, subsection 4; Part A, section 11 that enacts Title 38, section 484, subsection 4-A; and that portion of Part B, section 2 that enacts Title 38, section 420-D.

Sec. 9. Retroactivity. That section of this Act that amends Public Law 1995, chapter 704, Part C, section 2 applies retroactively to July 1, 1997.

See title page for effective date, unless otherwise indicated.

CHAPTER 604

H.P. 1459 - L.D. 2050

An Act to Amend the Laws Concerning Life and Health Insurance

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

PART A

Sec. A-1. 24-A MRSA §4301, sub-§1, as enacted by PL 1995, c. 673, Pt. C, §1 and affected by §2, is amended to read:

1. Carrier. "Carrier" means an insurance company licensed in accordance with this Title, a health maintenance organization licensed pursuant to chapter 56, a preferred provider organization licensed pursuant to chapter 32 ~~or~~, a nonprofit hospital or medical service organization licensed pursuant to Title 24 or a multiple-employer welfare arrangement licensed pursuant to chapter 81. An employer exempted from the applicability of this chapter under the federal Employee Retirement Income Security Act of 1974, 29 United States Code, Sections 1001 to 1461 (1988) is not considered a carrier.

PART B

Sec. B-1. 24 MRSA §2327-A, as amended by PL 1997, c. 445, §1 and affected by §32, is further amended to read:

§2327-A. Applicability

Title 24-A, sections 2803, 2808-B, 2809-A and 2834-B apply to nonprofit hospital corporations, nonprofit medical service corporations and nonprofit health care plans to the extent not inconsistent with this chapter.

Sec. B-2. 24 MRSA §2330, as amended by PL 1997, c. 393, Pt. A, §25, is repealed.

Sec. B-3. 24-A MRSA §2809-A, sub-§1-B is enacted to read:

1-B. Notification of availability of individual coverage. An insurer must provide forms to group policyholders for the purpose of informing terminating group members of their right to purchase any individual health plan available in this State. An adequate supply of forms must be provided to each group policyholder when the policy is issued and at least annually thereafter. The superintendent may prescribe the content of the form by routine technical rule pursuant to Title 5, chapter 375, subchapter II-A. The form must include at least the following: