

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 municipal authority having jurisdiction to issue building permits may not issue a building permit unless the Office of the State Fire Marshal approves the plans and certifies that the public building covered by this subsection meets the standards of construction required by this section. If, ~~however,~~ no decision is rendered within 2 weeks of submission to the Office of the State Fire Marshal, the builder may submit the building permit request directly to the municipality with an attestation from ~~the design professional~~ an architect or professional engineer licensed or registered to practice under Title 32 that the plans meet the standards of construction.

Sec. 4. 5 MRSA §4594-F, sub-§9, as enacted by PL 1995, c. 393, §27, is amended to read:

9. Voluntary plan review. Builders of facilities not governed by subsection 8 may submit plans to the Office of the State Fire Marshal to ensure that the plans meet the standards of construction required by subsections 3 and 4. Certification for a voluntary plan review may be provided by an architect, professional engineer, certified interior designer or landscape architect licensed, certified or registered to practice under Title 32 and practicing within the scope of that individual's profession.

See title page for effective date.

CHAPTER 631

S.P. 747 - L.D. 2025

An Act to Reduce Technical Violations of Maine's Laws Regarding the Protection of Underground Utilities

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

Sec. 1. 23 MRSA §3360-A, sub-§1, ¶C, as amended by PL 1985, c. 111, §1, is further amended to read:

C. "Excavation" means any operation in which earth, rock or other material ~~on or~~ below the ground is moved or otherwise displaced, by means of power tools, power equipment or explosives and including grading, trenching, digging, ditching, drilling, augering, tunneling, scraping and cable or pipe driving, except tilling of soil and gardening or displacement of earth, rock or other material for agricultural purposes, and except installation and maintenance of signs performed by the Department of Transportation.

Sec. 2. 23 MRSA §3360-A, sub-§§4-A and 4-B are enacted to read:

4-A. Alternative notice by certain excavators.

Except as provided in subsection 4-B, a person is exempt from the notice requirements of subsection 3 for any excavation occurring in an area in which written clearance has been issued by the system pursuant to this subsection. A person applying for written clearance must provide to the system a written description of the area in which clearance is sought and a detailed map acceptable to the system that clearly demarcates the area, except that an application for a renewal of a written clearance for the same area covered by an existing written clearance may refer to the existing written clearance. Upon receiving an acceptable application, the system shall immediately notify all members whose underground facilities may be affected.

A. If, within 45 days of notifying members, the system receives no notice from any member of any existing or proposed underground facility in the area, the system may issue a written clearance to the applicant for the area.

B. If, within 45 days of notifying members, the system receives notice from any member of an existing or proposed underground facility in the area, the system may:

(1) In consultation with the underground facility operator, issue a written clearance for an area that excludes any area in which underground facilities are or are proposed to be located; or

(2) Deny the application for written clearance if the system, in consultation with the underground facility operator, determines that modification of the boundaries of the area for which clearance is sought is impractical or would not ensure adequate safety.

A written clearance issued under this subsection expires on the last day of the month one year following the month of issuance. A written clearance applies only to the area specified in the written clearance and is subject to revocation or modification under subsection 4-B. The system shall keep adequate maps and records of all written clearances issued under this subsection.

4-B. Modification and revocation of clearance. Any underground facility operator that proposes to construct an underground facility in any area in which a written clearance has been issued under subsection 4-A shall notify the system. If at any time the system receives notice from any underground facility operator that underground facilities are located

or are proposed to be located within an area in which a written clearance has been issued under subsection 4-A, the system, in consultation with the underground facility operator, may modify or, if necessary, revoke a written clearance in order to ensure adequate safety in the area of the underground facility or proposed underground facility.

Sec. 3. 23 MRSA §3360-A, sub-§6, as repealed and replaced by PL 1991, c. 437, §7 and affected by §12, is amended to read:

6. Liability of excavator. If an excavator complies with subsection 3 and if information pursuant to subsections 3-A and 4 is not provided within the time specified or if the information provided fails to identify the location of the underground facilities in accordance with subsection 4, or if an excavator is excavating in an area for which written clearance has been issued pursuant to subsection 4-A, then an excavator damaging or injuring underground facilities is not liable for any damage or injury caused by the excavation, except on proof of negligence.

Sec. 4. 23 MRSA §3360-A, sub-§6-A, ¶A, as amended by PL 1997, c. 229, §1, is further amended to read:

A. An excavator who does not give notice of an excavation as required under subsection 3, except an excavation in an area for which written clearance has been issued pursuant to subsection 4-A, or who undertakes the excavation in a reckless or negligent manner that poses a threat to an underground facility commits a civil violation and is subject to a civil forfeiture of up to \$1,000 in addition to any other remedies or forfeitures provided by law or any liability for actual damages.

See title page for effective date.

CHAPTER 632

S.P. 787 - L.D. 2114

An Act Relating to the Qualifications of the Director of the Bureau of Human Resources

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

Sec. 1. 5 MRSA §7035, as amended by PL 1997, c. 498, §3, is further amended to read:

§7035. Director of Human Resources

The Director of Human Resources ~~shall~~ must be qualified by education ~~and~~ or experience in the

administration of personnel systems, public or private, and in human resource management. The commissioner, ~~following consultation with the Policy Review Board~~, shall appoint the Director of Human Resources who ~~shall serve~~ serves at the pleasure of the commissioner and ~~shall serve until his successor has been appointed and qualified~~. Specifically, the director shall meet the following qualifications:

1. Education and experience in personnel systems. An educational background and experience in personnel systems, public or private, to include, among other factors, the following:

A. Training, knowledge and experience in the design of job classification systems;

B. Knowledge, training and experience in the design of job performance evaluation systems;

C. Knowledge, training and experience in the design of job compensation systems; and

D. Knowledge, training and experience in the design of career training programs for employees and the design of management and supervisory training programs;

2. Restricted political activity. The provisions in ~~section 7056 A~~, as they relate to the political activities of employees in the classified service or employees from the executive branch in the unclassified service as defined in section 7032; and

3. Record of achievement. An outstanding record of achievement of at least 5 years in the administration of a personnel or human resource system.

See title page for effective date.

CHAPTER 633

H.P. 1498 - L.D. 2097

An Act to Simplify Corporate Filings

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

Sec. 1. 10 MRSA §1522, sub-§1, ¶¶H and I, as enacted by PL 1993, c. 616, §2, are amended to read:

H. Consists of or comprises language that is obscene, contemptuous, profane or prejudicial; ~~or~~

I. Inappropriately promotes abusive or unlawful activity; or

Sec. 2. 10 MRSA §1522, sub-§1, ¶J is enacted to read: