

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
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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

If an undomesticated animal or a ~~domesticated ferret, domesticated wolf or domesticated wolf hybrid~~ suspected of having rabies bites or otherwise exposes to rabies a person or a domestic animal, an animal control officer, a local health officer or a game warden ~~may~~ must immediately remove the undomesticated animal or wolf hybrid or cause the undomesticated animal or wolf hybrid to be removed and euthanized for testing. When in the judgment of the animal control officer, local health officer, game warden or law enforcement officer the animal poses an immediate threat to a person or domestic animal, the animal control officer, local health officer, game warden or law enforcement officer may immediately kill or order killed that animal without destroying the head. The Department of Inland Fisheries and Wildlife shall arrange for the transportation of the head to the State Health and Environmental Testing Laboratory; except that the animal control officer shall make the arrangements if the animal is a ~~domesticated ferret, domesticated wolf or domesticated wolf hybrid.~~

Sec. 12. 22 MRSA §1313-B is enacted to read:

§1313-B. Civil violation, court authorization for removal and other remedies

1. Violation. A person who violates a rule established under this chapter commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged for each offense. In addition, the court may include an order of restitution as part of the sentencing for costs including removing, controlling and confining the animal.

2. Court authorization for removal. When home quarantine procedures, as described on the official notice of quarantine, have been violated, or in the case of a wolf hybrid, when the owner fails to bring the animal to a veterinarian for euthanasia and testing or to turn the animal over to authorities as required by rules established pursuant to this chapter, an animal control officer, person acting in that capacity or law enforcement officer may apply to the District Court or Superior Court for authorization to take possession of the animal for placement, at the owner's expense, in a veterinary hospital, boarding kennel or other suitable location for the remainder of the quarantine period or, in the case of a wolf hybrid, removal for euthanasia. At the end of the quarantine period for domestic animals, or if the animal shows signs of rabies, the person in possession of the animal must report to the court, and the court shall either dissolve the possession order or order the animal euthanized and tested for rabies.

3. Other remedies. In addition to filing a civil action to enforce this section:

A. The municipality may record a lien against the property of the owner or keeper of an animal if the person fails or refuses to comply with an order to confine or quarantine the animal;

B. The municipal officers or their designated agent, such as the animal control officer, shall serve written notice on the owner or keeper of the animal that specifies the action necessary to comply with the order and the time limit for compliance;

C. If the owner or keeper of the animal fails to comply within the time stated, the animal control officer must apply to District Court or Superior Court for an order to seize the animal and make arrangements for quarantine or euthanasia at the owner's or keeper's expense; and

D. If the owner or keeper of the animal fails to pay the costs of confinement or quarantine within 30 days after written demand from the municipal officers, the municipal assessors may file a record of lien against the property of the owner or keeper of the animal.

See title page for effective date.

CHAPTER 705

H.P. 1441 - L.D. 2005

An Act to Conform Maine's Safe Drinking Water Laws with the 1996 Amendments of the Federal Safe Drinking Water Act

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

Sec. 1. 22 MRSA §2601, sub-§8, as amended by PL 1993, c. 410, Pt. DD, §2, is further amended to read:

8. Public water system. "Public water system" means any publicly or privately owned system of pipes or other constructed conveyances, structures and facilities through which water is obtained for or sold, furnished or distributed to the public for human consumption; if such a system has at least 15 service connections, regularly serves an average of at least 25 individuals daily at least 60 days out of the year or bottles water for sale. Any publicly or privately owned system that only stores and distributes water; without treating or collecting it; obtains all its water from, but is not owned or operated by, a public water system; and does not sell water or bottled water to any person; is not a "public water system." The term "public water system" includes any collection, treatment, storage or distribution pipes or other constructed conveyances,

structures or facilities under the control of the supplier of water and used primarily in connection with such a system, and any collection or pretreatment storage facilities not under that control that are used primarily in connection with such a system. The system does not include the portion of service pipe owned and maintained by a customer of the public water system.

For purposes of this subsection, a connection to a system that delivers water by a constructed conveyance other than a pipe is not considered a connection if:

A. The water is used exclusively for purposes other than residential uses. For the purposes of this subsection, the term "residential uses" includes drinking, bathing, cooking and other similar uses; and

B. The commissioner determines that alternative water to achieve the equivalent level of public health protection provided by the applicable state primary drinking water regulation is provided for residential or similar uses; or

C. The commissioner determines that the water provided for residential or similar uses is centrally treated or treated at the point of entry by the provider, a pass-through entity or the user to achieve the equivalent level of protection provided by the applicable state primary drinking water regulation.

Sec. 2. 22 MRSA §2612-A is enacted to read:

§2612-A. Capacity development

1. Authority. The commissioner is authorized to ensure that all new community water systems and new nontransient, noncommunity systems commencing operation after October 1, 1999 demonstrate technical, managerial and financial capacity with respect to each state primary drinking water regulation in effect, or likely to be in effect, on the date of commencement of operations.

2. Rulemaking. The commissioner shall adopt rules to ensure that all new community water systems and new nontransient, noncommunity systems commencing operation after October 1, 1999 demonstrate technical, managerial and financial capacity with respect to each state primary drinking water regulation in effect, or likely to be in effect, on the date of commencement of operations. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

Sec. 3. 22 MRSA §2613, sub-§1, as amended by PL 1995, c. 622, §1, is further amended to read:

1. Variances. The commissioner may grant one or more variances from an applicable state primary drinking water regulation to a public water system if the variance will not result in an unreasonable risk to the public health and if:

A. Because of the characteristics of the raw water sources reasonably available to the systems, the system can not meet the maximum contaminant levels of the drinking water regulation despite application of the best technology, treatment techniques or other means; or

B. Where a specified treatment technique for a contaminant is required by the state primary drinking water regulation, the system demonstrates to the commissioner's satisfaction that the treatment technique is not required to protect the public health because of the nature of the raw water source.

Prior to granting a variance, the commissioner shall provide an opportunity for public hearing pursuant to the Maine Administrative Procedure Act on the proposed variance. Variances may be conditioned on monitoring, testing, analyzing or other requirements to ensure the protection of the public health; and variances granted under paragraph A must include a compliance schedule under which the public water system will meet each contaminant level for which a variance is granted as expeditiously as is feasible.

A variance may be issued to a system on the condition that the system install the best technology, treatment techniques or other means that are available, taking costs into consideration, according to the United States Environmental Protection Agency and based upon an evaluation satisfactory to the commissioner that indicates that alternative sources of water are not reasonably available to the system.

Sec. 4. 22 MRSA §2613, sub-§1-A is enacted to read:

1-A. Small system variances. The commissioner may grant a variance for compliance with a requirement specifying a maximum contaminant level or treatment technique contained in a state primary drinking water regulation to public water systems serving 3,300 or fewer persons. With the approval of the Administrator of the United States Environmental Protection Agency, the commissioner may grant a variance under this subsection to a public water system serving more than 3,300 persons but fewer than 10,000 persons.

The commissioner shall adopt rules for variances to be granted under this subsection. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

Sec. 5. 22 MRSA §2613, sub-§2, as amended by PL 1995, c. 622, §2, is further amended to read:

2. Exemptions. The commissioner may grant one or more exemptions from an applicable state primary drinking water regulation to a public water system, if:

A. The exemption will not result in an unreasonable risk to the public health;

B. The public water system is unable to comply with the regulation or to implement measures to develop an alternative source of water supply due to compelling factors, which may include economic factors such as qualification of the public water system serving a disadvantaged community. For purposes of this paragraph "disadvantaged community" means the service area of a public water system that meets affordability criteria established by the department after public review and comment; ~~and~~

C. The public water system was in operation on the earliest effective date under present or prior law of the contaminant level or treatment technique requirement; and

D. Management or restructuring changes can not reasonably be made that will result in compliance with this chapter or, if compliance can not be achieved, improve the quality of the drinking water.

Prior to implementation of a schedule for compliance with contaminant level or treatment technique requirements and for implementation of control measures, the commissioner shall provide notice and opportunity for public hearing pursuant to the requirements of the Maine Administrative Procedure Act. Each exemption must also be conditioned on monitoring, testing, analyzing or other requirements to ensure the protection of the public health and must include a compliance schedule, including increments of progress or measures to develop an alternative source of water supply, under which the public water system will meet each contaminant level for which an exemption is granted as expeditiously as is feasible.

Sec. 6. 22 MRSA §2613, sub-§3-A is enacted to read:

3-A. Exemption criteria. An exemption described in subsection 2 may not be granted unless:

A. The public water system can not meet the standards without capital improvements that can not be completed within the period of the exemption;

B. In the case of a public water system that needs financial assistance for the necessary improvements, the system has entered into an agreement to obtain such financial assistance or assistance pursuant to the state revolving loan fund program or any other federal or state program that is reasonably likely to be available within the period of the exemption; or

C. The public water system has entered into an enforceable agreement to become part of a regional public water system and the system is taking practicable steps to meet the standards.

Sec. 7. 22 MRSA §2613, sub-§4, as enacted by PL 1995, c. 622, §3, is amended to read:

4. Exemption; extended. The exemption described in subsection 2 is effective for up to one year after the date of the issuance of the exemption.

A. The final date for compliance provided in any schedule in an exemption may be extended for a period not to exceed 3 years after the date of the issuance of the exemption ~~if:~~

~~(1) The public water system can not meet the standards without capital improvements that can not be completed within the period of the exemption;~~

~~(2) In the case of a public water system that needs financial assistance for the necessary improvements, the system has entered into an agreement to obtain financial assistance; or~~

~~(3) The public water system has entered into an enforceable agreement to become part of a regional public water system and the system is taking practicable steps to meet the standards.~~

B. In the case of a system that does not serve more than ~~500 service connections~~ 3,300 people and that needs financial assistance for the necessary improvements, an exemption granted may be renewed for one ~~or more to 3~~ additional 2-year periods, but may not exceed a total of 6 additional years, if the system establishes that it is taking all practicable steps to meet the requirements established in the exemption.

Sec. 8. 22 MRSA §2613, as amended by PL 1995, c. 622, §§1 to 3, is further amended by adding at the end a new paragraph to read:

A public water system may not receive an exemption under this section if the system was granted a variance under subsection 1-A.

Sec. 9. 22 MRSA §2620, sub-§1, as enacted by PL 1993, c. 678, §4, is amended to read:

1. Maximum penalty. An administrative penalty may not be greater than \$750 for each violation, except that for public water systems serving more than 10,000 people, an administrative penalty may not be less than \$1,000 for each violation. Each day that a violation remains uncorrected may be counted as a separate violation.

Sec. 10. 22 MRSA §2620-C, as enacted by PL 1993, c. 678, §4, is amended to read:

§2620-C. Rules

The commissioner shall adopt rules establishing procedures regarding notice and the issuance, amendment and withdrawal of administrative compliance orders and administrative consent orders.

The commissioner may adopt rules establishing a permitting process for public water systems. Rules adopted pursuant to this paragraph are major substantive rules as defined in Title 5, chapter 375, subchapter II-A.

Sec. 11. 22 MRSA §2622, as amended by PL 1983, c. 819, Pt. A, §55, is further amended to read:

§2622. Classification of public water systems and parts thereof

The commissioner board, with the advice of the department, shall classify all public water systems and the water treatment plants or collection, treatment or storage facilities or structures that are part of a system with due regard to the size and type of facilities, the character of water to be treated and any other physical conditions affecting such system or part thereof and specify the qualifications the operator of the system or of a part of a system must have to supervise successfully the operation of the system or parts thereof so as to protect the public health or prevent nuisance conditions.

The commissioner, with the advice of the board, with the advice of the department, shall establish the criteria and conditions for the classification of public water systems and water treatment plants or collection, treatment or storage facilities or structures that are part of a system.

The commissioner, with the advice of the board, may establish classes of public water supply systems ~~which that~~ do not require licensed individuals as operators.

Sec. 12. 22 MRSA §2650 is enacted to read:

§2650. Source water quality assessment program

1. General authorization. The commissioner is authorized to implement and carry out a source water quality assessment program.

2. Rulemaking. The commissioner shall adopt rules establishing the procedures for implementation and enforcement of the source water quality assessment program to comply with state and federal laws. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

Sec. 13. 22 MRSA §2660-E, first ¶, as enacted by PL 1993, c. 410, Pt. DD, §4, is amended to read:

In addition to fees authorized under section 9, the commissioner may impose ~~a~~ an annual operation fee upon each public water system in the State ~~for the purpose of retaining primacy.~~

Sec. 14. 30-A MRSA §5953-B, sub-§3, ¶E, as enacted by PL 1997, c. 555, §3, is amended to read:

E. The Department of Human Services certifies to the bank that the loan eligibility priority, established under section 6006-B, subsection 3 ~~5~~, entitles the applicant to financing or assistance under this section.

Sec. 15. 30-A MRSA §6006-B, sub-§1, ¶A, as enacted by PL 1991, c. 605, §14, is amended to read:

A. There is established in the custody of the bank a special fund to be known as the safe drinking water revolving loan fund to provide financial assistance under subsection 2 for the acquisition, design, planning, construction, enlargement, repair, protection or improvement of drinking water supplies or treatment facilities including any of those actions required under the federal Safe Drinking Water Act of ~~1974~~ 1996, 42 United States Code, Sections 300f to 300j-9, supplement 1997, as amended, hereinafter referred to as the federal Safe Drinking Water Act of 1996.

Sec. 16. 30-A MRSA §6006-B, sub-§1, ¶C, as enacted by PL 1991, c. 605, §14, is repealed and the following enacted in its place:

C. For the purposes of this section, the term "public water system" is the same as defined in Title 22, section 2601, subsection 8 and "community water system" and "noncommunity water system" are the same as defined in Title 22, section 2660-B.

Sec. 17. 30-A MRSA §6006-B, sub-§2, as amended by PL 1995, c. 665, Pt. II, §§1 and 2 and affected by §3, is further amended to read:

2. Uses. The revolving loan fund may be used for one or more of the following purposes:

A. To make loans to public water utilities systems under this section and section 5953-B;

B. To make loans to refund bonds or notes of a water utility municipality, an intermunicipal or interstate agency or other eligible participant as specified in the federal Safe Drinking Water Act of 1996 to buy or refinance bonds or notes issued after December 31, 1988 July 1, 1993 for the purpose of financing the construction of any capital improvement or management program described in section 5953-B, subsection 1 and certified under section 5953-B, subsection 3;

C. To guarantee or insure, directly or indirectly, the payment of notes or bonds issued or to be issued by a public water utility system for the purpose of financing the construction of any capital improvement described in section 5953-B, subsection 1 and certified under section 5953-B, subsection 3;

D. To guarantee or insure, directly or indirectly, funds established by public water utilities systems for the purpose of financing construction of any capital improvement described in section 5953-B, subsection 1 and certified under section 5953-B, subsection 3;

E. To invest available fund balances and to credit the net interest income on those balances to the revolving loan fund;

F. To invest as a source of revenue or security for the payment of principal and interest on general or special obligations of the bank if the proceeds of the sale of the obligations have been deposited in the fund or loaned to eligible participants in the programs financed with the fund, or as a source of revenue to subsidize municipal loan payment obligations;

G. To pay the costs of the bank and the Department of Human Services associated with the administration of the revolving loan fund and projects financed by it provided that no, as long as such costs are paid from a separate, dedicated and identifiable administrative account into which not more than the lesser of 2% of the aggregate of the highest fund balances in any fiscal year and 4% or such greater amount as may be permitted under federal law as part of the federal Safe Drinking Water Act of 1996 of any each capitalization grants grant allotment provided by

the Federal Government for deposit in the revolving loan fund is used for these purposes, and other amounts, must be deposited;

H. To pay the costs required, authorized or funded under the federal Safe Drinking Water Act of ~~1974~~ 1996, 42 United States Code, Sections 300f to 300j-9, as amended, regarding the treatment of drinking water or other federal law or program that provides money for deposit to the fund for the purposes of this section; and

I. To provide training and technical assistance to public water systems serving a population of 10,000 or fewer through the statewide rural water association. The statewide rural water association may use an amount equal to 1% of the federal capitalization grant. Training and technical assistance must be consistent with the annual Department of Human Services public water system supervision, or "PWSS," work plan.

Sec. 18. 30-A MRSA §6006-B, sub-§§4 and 5 are enacted to read:

4. Priorities for financial assistance. At least annually, the Department of Human Services shall prepare and certify to the bank a project priority list of those community and nonprofit noncommunity public water system projects eligible for financing or assistance under this section. The factors to be considered in developing the priority list must include, but are not limited to:

A. Projects that address serious risk to human health;

B. Projects necessary to ensure compliance with the federal Safe Drinking Water Act of 1996;

C. Projects to assist public water systems in need on a per household basis according to the State's affordability criteria; and

D. Projects that meet factors used in developing the priority list and that are prepared to proceed to construction.

5. Eligibility for financial assistance. Financial assistance for a project may not be granted under this section until the Department of Human Services has certified to the bank that the project is eligible for immediate financing under this section and is on the priority list under subsection 4.

Sec. 19. Allocation. The following funds are allocated from the Federal Expenditures Fund to carry out the purposes of this Act.

1998-99

**HUMAN SERVICES,
DEPARTMENT OF**

Bureau of Health

Positions - Legislative Count	(-2.000)
Personal Services	(\$76,349)

Deallocates funds for 2 Assistant Engineer positions to transfer these positions to the Public Drinking Water Fund, Other Special Revenue.

Sec. 20. Allocation. The following funds are allocated from Other Special Revenue to carry out the purposes of this Act.

1998-99

**HUMAN SERVICES,
DEPARTMENT OF**

Public Drinking Water Fund

Positions - Legislative Count	(2.000)
Personal Services	\$76,349
All Other	223,651

Provides funds for costs associated with the administration of the safe drinking water revolving loan fund, including funds for 2 Assistant Engineer positions transferred from the Bureau of Health, Federal Expenditures Fund.

**DEPARTMENT OF HUMAN
SERVICES**

TOTAL	\$300,000
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See title page for effective date.

CHAPTER 706

S.P. 726 - L.D. 1968

**An Act to Implement a
Reorganization of the Maine Sardine
Council by the Maine Sardine
Industry**

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

Whereas, the number of companies comprising the sardine industry continues to decline; and

Whereas, one of the main functions of the Maine Sardine Council, to certify the quality of Maine sardines, is no longer necessary since the implementation of the United States Food and Drug Administration's mandatory seafood inspection program on December 18, 1997; and

Whereas, the reorganization of the Maine Sardine Council is necessary as soon as possible in order to support changes that the Maine sardine industry has decided are in the industry's best interest; 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. 32 MRSA §4166, sub-§§1 and 3, as enacted by PL 1991, c. 446, Pt. C, §3, are repealed.

Sec. 2. 32 MRSA §4166, sub-§4-A, as enacted by PL 1993, c. 14, §2, is repealed.

Sec. 3. 32 MRSA §4167, sub-§5, as amended by PL 1993, c. 585, §6, is further amended to read:

5. Executive director; staff. The council may select and employ and fix the salary of an executive director-advertising and merchandising manager to administer the advertising, merchandising, research and development program. The executive director, with the consent of the council, may engage sufficient clerical personnel and other employees for the efficient performance of the executive director's duties. After July 1, 1994, employees of the council may not be considered state employees for any purpose, including the state civil service provisions of Title 5, Part 2 and Title 5, chapter 372, except as provided in paragraphs A and C. For the purposes of the Maine Tort Claims Act, the council is a "governmental entity" and its employees are "employees" as those terms are defined in Title 14, section 8102.

A. A person employed by the council on or after July 1, 1994 is a state employee for purposes of rights and benefits under the Maine State Retirement System under Title 5, Part 20 and for the