

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND NINETEENTH LEGISLATURE

FIRST REGULAR SESSION
December 2, 1998 to June 19, 1999

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 18, 1999

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
1999

stricter than the limitations under section 6431-A, ~~6431-D~~, 6439, 6439-A or 6440:

- A. The number of lobster traps fished and the time periods allowed for complying with that number;
- B. The number of lobster traps allowed on a trawl; and
- C. The time of day when lobster fishing may occur.

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

Effective May 17, 1999.

CHAPTER 188

S.P. 570 - L.D. 1637

An Act Regarding the Boundaries of State and State Aid Highways

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

Sec. 1. 23 MRSA §653, as amended by PL 1971, c. 593, §22, is repealed and the following enacted in its place:

§653. Highway boundaries

1. Authority. The department may establish the boundary lines, limits or locations of any or all state highways and state aid highways and cause durable monuments to be erected at the angles thereof.

2. Reestablishment of lost or doubtful boundaries. Whenever in the opinion of the department the boundary lines, limits or location of any state highway or state aid highway or any part thereof are lost, uncertain or doubtful, the department may reestablish those lines, limits or location; land lying within those lines is a part of the highway right-of-way. The department shall file with the town clerk of the town in which the highway is located and with the registry of deeds in the county in which the highway is located maps showing the boundary lines, limits or location of such a reestablished highway, and those lines, boundaries, limits and location are those of the reestablished highway. The department shall post descriptions of those parts of such highways that lie within towns in one conspicuous place in those towns and at 2 points along the highway, and it shall publish a description of those parts of highways that lie within any county in a newspaper, if any, in that county.

In the absence of record, plan or layout sufficient to reestablish the boundary lines, limits or location of a state highway or state aid highway, the width of a state highway or state aid highway is deemed to extend to and include the area lying outside the shoulders and ditch lines and within any landmarks or historic features such as fences, fence posts, tree rows, stone walls, corner stones or other monuments indicating the boundary line.

In the absence of record, plan or layout or any landmarks or historic features that evidence the location of the boundaries of the right-of-way, the width of a state highway or state aid highway is deemed to extend to and include the sidewalks, shoulders and ditch lines adjacent to that highway and to the top of cuts or toe of fills where they exist.

Any person aggrieved by the reestablishment of boundary lines, limits and location of a reestablished highway may file a complaint for the assessment of damages to the Superior Court in the county where the reestablished highway is located within 60 days from the filing of maps with the registry of deeds, and not thereafter, and the court shall assess the damages, if any, by jury, as long as the reestablished boundary lines, limits or location are not the same as originally established. The department shall pay from its funds all expenses incurred and the amount of final judgment and costs if damages are awarded, except that the amount of the final judgment and costs must be paid by the plaintiff if the plaintiff fails to recover any damages.

Sec. 2. 23 MRSA §2060, as amended by PL 1975, c. 711, §4, is repealed and the following enacted in its place:

§2060. Discontinuance where new state highway

1. General procedures. When the Department of Transportation has constructed a highway over substantially the same route as that of a county or town way and has recorded the plans of that highway in the registry of deeds, the county commissioners or municipal officers may, on their own motion, after notice and hearing, proceed to alter or discontinue the portion of that way not within the limits of the highway. The county commissioners or municipal officers shall give notice and proceed as provided in this chapter or chapter 304, as applicable, including serving any public utility having facilities located in that portion to be discontinued. Notice to abutters must include notice that all or a portion of the discontinued roadway may pass to the abutters unless an exception in the plans and order of discontinuance is requested. Any aggrieved person may appeal as provided in the applicable chapter. The plans prepared by the department and recorded in the registry of deeds must be referred to in describing those portions

of the county or town way to be discontinued. The department shall prepare the description of the discontinuance order upon the request of the county commissioners or municipal officers.

2. Effect and exceptions. Upon discontinuance, all interests of the county or municipality pass to the abutting property owners to the center of the way, including any public easement, in accordance with section 3026. When the Department of Transportation is an abutting owner, then the interests in the way pass to the property owner opposite the department's ownership in accordance with a plan showing the right-of-way line established for the new highway location by the department. The plan must be referenced in the order of discontinuance.

See title page for effective date.

CHAPTER 189

H.P. 67 - L.D. 80

An Act Regarding Foster Parents

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

Sec. 1. 22 MRSA §4005-C, as enacted by PL 1997, c. 715, Pt. B, §5, is amended by adding at the end a new paragraph to read:

The foster parent of a child, if any, and any pre-adoptive parent or relative providing care for the child may attend a review or hearing in its entirety under this section unless specifically excluded by decision of the presiding judge. This paragraph is repealed July 1, 2000.

Sec. 2. Report. By December 31, 1999, the Department of Human Services shall report to the Joint Standing Committee on Health and Human Services on its experience with foster parents, preadoptive parents and relatives providing care for foster children, attending the entire proceedings of reviews and hearings under the Maine Revised Statutes, Title 22, section 4005-C.

Sec. 3. Departmental discretion. After consideration of the best interests of the child and any other factors, the Department of Human Services may decide to include the foster parent of a child when a representative of the department meets with the child. By December 31, 2000, the department shall report to the joint standing committee of the Legislature having jurisdiction over health and human services matters on its experience in including and excluding foster

parents from meetings between representatives of the department and foster children.

See title page for effective date.

CHAPTER 190

H.P. 162 - L.D. 224

An Act to Prohibit the Misuse of Identification

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

Sec. 1. 14 MRSA §153-A is enacted to read:

§153-A. Defense in action based on misuse of legal identification

It is a defense to a civil action for monetary damages that the damages arose from the misuse of a form of legal identification and the use of that identification has resulted in the conviction of a person other than the defendant under Title 17-A, sections 354 and 905-A. The defense may be raised only by the person whose identification was misused.

Sec. 2. 17-A MRSA §905, as amended by PL 1979, c. 512, §31, is repealed.

Sec. 3. 17-A MRSA §905-A is enacted to read:

§905-A. Misuse of identification

1. A person is guilty of misuse of identification if, in order to obtain confidential information, property or services, the person intentionally or knowingly:

A. Presents or uses a credit or debit card that is stolen, forged, canceled or obtained as a result of fraud or deception;

B. Presents or uses an account, credit or billing number that that person is not authorized to use or that was obtained as a result of fraud or deception; or

C. Presents or uses a form of legal identification that that person is not authorized to use.

2. It is an affirmative defense to prosecution under this section that the person believed in good faith that the person was authorized to present or use the card, number or legal identification.

3. Upon proof of actual or constructive notice of cancellation, it is presumed that a person who presented a canceled credit or debit card knew it had been canceled.