

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

timber harvesting standards adopted pursuant to home rule authority.

The municipal officers shall prepare and file with the municipal clerk a written certificate indicating those landowners to whom the notice was mailed and at what addresses, when it was mailed, by whom it was mailed and from what location it was mailed. The certificate constitutes prima facie evidence that notice was sent to those landowners named in the certificate.

Any action challenging the validity of the adoption or amendment of a municipal timber harvesting ordinance based on the municipality's alleged failure to comply with the landowner notice requirement must be brought in Superior Court within 90 days after the adoption of the ordinance or amendment. The Superior Court may invalidate an ordinance or amendment only if the landowner demonstrates that the landowner was entitled to receive a notice under this section, that the municipality failed to send the notice as required, that the landowner had no knowledge of the proposed ordinance or amendment and that the landowner was materially harmed by that lack of knowledge.

D. The municipality municipal clerk shall notify the department of the time, place and date of the public hearing and provide the department with a copy of the proposed ordinance that will be reviewed at the hearing at least 30 days before the date of the hearing.

E. At the public hearing, representatives of the department must be provided an opportunity to present and discuss for the municipality's information any reports, articles, treatises or similar materials published by acknowledged experts in the field of sound forestry or silvicultural management to the extent such information is relevant to the proposed ordinance or ordinance amendment.

The proposed ordinance or ordinance amendment may be revised after the public hearing. The ordinance or amendment must be submitted to the legislative body of the municipality in accordance with the procedures the municipality uses for adopting ordinances.

F. Municipal timber harvesting ordinances may not be unreasonable, arbitrary or capricious and must employ means appropriate to the protection of public health, safety and welfare.

G. All direct costs incurred by a municipality associated with landowner notification requirements and other required public notice must be paid to the municipality in accordance with a

distribution schedule established under Title 30-A, section 5685, subsection 5. All direct costs incurred by a municipality in order to comply with this subsection for the amendment of ordinances adopted before September 1, 1990 must be paid to the municipality in accordance with a distribution schedule established under Title 30-A, section 5685, subsection 5.

~~The proposed ordinance may be revised after the public hearing. The revised ordinance or the proposed ordinance, if no changes are made following the public hearing, must be submitted to the legislative body of the municipality in accordance with the procedures the municipality uses for adopting ordinances.~~

~~The department must provide a municipality guidance on how the municipality may use sound forestry practices to achieve its timber harvesting goals.~~

Sec. 2. 12 MRSA §8869, sub-§9, as enacted by PL 1989, c. 555, §10, is repealed and the following enacted in its place:

9. Centralized listing of municipal ordinances.
The bureau shall maintain for informational purposes a statewide centralized listing of municipal ordinances that specifically apply to forest practices.

A. Within 30 days after the legislative body of the municipality votes on a timber harvesting ordinance developed according to the procedures of subsection 8, the clerk shall notify the bureau of the outcome and shall file a copy of the ordinance with the bureau.

Sec. 3. Funding. The Department of Conservation shall designate, from amounts appropriated to the Division of Forest Policy and Management, amounts sufficient to meet the requirements of the Maine Revised Statutes, Title 30-A, section 5685.

See title page for effective date.

CHAPTER 264

H.P. 1061 - L.D. 1492

An Act to Propose Changes to the Maine Election Laws

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

Sec. 1. 21-A MRSA §354, sub-§7, ¶B, as amended by PL 1995, c. 459, §26, is further amended to read:

B. Petitions must be delivered to the registrar, or clerk at the request or upon the absence of the registrar, for certification by 5 p.m. on May 25th in the election year in which the petitions are to be used, except that petitions for a slate of candidates for the office of presidential elector must be delivered for certification by 5 p.m. on August 8th in the election year in which the petitions are to be used.

Sec. 2. 21-A MRSA §354, sub-§8-A, as amended by PL 1995, c. 459, §28, is further amended to read:

8-A. Filed with the Secretary of State. A nomination petition must be filed in the office of the Secretary of State by 5 p.m. on June 1st in the election year in which it is to be used, except that petitions for a slate of candidates for the office of presidential elector must be filed in the office of the Secretary of State by 5 p.m. on August 15th in the election year in which the petitions are to be used.

See title page for effective date.

CHAPTER 265

H.P. 1215 - L.D. 1744

An Act to Allow Child-placing Agencies to License Preadoptive Homes as Foster Care Homes for a Child Placed in that Home Awaiting Adoption

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

Sec. 1. 22 MRSA §8206 is enacted to read:

§8206. Preadoptive homes as foster homes

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Foster home" means a child's home that is a private dwelling where substitute parental care is provided within a family on a regular, 24-hour-a-day, residential basis.

B. "Preadoptive parent" means a person who has entered into an agreement with a licensed private child-placing agency that has certified the person as a potential adoptive parent who will accept a child into care with the intent to adopt that child.

2. Home certification. Pursuant to rules adopted by the department, a licensed private child-placing agency may certify a preadoptive parent's

home as a foster home for a child placed in that home awaiting adoption by the preadoptive parent. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter II-A.

See title page for effective date.

CHAPTER 266

S.P. 690 - L.D. 1936

An Act to Modify the Juvenile Code with Regard to the Service of Juvenile Summonses

Mandate preamble. This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, two thirds of all of the members elected to each House have determined it necessary to enact this measure.

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

Sec. 1. 15 MRSA §3301, sub-§5, ¶B, as amended by PL 1997, c. 421, Pt. A, §2, is further amended to read:

B. Make whatever informal adjustment is practicable without a petition. The juvenile caseworker may effect whatever informal adjustment is agreed to by the juvenile and the juvenile's parents, guardian or legal custodian if the juvenile is not emancipated, including a restitution contract with the victim of the crime and the performance of community service. Informal adjustments may extend no longer than 6 months and may not be commenced unless:

(1) The juvenile caseworker determines that the juvenile and the juvenile's parents, guardian or legal custodian, if the juvenile is not emancipated, were advised of their constitutional rights, including the right to an adjudicatory hearing, the right to be represented by counsel and the right to have counsel appointed by the court if indigent;

(2) The facts establish prima facie jurisdiction, except that any admission made in connection with this informal adjustment may not be used in evidence against the juvenile if a petition based on the same facts is later filed; and