

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

at latitude 44° - 18'-18" N., longitude 68° - 18'-42" W. and running northeasterly to a point located at the Acadia National Park boundary at latitude 44° - 18'-54" N., longitude 68° - 18'-22" W. and lying southerly of a line beginning at a point located at latitude 44° - 19' 37" N., longitude 68° - 18'-52" W. and running northeasterly to a point located at latitude 44° - 19' 45", longitude 68° - 18'-23" W., except those waters of Broad Cove lying west of a line running from the point of land immediately south of the cove northerly to Navigation Can #7 and those waters lying within 500 feet of overboard discharges licensed as of January 1, 1999 - Class SA.

(3) Tidal waters of Somes Sound lying within 500 feet of overboard discharges licensed as of January 1, 1999 - Class SA.

Sec. 29. 38 MRSA §469, sub-§2, ¶F, as enacted by PL 1985, c. 698, §15, is amended to read:

F. Southwest Harbor.

(1) Tidal waters lying northerly of latitude 44° - 12'-44" -" N., southerly of latitude 44° - 14'-13" N. and westerly of longitude 68° - 18'-27" W. - Class SA.

(2) Tidal waters of Somes Sound lying northerly of a line beginning at a point located at the Acadia National Park boundary at latitude 44° - 18'-18" N., longitude 68° - 18'-42" W. and running northeasterly to a point located at the Acadia National Park boundary at latitude 44° - 18'-54" N., longitude 68° - 18'-22" W. - Class SA.

Sec. 30. 38 MRSA §469, sub-§7, ¶G, as enacted by PL 1989, c. 764, §29, is amended to read:

G. Milbridge.

(1) Tidal waters south of a line running from the Steuben - Milbridge town line along latitude 44°-27'-39" N. to the northernmost point of Currant Island; thence running ~~southeasterly~~ easterly to a point 1,000 feet from mean high tide on the ~~east shore of Bois Bubert Island~~ northernmost point of Pond Island; thence along a line running 1,000 feet from mean high tide along ~~Bois Bubert~~ the east side of Pond Island to the southernmost point of the island; thence running due south - Class SA.

Sec. 31. Contingent effective date. The Maine Revised Statutes, Title 38, section 469, subsection 2, paragraph D, subparagraph (3) takes

effect only if the Commissioner of Environmental Protection certifies as part of the relicensing process that there are practicable alternatives to the 2 existing licensed overboard discharges to those waters described in that section of statute.

Sec. 32. Findings. The Legislature finds that the reclassification of a segment of the St. George River from Class C to Class AA in 1990 was the result of a significant procedural error that occurred during the reclassification process in 1989 and 1990. This Act corrects that error, which was unique to a narrow set of circumstances surrounding an application for a permit to reconstruct a dam that was being processed simultaneously with the larger reclassification process. Specifically, the Department of Environmental Protection staff that was processing the permit application did not know about the pending reclassification to Class AA and the department staff that was developing the reclassification study for the Board of Environmental Protection was unaware that an application for a dam reconstruction on that segment of the river had been submitted. The Legislature finds that if the department staff and the Board of Environmental Protection had been aware of the application, they may have made a different reclassification recommendation to the Legislature. The Legislature further finds that the correct classification for the segment of the St. George River that extends from the outlet of Little Pond to 2,000 feet downstream is Class A.

See title page for effective date.

CHAPTER 278

H.P. 1201 - L.D. 1711

An Act to Clarify the Law Governing Disbursements from the Groundwater Oil Clean-up Fund

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

Sec. 1. 38 MRSA §568-A, sub-§1, ¶I is enacted to read:

I. An applicant is not eligible for coverage of costs recovered by settlement with or judgment against another responsible party, the responsible party's representative or the applicant's insurer. Applicants who recover costs by such a settlement or judgment shall reimburse the fund to the extent the amount recovered duplicates payments from the fund.

Sec. 2. 38 MRSA §569-A, sub-§8, ¶A, as amended by PL 1997, c. 364, §32, is further amended to read:

A. Administrative expenses, personal services and equipment costs of the department related to the administration and enforcement of this subchapter, except that total disbursements for personal services may not exceed ~~\$2,000,000~~ \$2,250,000 per fiscal year, multiplied by an annual adjustment factor of 4% beginning in fiscal year 1999;

Sec. 3. 38 MRSA §569-A, sub-§8, ¶N, as enacted by PL 1997, c. 613, §3, is amended to read:

N. Sums up to ~~\$750,000~~ \$1,250,000 annually ~~in fiscal years 1998-99 and 1999-2000 only, during the 2-year period commencing July 1, 1998 and ending June 30, 2000~~ to distribute to community action agencies as defined in Title 22, section 5321 ~~to be used~~ for loans and grants to retrofit, repair or replace aboveground and underground oil storage tanks and associated piping at single-family residences. Money may not be disbursed from the fund for the purposes of this paragraph until the department has presented a plan for such disbursements to the Fund Insurance Review Board. A community action agency shall administer the funds in accordance with program operating standards, including the allocation formula established by the Maine State Housing Authority for its weatherization program.

Sec. 4. 38 MRSA §570, first ¶, as amended by PL 1997, c. 624, §5, is further amended to read:

The intent of this subchapter is to provide the means for rapid and effective cleanup and to minimize direct and indirect damages and the proliferation of 3rd-party claims. Accordingly, each responsible party is jointly and severally liable for all disbursements made by the State pursuant to section 569-A, subsection 8, paragraphs B, D, E, H and J, or other damage incurred by the State, except for costs found by the commissioner to be eligible for coverage under the fund. The term "other damages," as used in this paragraph, includes interest computed at 15% a year from the date of expenditure, and damage for injury to, destruction of, loss of, or loss of use of natural resources and the reasonable costs of assessing natural resources damage. The commissioner shall demand reimbursement of costs and ~~payment of damages paid by the department from state or federal funds except for amounts that are not eligible for coverage by the fund to be recovered~~ under this section and payment subchapter. Payment must be made promptly by the responsible party or parties upon whom the demand is made. If payment is not received by the State within 30 days of the demand, the Attorney General may file suit in the Superior Court and, in addition to relief provided by other law, may seek punitive damages as provided in section 568. Notwithstanding the time limits stated in this paragraph, neither a demand nor

other recovery efforts against one responsible party may relieve any other responsible party of liability.

Sec. 5. 38 MRSA §570, first ¶, as amended by PL 1997, c. 624, §6, is further amended to read:

The intent of this subchapter is to provide the means for rapid and effective cleanup and to minimize direct and indirect damages and the proliferation of 3rd-party claims. Accordingly, each responsible party is jointly and severally liable for all disbursements made by the State pursuant to section 569-B, subsection 5, paragraphs B, D, E and G or other damage incurred by the State, including interest computed at 15% a year from the date of expenditure, and damage for injury to, destruction of, loss of or loss of use of natural resources and the reasonable costs of assessing natural resources damage. The commissioner shall demand reimbursement of costs and payment of damages paid by the department from state or federal funds to be recovered under this section and payment must be made promptly by the responsible party or parties upon whom the demand is made. If payment is not received by the State within 30 days of the demand, the Attorney General may file suit in the Superior Court and, in addition to relief provided by other law, may seek punitive damages as provided in section 568. Notwithstanding the time limits stated in this paragraph, neither a demand nor other recovery efforts against one responsible party may relieve any other responsible party of liability.

See title page for effective date.

CHAPTER 279

H.P. 1182 - L.D. 1693

An Act to Clarify the Regulation of Viatical Settlement Contracts When Sold as Investments

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

Whereas, viatical settlement contracts are currently being sold as investments in this State; and

Whereas, the regulation of viatical settlement contracts as securities under the Revised Maine Securities Act needs clarification for the protection of Maine consumers and their investments; 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,