

# 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.**

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**J.S. McCarthy Company**  
**Augusta, Maine**  
**1999**

**6. Fund.** There is established the Renewable Resource Fund, referred to in this subsection as the "fund." The fund is a nonlapsing fund administered by the State Planning Office. All funds collected by the commission pursuant to subsection 5 must be deposited in the fund for distribution by the State Planning Office in accordance with subsection 5. The State Planning Office may seek and accept funding for the program established pursuant to subsection 5 from other sources, public or private. Any funds accepted for use in the program established pursuant to subsection 5 must be deposited in the fund.

**Sec. 3. Allocation.** The following funds are allocated from Other Special Revenue funds to carry out the purposes of this Act.

	1999-00	2000-01
<b>EXECUTIVE DEPARTMENT</b>		
<b>Renewable Resource Fund</b>		
All Other	\$500	\$500
Provides a base allocation for the Renewable Resource Fund, administered by the State Planning Office, to authorize expenditures in the event that voluntary contributions are deposited in the fund.		

See title page for effective date.

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**CHAPTER 373**

**H.P. 1092 - L.D. 1539**

**An Act to Require More Timely Court-ordered Psychological Evaluations**

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

**Sec. 1. 15 MRSA §101-B, sub-§1,** as amended by PL 1989, c. 621, §1, is further amended to read:

**1. Court order; permissive.** The District Court or the Superior Court having jurisdiction in any criminal case for cause shown may order the defendant examined to determine the defendant's mental condition with reference to the issues of competency, criminal responsibility, abnormal condition of mind and any other issue involving the mental or emotional condition of the defendant. The examination may be conducted by the State Forensic Service or by a psychiatrist or licensed clinical psychologist inde-

pendent of the State Forensic Service. If additional examinations are ordered, the court shall ensure that at least one examination is conducted by the State Forensic Service. The court in selecting an independent practitioner and the site of any examination shall consider proximity to the court, availability of an examiner or examiners and the necessity for security precautions. ~~No~~ A person may not be presented for examination under this subsection without arrangements for that examination with the State Forensic Service or the independent practitioner being first made by the court, clerk of courts or sheriff. If the defendant is incarcerated, the examination is to be completed within ~~90~~ 45 days from the date of arrest. The State Forensic Service shall notify the court upon the completion of the examination. The opinion of the examiner or examiners relative to the competence, criminal responsibility, abnormal condition of mind or any other mental or emotional condition of the respondent must be reported without delay to the court following examination, together with copies to counsel for the respondent and counsel for the State.

See title page for effective date.

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**CHAPTER 374**

**H.P. 1407 - L.D. 2012**

**An Act to More Accurately Describe the Criminal Conduct Committed When a Person Grows or Cultivates Marijuana**

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

**Sec. 1. 17-A MRSA §1101, sub-§17,** as amended by PL 1997, c. 481, §1, is further amended to read:

**17. "Traffick-";**

- A. To make, create, manufacture;
- B. To grow or cultivate, except for marijuana;
- C. To sell, barter, trade, exchange or otherwise furnish for consideration; or
- D. To possess with the intent to do any act mentioned in paragraph C.

**Sec. 2. 17-A MRSA §1103, sub-§2, ¶A,** as amended by PL 1989, c. 850, §2, is further amended to read:

- A. A Class B crime if the drug is a schedule W drug; or if it is marijuana in a quantity of 20

pounds or more ~~or if it is marijuana and the person grows or cultivates 500 or more plants;~~

**Sec. 3. 17-A MRSA §1103, sub-§2, ¶B**, as amended by PL 1997, c. 481, §2, is further amended to read:

B. A Class C crime if the drug is a schedule X drug; or if it is marijuana in a quantity of more than one pound ~~or if it is marijuana and the person grows or cultivates 100 or more plants;~~ or

**Sec. 4. 17-A MRSA §1105**, as amended by PL 1995, c. 635, §§3 and 4, is further amended to read:

**§1105. Aggravated trafficking, furnishing or cultivation of scheduled drugs**

1. A person is guilty of aggravated trafficking ~~or~~ furnishing or cultivating of scheduled drugs if:

A. In violation of section 1103, 1104 or 1106, the person trafficks with or furnishes to a child, in fact, under 18 years of age a scheduled drug;

B. The person violates section 1103, 1104 ~~or~~ 1106 or 1117, and, at the time of the offense, the person has been convicted of any offense under this chapter punishable by a term of imprisonment of more than one year, or under any law of the United States, of another state or of a foreign country relating to scheduled drugs, as defined in this chapter, and punishable by a term of imprisonment of more than one year. For purposes of this paragraph, a person has been convicted of an offense on the date the judgment of conviction was entered by the court;

C. A person violates section 1103, 1104 ~~or~~ 1106 or 1117, and, at the time of the offense, the person uses, carries, possesses or is armed with a firearm;

D. A person violates section 1103 or 1106, and, at the time of the offense, the person trafficks in or furnishes cocaine in a quantity of 112 grams or more or cocaine in the form of cocaine base in a quantity of 32 grams or more;

E. A person violates section 1103, and, at the time of the offense, the person is on a school bus or on or within 1,000 feet of the real property comprising a private or public elementary or secondary school. For purposes of this paragraph, "school bus" has the same meaning as set forth in Title 29-A, section 2301, subsection 5; ~~or~~

F. A person violates section 1103 or 1117, and, at the time of the offense, the person enlists or solicits the aid of or conspires with a child who

is, in fact, under 18 years of age, to traffick in ~~or~~ furnish or cultivate any scheduled drug; or

G. A person violates section 1117 and, at the time of the offense, the person is within 1,000 feet of the real property comprising a private or public elementary or secondary school.

2. Aggravated trafficking ~~or~~ furnishing or cultivation of scheduled drugs is a crime one class more serious than such trafficking ~~or~~ furnishing or cultivation would otherwise be.

3. If a person uses a motor vehicle to facilitate the aggravated trafficking ~~or~~ furnishing or cultivation of a scheduled drug, the court may, in addition to other authorized penalties, suspend the person's driver's license, permit, privilege to operate a motor vehicle or right to apply for or obtain a license for a period not to exceed 5 years. A suspension may not begin until after any period of incarceration is served. If the court suspends a person's driver's license, permit, privilege to operate a motor vehicle or right to apply for or obtain a license, the court shall notify the Secretary of State of the suspension and the court shall take physical custody of the person's license. The Secretary of State may not reinstate the person's driver's license, permit, privilege to operate a motor vehicle or right to apply for or obtain a license unless the person demonstrates that, after having been released and discharged from any period of incarceration that may have been ordered, the person has served the period of suspension ordered by the court.

**Sec. 5. 17-A MRSA §1117** is enacted to read:

**§1117. Marijuana cultivation**

1. A person is guilty of marijuana cultivation if the person intentionally or knowingly grows or cultivates marijuana.

2. Violation of this section is:

A. A Class B crime if the person grows or cultivates 500 or more marijuana plants;

B. A Class C crime if the person grows or cultivates 100 or more but fewer than 500 marijuana plants;

C. A Class D crime if the person grows or cultivates more than 5 and fewer than 100 marijuana plants; or

D. A Class E crime if the person grows or cultivates 5 or fewer marijuana plants.

**Sec. 6. 17-A MRSA §1252, sub-§5-A, ¶A**, as enacted by PL 1987, c. 535, §7, is amended to read:

A. Except as otherwise provided in paragraphs B and C, the minimum sentence of imprisonment, which ~~shall may~~ not be suspended, ~~shall be~~ is as follows: When the sentencing class is Class A, the minimum term of imprisonment ~~shall be~~ is 4 years; when the sentencing class is Class B, the minimum term of imprisonment ~~shall be~~ is 2 years; and, with the exception of trafficking ~~or~~, furnishing or cultivation of marijuana under section 1105, when the sentencing class is Class C, the minimum term of imprisonment ~~shall be~~ is one year;

See title page for effective date.

**CHAPTER 375**

**S.P. 641 - L.D. 1823**

**An Act to Increase Accessibility to the Department of Environmental Protection Clean-up Funds for Businesses**

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

**Whereas**, the construction season in Maine is very short; and

**Whereas**, wastewater discharges from commercial establishments that are not in compliance with environmental protection laws create a public health concern; and

**Whereas**, grant money from the State has not been expended to support commercial establishments' efforts to come into compliance with the environmental protection laws because eligibility requirements for this grant money are too stringent; 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

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

**Sec. 1. 38 MRSA §411, first ¶**, as repealed and replaced by PL 1995, c. 186, §1, is amended to read:

The commissioner may pay an amount not to exceed 80% of the expense of a municipal or quasi-municipal pollution abatement construction program or a pollution abatement construction program in an

unorganized township or plantation authorized by the county commissioners. The commissioner may make payments to the Maine Municipal Bond Bank to supply the State's share of the revolving loan fund established by Title 30-A, section 6006-A. The commissioner may pay up to 90% of the expense of a municipal or quasi-municipal pollution abatement construction program or a pollution abatement construction program in an unorganized township or plantation authorized by the county commissioners in which the construction cost of the project does not exceed \$100,000 as long as total expenditures for the small projects do not exceed \$1,000,000 in any fiscal year and not more than one grant is made to any applicant each year, except that the commissioner may pay a percentage of the cost of individual projects serving single-family dwellings, seasonal dwellings or commercial establishments according to the following schedule:

ANNUAL INCOME	SINGLE-FAMILY DWELLING	SEASONAL DWELLING	COMMERCIAL ESTABLISHMENT
\$0 to \$5,000	100%	25%	50%
\$5,001 to \$20,000	90%	25%	50%
\$20,001 to \$30,000	50%	25%	50%
\$30,001 to \$40,000	25%	25%	25%
\$40,001 or more	0%	0%	0%

GROSS PROFIT	COMMERCIAL ESTABLISHMENT
\$0 to \$50,000	50%
\$50,001 to \$100,000	25%
\$100,001 or more	0%

**Sec. 2. 38 MRSA §411, 2nd ¶**, as enacted by PL 1995, c. 186, §2, is amended to read:

For the purposes of this section, "annual income" means the sum of all the property owner's federal taxable income for the previous year for single-family or seasonal dwellings and ~~gross profit for commercial establishments~~ "gross profit" means the sum of all the commercial establishment owner's gross profits for the previous year as listed on the relevant federal income tax returns.

**Sec. 3. Grants for commercial establishments.** A municipality may apply in 1999 for a grant for a pollution abatement construction project undertaken in 1999 and serving a commercial establishment.

If the project is eligible under the Maine Revised Statutes, Title 38, section 411, the Commissioner of Environmental Protection may reimburse the applicant when funds become available for the construction of