

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals
(may include minor formatting differences from printed original)

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

~~sioner of Human Services, the Commissioner of Mental Health, Mental Retardation and Substance Abuse Services, the Commissioner of Education, the Commissioner of Corrections or the Commissioner of Public Safety serve during the nominating commissioner's term of office; and Legislators serve during the term for which they were elected. The Governor shall designate a chair and vice chair to serve at the pleasure of the Governor. The membership shall annually elect a chair and vice-chair. The chair is the presiding member of the committee. All vacancies must be filled for the balance of the unexpired term in the same manner as original appointments. The members of the committee are entitled to compensation in accordance with chapter 379.~~

Sec. 6. 5 MRSA §19202, sub-§3-A is enacted to read:

3-A. Compensation. ~~The members of the committee are entitled to compensation in accordance with chapter 379. All members are entitled to reimbursement for expenses.~~

Sec. 7. 5 MRSA §19202, sub-§4, as enacted by PL 1993, c. 384, §2, is amended to read:

4. Meetings. The committee shall meet at least 4 times a year and more frequently if needed to respond to the duties of this committee as specified in subsection ~~1-A~~. Special meetings may be called by the chair and must be called at the request of the State Epidemiologist, the Director of the Bureau of Health, the Director of Disease Control, the Director of Sexually Transmitted Diseases or by 3 or more members of the committee.

Sec. 8. 5 MRSA §19202, sub-§5, as enacted by PL 1993, c. 384, §2, is repealed.

Sec. 9. Transition provision. The Maine HIV Advisory Committee in existence prior to October 1, 1999 shall perform the functions of the membership committee provided in the Maine Revised Statutes, Title 5, section 19202, subsection 2-A in order for the first committee with new membership structure to be formed on or after October 1, 1999.

Sec. 10. Effective date; retroactivity. This Act takes effect October 1, 1999, except for section 9, which is retroactive to September 1, 1999.

Effective October 1, 1999, unless otherwise indicated.

CHAPTER 391

H.P. 371 - L.D. 496

An Act to Exempt Certain Trusts from the Rule Against Perpetuities

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

Sec. 1. 33 MRSA §101-A is enacted to read:

§101-A. Trusts exempt from rule against perpetuities

The rule against perpetuities does not apply to a trust created after the effective date of this section if:

1. Declaration in instrument. The instrument creating the trust states that the rule against perpetuities does not apply to the trust; and

2. Power to sell, lease or mortgage. The trustee or other person to whom the power is properly granted or delegated has the power under the governing instrument, applicable statute or common law to sell or mortgage property or to lease property for any period of time beyond the period that is required for an interest created under the governing instrument to vest in order to be valid under the rule against perpetuities.

See title page for effective date.

CHAPTER 392

H.P. 392 - L.D. 523

An Act to Implement Recommendations of the Maine Indian Tribal-State Commission Relating to Child Welfare Services for Indian Children

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

Sec. 1. 22 MRSA §4062, sub-§1, as amended by PL 1985, c. 521, is further amended to read:

1. Payments by department. The department shall provide payments to facilities caring for children to meet the costs of clothing, board and care, within the limits of available funds. The department may establish, by rule, different categories of facilities, levels of need and care and flat-rate or reimbursement methods to distribute these funds. The department may provide child care and travel expense payments to foster and adoptive parents and trainers participat-

ing in foster and adoptive parent training programs and volunteers participating in the administrative case review program.

Notwithstanding section 4061, subsection 3, any federally recognized Indian tribe in this State or any Indian foster family home is eligible for benefits and reimbursement under any state or federally funded program administered by the State for the benefit of Maine children, including, but not limited to, children within the jurisdiction of the Passamaquoddy Tribe or Penobscot Indian Nation under the Indian Child Welfare Act, 25 United States Code, Section 1901, et seq.

Sec. 2. 22 MRSA §7801, sub-§1, as amended by PL 1995, c. 670, Pt. B, §5 and affected by Pt. D, §5, is further amended to read:

1. License required. Except as provided in subsection 3 or section 7805, ~~no~~ a person, firm, corporation or association may not operate any of the following without having, subject to this subtitle ~~Subtitle~~ and to the rules promulgated adopted by the department under this subtitle ~~Subtitle~~, a written license ~~therefor~~ from the department:

A. A residential care facility;

A-1. In accordance with subparagraphs (1) and (2), a congregate housing services program either directly or by contract providing to its residents any of the following services: personal care assistance, the administration of medication or nursing services.

(1) A congregate housing services program may directly provide to its residents meals, housekeeping and chore assistance, case management and personal care assistance delivered on the site of congregate housing without obtaining a separate license to do so.

(2) A congregate housing services program licensee may hold at any one time only one license under section 7901-B, subsection 2. A qualified congregate housing services program may obtain a license for a different category under section 7901-B, subsection 2, upon application and surrender of the previous license;

B. A drug treatment center;

C. A children's home;

D. A child placing agency;

E. A day care facility;

F. A nursery school; or

G. An adult day care program.

Sec. 3. 22 MRSA §7805, as enacted by PL 1975, c. 719, §6, is repealed and the following enacted in its place:

§7805. Tribally licensed facilities

With respect to the placement care and funding of care of any Indian child as defined in the Indian Child Welfare Act, 25 United States Code, Section 1901, et seq., this Subtitle does not apply to any Indian foster family home, adoptive home or other facility licensed by a federally recognized Indian tribe in this State pursuant to that Act.

Sec. 4. 22 MRSA §8101, sub-§3, as amended by PL 1987, c. 778, §2, is further amended to read:

3. Family foster home. "Family foster home" means a children's home, other than an Indian foster family home, that is a private dwelling where substitute parental care is provided within a family on a regular, 24-hour a day, residential basis. The total number of children in care may not exceed 6, including the family's legal children under 16 years of age, with no more than 2 of these children under the age of 2. Family foster homes licensed by the Department of Human Services or relatives' homes approved by the Department of Human Services as meeting licensing standards are eligible for insurance pursuant to Title 5, section 1728-A. In any action for damages against a family foster home provider insured pursuant to Title 5, section 1728-A, for damages covered under that policy, the claim for and award of those damages, including costs and interest, ~~shall may~~ not exceed \$300,000 for any and all claims arising out of a single occurrence. When the amount awarded to or settled for multiple claimants exceeds the limit imposed by this section, any party may apply to the Superior Court for the county in which the governmental entity is located to allocate to each claimant that claimant's equitable share of the total, limited as required by this section. Any award by the court in excess of the maximum liability limit ~~shall must~~ be automatically abated by operation of this section to the maximum limit of liability. Nothing in this subsection may be deemed to make the operation of a family foster home a state activity nor may it expand in any way the liability of the State or foster parent.

Sec. 5. 22 MRSA §8101, sub-§3-A is enacted to read:

3-A. Indian foster family home. "Indian foster family home" means a foster home licensed, approved or specified by the Indian child's tribe where substitute parental care is provided for an Indian child as defined

in the Indian Child Welfare Act, 25 United States Code, Section 1901, et seq.

See title page for effective date.

CHAPTER 393

S.P. 307 - L.D. 909

An Act to Amend the Laws Governing the Land Application of Municipal Wastewater Treatment Plant Sludge

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

Sec. 1. 38 MRSA §1303-C, sub-§28-A is enacted to read:

28-A. Sludge. "Sludge" means nonhazardous solid, semisolid or liquid waste generated from a municipal, commercial or industrial wastewater treatment plant, water supply treatment plant or wet process air pollution control facility or any other waste having similar characteristics and effect. The term does not include industrial discharges that are point sources subject to permits under the federal Clean Water Act, 33 United States Code, Section 1342 (1999).

Sec. 2. 38 MRSA §1304, sub-§1-C is enacted to read:

1-C. Rules; agronomic utilization of sludge. Rules adopted by the board relating to the agronomic utilization of sludge are major substantive rules as defined in Title 5, chapter 375, subchapter II-A. This subsection takes effect January 1, 2000.

Sec. 3. 38 MRSA §1305, sub-§9, as enacted by PL 1997, c. 38, §3, is repealed and the following enacted in its place:

9. Coordination between municipality and department. Coordination between the department and a municipality concerning applications and modifications in the terms or conditions of a permit or license for a sludge land application site or storage facility is governed by this subsection.

A. Within 14 working days of its receipt of a complete application for a sludge land application site or storage facility, the department shall notify the municipal officers or their designees from the municipality in which the site or facility would be located of the application and the name and address of the applicant. The department shall provide the municipal officers with copies of all test results performed on the sludge mate-

rial that is proposed to be spread in that municipality. Prior to approving an application for a sludge land application site or storage facility, the department shall consult with the municipal officers or their designees in the municipality in which the site or facility is proposed and provide them with an opportunity to suggest conditions, including additional setbacks, to be imposed on a permit or license. If the department does not impose conditions on a permit or license that have been suggested in writing by the municipal officers, the department shall provide a written explanation to the municipal officers.

B. The department shall consult with the municipal officers within 10 days of receiving a request by the sludge generator to change the terms or conditions of a permit or license. The municipality may petition the commissioner to review a generating facility's testing protocol for sludge. The commissioner shall respond to the municipality in writing within 10 days of the municipality's petition. The commissioner may order the applicant to conduct an additional test at the applicant's cost. A copy of the additional test results must be provided to the municipal officers.

Sec. 4. 38 MRSA §1305, last ¶, as enacted by PL 1997, c. 38, §4, is repealed.

Sec. 5. 38 MRSA §1310-N, sub-§2-G is enacted to read:

2-G. Setback requirement for land application and off-site storage of sludge. The department may not issue a license for a sludge land application site that is within 75 feet of a river, perennial stream or great pond. The department may not issue a license for a sludge storage site or storage facility off the site of generation that is within 250 feet of a river, perennial stream or great pond. Upon the written request to the department of a person who owns property that abuts a sludge land application site or storage facility, the department shall restrict the sludge application or sludge storage site to no less than 50 feet from that abutting property boundary. The board may establish other setbacks by rule.

See title page for effective date.

CHAPTER 394

H.P. 749 - L.D. 1039

An Act to Allow Horse Racing Commencing at Noon on Sundays

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