

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

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NON-EMERGENCY LAWS IS
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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

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Sec. 3. 38 MRSA §1305, sub-§9, as enacted by PL 1997, c. 38, §3, is repealed and the following enacted in its place: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

Sec. 1. 8 MRSA §268, first ¶, as amended by PL 1993, c. 95, §1, is further amended to read:

The commission shall adopt rules for holding, conducting and operating all harness horse races or meets for public exhibition held in this State and for the operation of racetracks on which any such race or meet is held; notwithstanding any other provision of law, harness horse races or meets licensed to be held on Sunday may not commence until the hour of 1 p.m. at, but not before, noon.

See title page for effective date.

CHAPTER 395

H.P. 964 - L.D. 1362

An Act to Allow the State to Initiate Default Proceedings in Order to Obtain Forfeited Assets When the Defendant Fails to Appear in a Court Proceeding

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

Sec. 1. 15 MRSA §5826, sub-§7 is enacted to read:

7. Default proceedings. Upon motion of the State, the court having jurisdiction over a criminal forfeiture matter may declare a default judgment of forfeiture if the court finds as follows:

A. By clear and convincing evidence that:

- (1) There was probable cause to support the seizure of the property at the time of its seizure;
- (2) The interested party has knowledge of the seizure of the property or the property was seized under circumstances in which a reasonable person would have knowledge of the seizure of that person's property; and
- (3) The interested party has failed to appear for any court appearance in accordance with Title 17-A, chapter 45 for a violation that forms the basis of the forfeiture, and that a warrant of arrest for the interested party for such failure to appear has been outstanding for 6 months or more; and

B. By a preponderance of the evidence that the State is entitled to a judgment of forfeiture pursuant to chapter 517.

The State may meet its burden under paragraphs A and B by presentation of testimony or affidavit.

The interested party has 30 days from the date of the declaration of default judgment of forfeiture to appear before the court in person, submit to its jurisdiction on the companion criminal charge and to petition the court to remove the default judgment.

Post-default proceedings are governed by section 5825.

See title page for effective date.

CHAPTER 396

H.P. 617 - L.D. 857

An Act to Increase Access to Primary Health Care Services

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

Sec. 1. 24 MRSA §2332-J is enacted to read:

§2332-J. Coverage for services of certified nurse practitioners; certified nurse midwives

1. Required coverage for services upon referral of primary care provider. A nonprofit hospital or a medical service organization that issues individual and group health care contracts shall provide coverage under those contracts for services performed by a certified nurse practitioner or certified nurse midwife to a patient who is referred to the certified nurse practitioner or certified nurse midwife by a primary care provider when those services are within the lawful scope of practice of the certified nurse practitioner or certified nurse midwife.

2. Required coverage for self-referred services. With respect to individual and group health care contracts that do not require the selection of a primary care provider, a nonprofit hospital or medical service organization shall provide coverage under those contracts for services performed by a certified nurse practitioner or certified nurse midwife when those services are covered services and when they are within the lawful scope of practice of the certified nurse practitioner or certified nurse midwife.

3. Limits; coinsurance; deductibles. Any contract that provides coverage for services under this section may contain provisions for maximum benefits and coinsurance and reasonable limitations, deductibles and exclusions to the extent that these provisions are not inconsistent with the requirements of this section.

Sec. 2. 24-A MRSA §2756 is enacted to read: