

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND NINETEENTH LEGISLATURE

SECOND REGULAR SESSION
January 5, 2000 to May 12, 2000

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SECOND REGULAR SESSION
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
2000

4. Modification. An award of spousal support is subject to modification when it appears that justice requires unless and to the extent the order awarding or modifying spousal support expressly states that the award, in whole or in part, is not subject to future modification.

5. Factors. The court shall consider the following factors when determining an award of spousal support:

- A. The length of the marriage;
- B. The ability of each party to pay;
- C. The age of each party;
- D. The employment history and employment potential of each party;
- E. The income history and income potential of each party;
- F. The education and training of each party;
- G. The provisions for retirement and health insurance benefits of each party;
- H. The tax consequences of the division of marital property, including the tax consequences of the sale of the marital home, if applicable;
- I. The health and disabilities of each party;
- J. The tax consequences of a spousal support award;
- K. The contributions of either party as homemaker;
- L. The contributions of either party to the education or earning potential of the other party;
- M. Economic misconduct by either party resulting in the diminution of marital property or income;
- N. The standard of living of the parties during the marriage;
- O. The ability of the party seeking support to become self-supporting within a reasonable period of time;
- P. The effect of the following on a party's need for spousal support or a party's ability to pay spousal support:

(1) Actual or potential income from marital or nonmarital property awarded or set apart to each party as part of the court's distributive order pursuant to section 953; and

(2) Child support for the support of a minor child or children of the marriage pursuant to chapter 63; and

Q. Any other factors the court considers appropriate.

6. Enforcement. The court may use all necessary legal provisions to enforce its decrees.

7. Real estate and other property; life insurance and other security. The court may order part of the obligated party's real estate or other property, as well as the rents, profits or income from real estate or other property, to be assigned and set out to the other party for life or for such other period determined to be just. The court may also order the obligated party to maintain life insurance or to otherwise provide security for the payment of spousal support in the event the obligation may survive the obligated party's death.

8. Cessation upon death of payee or payor. An order awarding, denying or modifying spousal support may provide that the award survives the death of the payee or payor, or both. Unless otherwise stated in the order awarding spousal support, the obligation to make any payment pursuant to this section ceases upon the death of either the payee or the payor with respect to any payment not yet due and owing as of the date of death.

9. Effect of no award or termination of spousal support. A final judgment that does not award spousal support forever precludes such an award in that action. The complete termination of a spousal support award pursuant to the terms of the award or a final post-judgment order forever precludes the reinstatement of spousal support in that action.

10. Application. This section applies to:

A. Orders granting or denying spousal support entered on or after September 1, 2000; and

B. The modification, termination and enforcement of orders granting spousal support entered on or after September 1, 2000.

See title page for effective date.

CHAPTER 635

S.P. 927 - L.D. 2377

An Act to Prevent Contamination from Home Heating Oil Tanks

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

Sec. 1. 38 MRSA §569-A, sub-§8, ¶M, as enacted by PL 1997, c. 613, §3, is amended to read:

M. Sums up to \$250,000 annually in fiscal years 1998-99 and 1999-2000 ~~only and up to \$500,000 annually thereafter~~, to retrofit, repair or replace aboveground oil storage tanks or facilities when the commissioner determines that action necessary to abate an imminent threat to a groundwater restoration project, a public water supply or a sensitive geologic area, including coastal islands and peninsulas. Money available under this paragraph may be disbursed by the department to pay reasonable costs actually incurred by municipalities in assisting the department in taking actions under this paragraph. Money available under this paragraph may also be used by the department to fund educational efforts that encourage the retrofit, repair or replacement of aboveground oil storage tanks or facilities. 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;—and, Money may not be disbursed from the fund under this paragraph.

(1) After fiscal year 1999-2000 until the department has adopted a written policy establishing:

(a) Criteria for determining those instances when funds should be disbursed under this paragraph, including criteria for determining what constitutes a sensitive geologic area;

(b) Guidelines that ensure that money disbursed from the fund under this paragraph will be used in the most cost-effective manner, considering the likelihood of actual contamination of water supplies absent action taken pursuant to this paragraph, the costs of remediation of such contamination and the possibility that the owner of an aboveground oil storage tank or facility would retrofit, repair or replace the tank at the owner's own expense; and

(c) Guidelines for payments to municipalities for reasonable administrative costs actually incurred by municipalities in assisting the department in taking actions under this paragraph; and

(2) After February 2, 2003 until the department has adopted a written policy that:

(a) Establishes a means test for eligibility for disbursements from the fund;

(b) Establishes a deductible that is adjusted according to the financial means of the person receiving a disbursement; and

(c) Limits eligibility to residents of this State.

Prior to adopting any written policy pursuant to subparagraph (1) or (2), the department shall present for comment a draft policy to the Fund Insurance Review Board. The Fund Insurance Review Board shall provide to the department written comments on the draft policy; and

Sec. 2. 38 MRSA §569-A, sub-§8, ¶N, as amended by PL 1999, c. 278, §3, is further amended to read:

N. Sums up to \$1,250,000 annually during the 2-year period commencing July 1, 1998 and ending June 30, 2000 and up to \$2,000,000 annually thereafter to distribute to community action agencies as defined in Title 22, section 5321 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. Sums available under this paragraph may be disbursed by the department to pay reasonable costs actually incurred by a community action agency in providing services pursuant to this paragraph. Money may not be disbursed from the fund under this paragraph after June 30, 2000 until the department has adopted a written policy establishing guidelines for payments to community action agencies for reasonable administrative costs actually incurred by community action agencies in providing services pursuant to this paragraph. Prior to adopting any written policy pursuant to this paragraph, the department shall present for comment a draft policy to the Fund Insurance Review Board. The Fund Insurance Review Board shall provide to the department written comments on the draft policy.

Sec. 3. Report. The Department of Environmental Protection shall report to the joint standing committee of the Legislature having jurisdiction over

natural resources matters by January 1, 2002 on the following:

1. Educational efforts undertaken pursuant to the Maine Revised Statutes, Title 38, section 569-A, subsection 8, paragraph M;

2. The department's evaluation of the appropriateness of Title 38, section 569-A, subsection 8, paragraph M, subparagraph (2) and how the use of a means test may impact the overall cost effectiveness of retrofitting, repairing or replacing aboveground oil storage tanks or facilities pursuant to paragraph M; and

3. The department's evaluation of the cost effectiveness of establishing a loan or loan guarantee program to assist persons in retrofitting, repairing or replacing home oil storage tanks and associated piping.

See title page for effective date.

CHAPTER 636

S.P. 936 - L.D. 2386

An Act to Allow Deer Hunting with Local Approval in Certain Areas Previously Permanently Closed to Deer Hunting

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

Sec. 1. 12 MRSA §7035, sub-§3, as amended by PL 1985, c. 408, §2, is further amended to read:

3. Destruction of wildlife. Whenever ~~he deems~~ the commissioner determines it necessary for the accomplishment of ~~his the commissioner's~~ the commissioner's statutory duties, the commissioner may, ~~in conjunction with such persons as he may designate~~ issue permits authorizing persons to assist him, take and destroy the commissioner in the taking and destruction of any wildlife. Pursuant to section 7013, subsection 7-A, the commissioner shall maintain a coyote control program as follows.

A. The commissioner may employ qualified persons to serve as agents of the department for purposes of coyote control. These agents ~~shall~~ must be trained by the department in animal damage control techniques and ~~shall~~ must be utilized by the department to perform coyote control duties in areas where predation by coyotes is posing a threat to deer or other wildlife. Each agent shall execute a cooperative agreement with the department specifying the conditions and limita-

tions of ~~his the agent's~~ the agent's responsibilities as an agent, including any terms for reimbursement of expenses or payment of wages.

B. Agents ~~shall~~ must be trained in the use of snares and ~~shall~~ must be deployed in the unorganized townships to control coyotes during the winter months. All snaring ~~shall~~ must be carried out under the direction of department officials and with the knowledge of the local game warden. All areas of snaring activity ~~shall~~ must be adequately posted.

C. Agents may be utilized for the benefit of agricultural interests provided that the department ~~shall be~~ is reimbursed annually for the cost of those efforts by the Department of Agriculture, Food and Rural Resources from funds specifically appropriated or otherwise made available to the Department of Agriculture, Food and Rural Resources for that purpose.

Sec. 2. 12 MRSA §7457, sub-§1, ¶D, as amended by PL 1995, c. 455, §30, is further amended to read:

D. ~~There~~ Except as provided by rule pursuant to paragraph D-1, there is a continual closed season on deer in the following places:

- (1) Mount Desert Island;
- (2) Cross Island in Washington County;
- (3) Scotch Island in Washington County;
- (4) The Town of Isle au Haut and the islands within the confines of the Town of Isle au Haut in Knox County;
- ~~(5) Wildlife sanctuaries that have been established by law, except as provided in section 7653;~~
- (6) All of Swan Island in the Town of Swan's Island in Hancock County;
- (7) The Town of Islesboro in Waldo County, except that a person may hunt deer in that town with bow and arrow from the first day of the special archery season on deer, established in accordance with section 7102-A, subsection 6, paragraph C, to the end of the regular firearm season on deer of each calendar year in Waldo County;
- (8) The whole of Cranberry Isles in Hancock County, except that a person may hunt deer in the Cranberry Isles with a shotgun or archery equipment in accordance with applicable laws and rules; and