

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND TWENTIETH LEGISLATURE
FIRST REGULAR SESSION
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TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Company
Augusta, Maine
2001

CHAPTER 353

H.P. 1351 - L.D. 1808

**An Act Regarding the Laws
Governing the Department of
Defense, Veterans and Emergency
Management and the Commission to
Recognize Veterans of the Vietnam
War in the State House Hall of Flags**

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

Sec. 1. 37-B MRSA §155, as enacted by PL 1997, c. 455, §15, is amended to read:

§155. Reimbursement fund

The Maine National Guard may provide services in accordance with section 181-A, subsections 4 and 5 and section 183 for federal, state, county, regional and municipal governments and agencies and nongovernmental entities and may charge for those services. The fees collected must first be allocated for funding the cost of providing those services, and any remaining fees may be expended only within the Military Bureau.

Sec. 2. 37-B MRSA §264, sub-§3, ¶¶F and G, as enacted by PL 1997, c. 783, §1, are amended to read:

F. The Millinocket Armory; ~~and~~

G. A 6 1/2-acre parcel of land located on the northeasterly side of U.S. Route One across from the Belfast Armory and part of the parcel of land described in the Waldo County Registry of Deeds, Book 411, Page 446-; ~~and~~

Sec. 3. 37-B MRSA §264, sub-§3, ¶H is enacted to read:

H. The Caribou Armory, located at 55 Bennett Drive, Caribou, but not including the organizational maintenance shop, known as OMS5, nor the metal storage building.

Sec. 4. 37-B MRSA §742, sub-§1, as amended by PL 1987, c. 810, §6, is further amended to read:

1. Emergency proclamation. ~~Disaster Emergency~~ proclamations ~~shall~~ must be issued as follows.

A. Whenever a disaster or civil emergency exists or appears imminent, the Governor shall, by oral proclamation, declare a state of emergency in the State or any section of the State. If the Governor is temporarily absent from the State or is otherwise unavailable, the next person in the State

who would act as Governor if the office of the Governor were vacant may, by oral proclamation, declare the fact that a civil emergency exists or appears sufficiently imminent to activate emergency ~~preparedness~~ plans in any or all areas of the State. A written copy of the proclamation ~~shall~~ must be filed with the Secretary of State within 24 hours of the oral proclamation.

B. Subject at all times to the further direction and order of the Governor, an executive proclamation of emergency ~~shall activate~~ activates the emergency ~~preparedness~~ plans applicable to the affected areas and ~~shall be~~ is the authority for the deployment and use of any forces or resources to which the plan or plans apply.

C. After the filing of the emergency proclamation and in addition to any other powers conferred by law, the Governor may:

(1) Suspend the enforcement of any statute prescribing the procedures for conduct of state business, or the orders or rules of any state agency, if strict compliance with the provisions of the statute, order or rule would in any way prevent, hinder or delay necessary action in coping with the emergency;

(2) Utilize all available resources of the State Government and of each political subdivision of the State as reasonably necessary to cope with the disaster emergency;

(3) Transfer the direction, personnel or functions of state departments and agencies, or units thereof, for the purposes of performing or facilitating emergency services;

(4) Authorize the obtaining and acquisition of property, supplies and materials pursuant to section 821;

(5) Enlist the aid of any person to assist in the effort to control, put out or end the emergency or aid in the caring for the safety of persons;

(6) Direct and compel the evacuation of all or part of the population from any stricken or threatened area within the State, if ~~he~~ deems the Governor determines this action necessary for the preservation of life or other disaster mitigation, response or recovery;

(7) Prescribe routes, modes of transportation and destinations in connection with evacuations;

(8) Control ingress and egress to and from a disaster area, the movement of persons within the area and the occupancy of premises therein;

(9) Suspend or limit the sale, dispensing or transportation of alcoholic beverages, firearms, explosives and combustibles;

(10) Make provision for the availability and use of temporary emergency housing;

(11) Order the termination, temporary or permanent, of any process, operation, machine or device which may be causing or is understood to be the cause of the state of emergency for which this proclamation was made; and

(12) Take whatever action is necessary to abate, clean up or mitigate whatever danger may exist within the affected area.

Sec. 5. 37-B MRSA §742, sub-§2, as enacted by PL 1983, c. 460, §3, is amended to read:

2. Energy emergency proclamation. Energy emergency proclamations ~~shall~~ must be issued as follows.

A. When an actual or impending acute shortage in energy resources threatens the health, safety or welfare of the citizens of the State, the Governor shall, by oral proclamation, declare that fact and that an energy emergency exists in the State or in any section of the State. A written copy of the proclamation ~~shall~~ must be filed with the Secretary of State within 24 hours of the oral proclamation.

B. Upon the issuance of an energy emergency proclamation and after consulting with the ~~Director of Energy Resources Executive Department, State Planning Office~~, the Governor may exercise all the powers granted in this chapter, except as specifically limited by paragraph C. The powers of the Governor ~~shall~~ include, without limitation, the authority to:

(1) Establish and implement programs, controls, standards, priorities and quotas for the allocation, conservation and consumption of energy resources;

(2) Regulate the hours and days during which nonresidential buildings may be open and the temperatures at which they may be maintained;

(3) Regulate the use of gasoline and diesel-powered land vehicles, watercraft and aircraft;

(4) After consulting, when appropriate, with the New England governors and upon the recommendations of the Maine Public Utilities Commission, regulate the generation, distribution and consumption of electricity;

(5) Establish temporary state and local boards and agencies;

(6) Establish and implement programs and agreements for the purposes of coordinating the emergency energy response of the State with those of the Federal Government and of other states and localities;

(7) Temporarily suspend truck weight and size regulations, but not in conflict with federal regulations; and

(8) Regulate the storage, distribution and consumption of home heating oil.

C. In dealing with a declared energy emergency, the following powers granted by this chapter may not be invoked:

(1) The eminent domain powers granted in section 821; and

(2) The enforcement powers granted in sections 786 and 829, unless the Governor specifically invokes these powers by an order issued pursuant to an energy emergency proclamation and approved by a majority of the membership of the Legislative Council. That order ~~shall~~ must specify those emergency orders or rules ~~which shall be that are~~ enforceable pursuant to this paragraph and ~~shall~~ must further specify the enforcement activities ~~civil~~ emergency ~~preparedness~~ management organizations are to pursue. No enforcement action may be taken pursuant to this paragraph without publication of the order authorizing the action in a manner reasonably calculated to give affected persons adequate notice of the order or rule to be enforced, which may include publication on the Internet, and the sanctions to be applied.

D. During a declared energy emergency, the following provisions relating to environmental rules apply.

(1) Except as provided in subparagraph (2), ~~nothing contained in~~ this subsection may

not be construed to authorize the Governor to suspend or to modify orders, rules, standards or classifications issued or enforced by the Department of Environmental Protection or the Maine Land Use Regulation Commission.

(2) When an energy emergency proclamation is in effect, the Governor may call the Board of Environmental Protection into extraordinary session to consider temporary waivers or suspensions of rules and standards related to air and water quality necessary to relieve then existing energy shortages. At an extraordinary session, the board is empowered, notwithstanding any other provision of law, to approve suspensions or waivers ~~which that~~ it determines are necessary to relieve or avoid an energy shortage and will not result in environmental degradation of a permanent or enduring nature. In no event may any suspension or modification be granted ~~which that~~ will result in a circumvention of Title 38, sections 481 to 488, 541 and 557. The waiver or suspension ~~shall may~~ not remain in effect longer than 60 days or after the date on which the board renders a further order issued pursuant to the regular procedures specified in Title 38, whichever ~~shall first occur~~ occurs.

E. The Superior Court of the county in which a person fails to obey an order or rule promulgated in accordance with this subsection ~~shall have~~ has jurisdiction to issue a restraining order or injunction to enforce the order or rule. That proceeding ~~shall must~~ be held in accordance with the Maine Rules of Civil Procedure, Rule 65.

F. In the event that an order or rule issued by the Governor, pursuant to the powers granted in paragraph B, are to be in effect for longer than 90 days, the Governor shall, before the 80th day following the issuance of the order or rule, convene the Legislature.

Sec. 6. Resolve 1999, c. 113, §6 is amended to read:

Sec. 6. Consultation; reports. Resolved: That the commission shall consult with the State House and Capitol Park Commission to ensure the appropriateness of the design and location of the new plaque and the selection and placement of the new flag or flags within the State House Hall of Flags. When the commission has agreed upon an appropriate location and design, but not later than October 4, 2000, the commission shall submit its initial report to the Executive Director of the Legislative Council. A

final report must be submitted to the Executive Director of the Legislative Council by ~~November 1, 2000~~ December 1, 2001. Upon submission of its required reports, the commission terminates; and be it further

Sec. 7. Retroactivity. That section of this Act that amends Resolve 1999, chapter 113, section 6 applies retroactively to November 1, 2000.

See title page for effective date.

CHAPTER 354

H.P. 1162 - L.D. 1562

An Act to Update the Name of the Department of Mental Health, Mental Retardation and Substance Abuse Services

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

Sec. 1. 34-B MRSA §1201, first ¶, as enacted by PL 1983, c. 459, §7 and amended by PL 1995, c. 560, Pt. K, §82 and affected by §83, is further amended to read:

There is established a ~~Department of Mental Health, Mental Retardation and Substance Abuse Services~~ Department of Behavioral and Developmental Services.

Sec. 2. Transition. The following provisions apply to the reassignment of the duties and responsibilities of the Department of Mental Health, Mental Retardation and Substance Abuse Services to the Department of Behavioral and Developmental Services.

1. The Department of Behavioral and Developmental Services is the successor in every way to the powers, duties and functions transferred under this Act and formerly held by the Department of Mental Health, Mental Retardation and Substance Abuse Services.

2. All rules, regulations and procedures of the Department of Mental Health, Mental Retardation and Substance Abuse Services in effect upon the effective date of this Act remain in effect until rescinded, revised or amended.

3. All contracts, agreements and compacts of the Department of Mental Health, Mental Retardation and Substance Abuse Services in effect upon the effective date of this Act remain in effect until they expire or are altered by the parties involved in the contracts, agreements or compacts.