

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 TWENTIETH LEGISLATURE

FIRST SPECIAL SESSION
November 13, 2002 to November 14, 2002

ONE HUNDRED AND TWENTY-FIRST LEGISLATURE

FIRST REGULAR SESSION
December 4, 2002 to June 14, 2003

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
FEBRUARY 13, 2003

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 13, 2003

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Penmor Lithographers
Lewiston, Maine
2003

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

Sec. 1. 5 MRSA §3371, sub-§2, as enacted by PL 1999, c. 731, Pt. AAAA, §1, is amended to read:

2. Membership. The commission consists of ~~24~~ 23 members appointed as follows:

A. Two members of the Senate ~~who sit on the joint standing committee of the Legislature having jurisdiction over fire protection matters~~, appointed by the President of the Senate;

B. Three members of the House of Representatives ~~who sit on the joint standing committee of the Legislature having jurisdiction over fire protection matters~~, appointed by the Speaker of the House of Representatives;

C. The State Fire Marshal or the fire marshal's designee;

D. The Supervisor of the Forest Fire Control Division of the Maine Forest Service or the supervisor's designee;

E. The Director of the Bureau of Labor Standards or the director's designee;

E-1. The Director of Maine Emergency Medical Services or the director's designee;

E-2. The Director of the Maine Emergency Management Agency or the director's designee;

F. One municipal fire chief who is a full-time fire chief and a member of the Maine Fire Chiefs Association, appointed by the Governor;

G. One municipal fire chief who is a volunteer fire chief and a member of the Maine Fire Chiefs Association, appointed by the Governor;

H. One municipal fire chief who is paid on call and a member of the Maine Fire Chiefs Association, appointed by the Governor;

I. Six firefighters appointed as follows:

(1) Two career firefighters who are members of the Professional Fire Fighters of Maine, appointed by the Governor;

(2) Two call firefighters who are members of the Maine State Federation of Fire Fighters, appointed by the Governor; and

(3) Two volunteer firefighters who are members of the Maine State Federation of Fire Fighters, appointed by the Governor;

J. The administrator of the Maine Fire Training and Education Program within the Maine Technical College System, or the administrator's designee; and

K. Three persons appointed by the Governor, including:

(1) One member representing the Governor's office;

(2) One public member; and

(3) One member representing the insurance industry.

The Governor shall request a list of names from the organizations covered under paragraphs F to I from which to make appointments.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.

Effective May 14, 2003.

CHAPTER 161

H.P. 988 - L.D. 1342

An Act To Establish a Right of Entry for Surveyors Performing Surveying Services

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

Whereas, this Act allows a land surveyor, when necessary, to enter upon a landowner's property after giving reasonable notice to the landowner; and

Whereas, this authority is necessary to allow land surveyors to perform their duties in an efficient and cost-effective manner; and

Whereas, without immediate authority, needless costs may be incurred by persons needing land surveying services; 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 enacted by the People of the State of Maine as follows:

Sec. 1. 32 MRSA §13913 is enacted to read:

§13913. Right of entry for professional land surveyor performing surveying services

When performing surveying services at the request of a landowner or person with an interest in real estate, a professional land surveyor and the surveyor's assistants may, without the consent of the owner or person in possession, enter upon or cross any lands necessary to perform surveying services.

1. No authority to intentionally damage or move object. Nothing in this section may be construed as giving authority or license to a professional land surveyor or the surveyor's assistant to intentionally destroy, injure, damage or move any object, chattel or item on the lands of another without the permission of the owner.

2. Civil liability for actual damage. This section may not be construed to remove civil liability for actual damage to land, chattels, crops or personal property.

3. No authority to enter building used as residence or for storage. This section may not be construed to give a professional land surveyor or the surveyor's assistant the authority to enter any building or structure used as a residence or for storage.

4. Professional land surveyor shall make reasonable effort to notify landowners. A professional land surveyor shall make reasonable effort to notify a landowner upon whose land it is necessary for the professional land surveyor to enter or cross. Notice provided as follows meets the requirement of this subsection:

A. Written notice delivered by hand to the landowner or to the residence of the landowner upon whose land the surveyor may enter or cross, delivered at least 24 hours prior to the surveyor's entering the land; or

B. Written notice mailed by first class mail to the landowner upon whose land the surveyor may enter or cross, postmarked at least 5 days prior to the surveyor's entering the land. The surveyor may rely on the address of the landowner as contained in the municipal property tax records or their equivalent.

5. Owner or occupant of land; duty of care; liability. The duty of care an owner or occupant owes to the professional land surveyor and the surveyor's assistant is the same as that owed a trespasser.

6. Professional land surveyor and assistant shall carry identification and display upon request. A professional land surveyor and the surveyor's assistant shall carry means of proper identification as

to their registration or employment and shall display this identification to anyone requesting identification.

7. Compliance with safety regulations. A professional land surveyor and the surveyor's assistant shall comply with all federal and state safety rules and regulations that apply to the land that they enter or cross pursuant to this section.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.

Effective May 15, 2003.

CHAPTER 162

H.P. 1026 - L.D. 1399

An Act To Allow District Attorneys To Approve Immunity Requests

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

Sec. 1. 15 MRSA §1314-A, as amended by PL 1985, c. 386, §1, is further amended to read:

§1314-A. Compelling evidence in criminal or juvenile proceedings; immunity

In any criminal proceeding before a court or grand jury, or in any juvenile proceeding before a court, if a person refuses to answer questions or produce evidence of any kind on the ground that ~~he~~ the person may be incriminated thereby, and if the ~~prosecuting~~ prosecuting attorney for the State, in writing, and with the written approval of the Attorney General or, in the event the prosecution is being conducted by the office of the district attorney, the written approval of either the Attorney General or the district attorney for that district, requests the court to order that person to answer the questions or produce the evidence, and the court after notice to the witness and hearing ~~shall so order~~ orders, unless ~~it~~ the court finds to do so would be clearly contrary to the public interest, that person shall comply with the order. After complying, and if, but for this section, ~~he~~ that person would have had the right to withhold the answers given or the evidence produced by ~~him~~ that person, that person ~~shall~~ may not be prosecuted or subjected to penalty, forfeiture or adjudication for or on account of any transaction, matter or thing concerning which, in accordance with the order, ~~he~~ that person gave answer or produced evidence. Failure to answer questions or produce evidence as ordered by the court following notice and hearing ~~shall constitute~~ constitutes contempt of court. ~~He~~ The person may nevertheless be prosecuted or subjected to penalty, forfeiture or adjudication for any perjury, false swearing or contempt committed in