

MAINE STATE LEGISLATURE

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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

Sec. 1. 12 MRSA §1862, sub-§2, ¶C, as enacted by PL 1997, c. 678, §13, is amended to read:

C. The director shall charge an administrative fee of \$100 for each lease in addition to any rent. A fee of \$200 must be charged for a lease application that is received after work has begun for the proposed project.

Sec. 2. 12 MRSA §1862, sub-§3, as enacted by PL 1997, c. 678, §13, is amended to read:

3. Easements. The director may grant, upon terms and conditions the director considers reasonable, assignable easements for a term not to exceed 30 years for the use of submerged and intertidal lands for the purposes permitted in subsection 2. The grantee shall pay an administrative fee of ~~\$50~~ \$100 for each easement at the time of processing and a registration fee of \$50 due every 5 years. An administrative fee of \$200 must be charged for an easement application that is received after work has begun for the proposed project. The director may refuse to grant an easement for the use of submerged and intertidal lands if the director determines that the easement will unreasonably interfere with customary or traditional public access ways to or public trust rights in, on or over the intertidal or submerged lands and the waters above those lands. The director may grant an easement for submerged and intertidal lands if a structure:

A. Is for the exclusive benefit of the abutting upland owner for charitable purposes as defined in the United States Internal Revenue Code, Section 501, (c) (3);

B. Occupies a total of not more than 500 square feet of submerged and intertidal land for any lawful purpose and is permanent; or

C. Occupies a total of not more than 2,000 square feet of submerged and intertidal land for the exclusive purpose of commercial fishing activities and is permanent.

Sec. 3. 12 MRSA §1863, sub-§2, as enacted by PL 1997, c. 678, §13, is amended to read:

2. Purpose. The purpose of the fund is to support shore and harbor management improvement activities by providing grants to municipalities. These activities include but are not limited to the development of harbor management plans and public access facilities. A portion of the fund, not to exceed 25% of available revenues, may be used to support management programs on state-owned coastal islands under the jurisdiction of the bureau.

Sec. 4. 12 MRSA §1866, sub-§2, as enacted by PL 1997, c. 678, §13, is amended to read:

2. Eligibility. An abandoned watercraft is subject to removal under this section only under the following conditions.

A. A permit under Title 38, section 9 has not been granted by the municipal board or commission entrusted with harbor management for the area.

B. A landowner has not granted permission to a watercraft owner to abandon a watercraft on that landowner's property.

C. Notice has been given the director within 120 days of ~~abandonment of watercraft~~ the date that the municipal board or commission determines, in its opinion, that the watercraft has been abandoned after July 1, 1993.

~~D. Notice has been given the director before January 1, 1994 of watercraft abandoned for less than 25 years before October 9, 1991.~~

Watercraft that have been abandoned for ~~more than 25 years before October 9, 1991~~ prior to July 1, 1993 are not subject to removal under this section.

The municipal board or commission entrusted with harbor management is responsible for the notice requirements under this subsection.

Sec. 5. 12 MRSA §1866, sub-§4, ¶A, as enacted by PL 1997, c. 678, §13, is amended to read:

A. After notification under subsection 2, the director shall investigate any report of an abandoned watercraft and give notice to the owner if an owner can be identified. The notice must require the owner to respond within 15 days and to remove the watercraft from the coastal waters within 60 days of notification by the director or, if the watercraft is icebound, within 60 days of ice-out in the body of water where the watercraft is located. If the owner of a watercraft to whom the director has given notice does not respond to the notice and remove the watercraft within the time period specified or the owner can not be identified or contacted, the director may initiate removal of the watercraft ~~is considered abandoned.~~

See title page for effective date.

CHAPTER 255

H.P. 1067 - L.D. 1462

An Act To Conform the Maine Tax Laws for 2002 with the United States Internal Revenue Code

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

Whereas, the 90-day period would delay the processing of the year 2002 income tax returns; and

Whereas, legislative action is immediately necessary to ensure continued and efficient administration of the Maine Income Tax Law and certain other state taxes; 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. 36 MRSA §111, sub-§1-A, as amended by PL 2001, c. 559, Pt. GG, §1 and affected by §26, is further amended to read:

1-A. Code. "Code" means the United States Internal Revenue Code of 1986 and amendments to that Code as of ~~March 15~~ December 31, 2002.

Sec. 2. Application. This Act applies to tax years beginning on or after January 1, 2002 and to any prior years as specifically provided by the United States Internal Revenue Code.

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

Effective May 21, 2003.

CHAPTER 256

H.P. 1173 - L.D. 1599

An Act To Declare Maine Aviation and Aerospace Education Week

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

Sec. 1. 1 MRSA §146 is enacted to read:

§146. Maine Aviation and Aerospace Education Week

The 3rd week in April is designated Maine Aviation and Aerospace Education Week. The Department of Transportation, Office of Passenger Transportation shall participate in the planning of

events for this week under the auspices of the Maine Aeronautics Association.

See title page for effective date.

CHAPTER 257

H.P. 840 - L.D. 1137

An Act Regarding Riverine Impoundments

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

Sec. 1. 38 MRSA §464, sub-§13 is enacted to read:

13. Measurement of dissolved oxygen in riverine impoundments. Compliance with dissolved oxygen criteria in existing riverine impoundments must be measured as follows.

A. Compliance with dissolved oxygen criteria may not be measured within 0.5 meters of the bottom of existing riverine impoundments.

B. Where mixing is inhibited due to thermal stratification in an existing riverine impoundment, compliance with numeric dissolved oxygen criteria may not be measured below the higher of:

(1) The point of thermal stratification when such stratification occurs; or

(2) The point proposed by the department as an alternative depth for a specific riverine impoundment based on all factors included in section 466, subsection 11-A and for which a use attainability analysis is conducted if required by the United States Environmental Protection Agency.

For purposes of this paragraph, "thermal stratification" means a change of temperature of at least one degree Celsius per meter of depth, causing water below this point in an impoundment to become isolated and not mix with water above this point in the impoundment.

C. Where mixing is inhibited due to natural topographical features in an existing riverine impoundment, compliance with numeric dissolved oxygen criteria may not be measured within that portion of the impoundment that is topographically isolated. Such natural topographic features may include, but not be limited to, natural deep holes or river bottom sills.