

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.

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Lewiston, Maine
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(2) The development of the property will create employment opportunities and other economic benefits within the region; and

(3) The economic benefits expected to result from the development justify the risks associated with the authority's equity interest in the property; and

E. At least 25% of the total cost to acquire, develop and bring the property to productive commercial use will be borne by the municipality or local development corporation.

Sec. 9. Successor to fund. The Maine Rural Development Authority, referred to in this section as "the authority," is the successor to the Department of Economic and Community Development, referred to in this section as "the department," for the purposes of the Maine Revised Statutes, Title 5, section 13120-N and former section 13120-O. All properties, rights in land, buildings and equipment and any funds, money, revenues and receipts or assets of the department as they apply to the former Community Industrial Buildings Fund, established under Title 5, former section 13120-O, including funds previously appropriated by the State for the Community Industrial Buildings Fund under Title 5, former section 13082, belong to the authority as successor to the department. All liabilities of the department with respect to the Community Industrial Buildings Fund under Title 5, former section 13082 become liabilities of the authority. Any action taken by the department with respect to assisting a municipality or local development corporation to create community industrial buildings is an action taken by the authority.

See title page for effective date.

CHAPTER 282

H.P. 1027 - L.D. 1400

An Act To Amend the Maine Pesticide Control Act of 1975 To Increase the Pesticide Product Registration Fee

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

Sec. 1. 7 MRSA §607, sub-§6, as amended by PL 2001, c. 498, §1, is further amended to read:

6. Registration fee; validity. The applicant desiring to register a pesticide shall pay an annual registration fee of \$105 beginning in calendar year 1994, ~~and~~ \$115 beginning in calendar year 2003 ~~and~~ \$125 beginning in calendar year 2004 and thereafter for each pesticide registered for that applicant. Annual

registration periods expire on December 31st of any one year or in a manner consistent with ~~the Maine Administrative Procedure Act~~, Title 5, section 10002, as to license expiration, whichever is later.

See title page for effective date.

CHAPTER 283

S.P. 517 - L.D. 1543

An Act To Modify the Exemption for Compost under the Nutrient Management Law and the Nutrient Management Review Board's Authority To Hear Appeals

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

Sec. 1. 7 MRSA §4201, sub-§6, as amended by PL 1999, c. 530, §1, is further amended to read:

6. Regulated residual. "Regulated residual" means a residual regulated by the Department of Environmental Protection pursuant to Title 38, chapter 13 that is used primarily for its nitrogen and phosphorus value as determined by the Department of Agriculture, Food and Rural Resources. "Regulated residual" does not include ~~wood ash or~~ compost in quantities less than 100 tons per year or wood ash.

Sec. 2. 7 MRSA §4203, sub-§1, as amended by PL 1999, c. 530, §3, is further amended to read:

1. Duties. The board's duties are as follows:

A. The board shall review and approve all proposed amendments to the original rules adopted in accordance with this chapter; ~~and~~

B. When an aggrieved party within 30 days of the commissioner's decision appeals a decision of the commissioner regarding a livestock operations permit under section 4205, a request for a variance under section 4204, subsection 8 or a certification under section 4210, the board shall hold a hearing in accordance with Title 5, chapter 375, subchapter ~~IV~~ 4. The board may affirm, amend or reverse a permit or certification decision made by the commissioner. The board's decision is a final agency action; ~~and~~

C. When an aggrieved party within 30 days of the commissioner's decision appeals a decision of the commissioner regarding site-specific best management practices prescribed for a farm or other issue governed under Title 17, section 2701-B or 2805, the board shall hold a hearing in accordance with Title 5, chapter 375, subchapter

4. The board may affirm, amend or reverse a decision made by the commissioner. The board's decision is a final agency action. The board may also conduct an information-gathering meeting at the request of the department or any party with a legitimate interest to facilitate the complaint resolution process under Title 17, section 2701-B or 2805.

Sec. 3. 7 MRSA §4203, sub-§2-A is enacted to read:

2-A. Temporary membership. When the subject matter of an appeal or complaint resolution process under this section is other than manure or nutrient management, the commissioner may appoint up to 3 temporary board members for the purpose of hearing an appeal, conducting an information-gathering meeting or facilitating the complaint resolution process under Title 17, section 2805. At least one temporary member must have expertise with the subject matter of the complaint or problem and one temporary member must represent the agricultural sector involved. The terms for temporary members expire when the board determines that it has taken final action on the appeal or complaint resolution process.

Sec. 4. 7 MRSA §4209, as amended by PL 1999, c. 530, §6, is further amended to read:

§4209. Penalties

Failure to develop a nutrient management plan in accordance with section 4204 or to obtain a livestock operations permit in accordance with section 4205 constitutes a civil violation for which a ~~forfeiture fine~~ of up to \$1,000 plus up to \$250 per day for every day that the violation continues may be adjudged.

Failure to implement a nutrient management plan according to the requirements of section 4204 and the rules adopted pursuant to that section constitutes a civil violation for which a ~~forfeiture fine~~ of up to \$1,000 with an additional penalty of up to \$250 per day for every day that the violation continues may be adjudged. Prior to development of a plan, a person is not subject to a penalty for failure to implement a nutrient management plan.

Failure to comply with the conditions set forth in a livestock operations permit or a variance constitutes a civil violation for which a ~~forfeiture fine~~ of up to \$1,000 with an additional penalty of up to \$250 per day for every day that the violation continues may be adjudged.

Winter spreading of manure in violation of section 4207 constitutes a civil violation for which a ~~forfeiture fine~~ of up to \$1,000 per day for every day that spreading occurs may be adjudged.

Sec. 5. 17 MRSA §2701-B, as amended by PL 1993, c. 124, §2, is further amended by adding after the 2nd indented paragraph a new indented paragraph to read:

Failure to apply best management practices in accordance with this section constitutes a separate civil violation for which a fine of up to \$1,000, together with an additional fine of up to \$250 per day for every day that the violation continues, may be adjudged.

Sec. 6. 17 MRSA §2805, sub-§6, as amended by PL 1999, c. 723, §2, is further amended to read:

6. Failure to adopt best management practices. If the person responsible for the farm or farm operation does not apply best management practices as required by the Commissioner of Agriculture, Food and Rural Resources, the commissioner shall send a written report to an appropriate agency if a federal or state law has been violated and to the Attorney General. The Attorney General may institute an action to abate a nuisance or to enforce the provisions of this section or any other applicable state law, and the court may order the abatement with costs as provided under section 2702, such injunctive relief as provided in this section or by other applicable law, or that a civil violation has been committed. Failure to apply best management practices in accordance with this section constitutes a separate civil violation for which a ~~forfeiture fine~~ of up to \$1,000, together with an additional ~~forfeiture fine~~ of up to \$250 per day for every day that the violation continues, may be adjudged.

See title page for effective date.

CHAPTER 284

H.P. 1038 - L.D. 1415

An Act To Decriminalize Unlicensed Shellfish Digging

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

Sec. 1. 12 MRSA §6671, sub-§10, as amended by PL 1995, c. 75, §1, is further amended to read:

10. Criminal penalty. ~~Notwithstanding Title 17-A, section 4-B, a~~ A person who violates a provision of a municipal ordinance adopted under this section commits a Class D crime punishable by the following fines: