

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

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:

A. For harvesting shellfish from a closed area ~~or digging shellfish without a license:~~

(1) For the first offense, a fine of not less than \$300 ~~and not more than \$1,500~~; and

(2) For subsequent offenses, a fine of not less than \$500 ~~and not more than \$1,500~~.

The court may not suspend a fine imposed under this paragraph ~~or impose a penalty other than the monetary payment of a fine as provided in this paragraph~~; or

B. For violating any other provision of a municipal ordinance adopted under this section, a fine of not less than \$100 ~~and not more than \$1,000~~.

A fine for a violation of article 5 must be as provided by section 6681.

Sec. 2. 12 MRSA §6671, sub-§10-A is enacted to read:

10-A. Civil penalty. A person who digs for shellfish without a municipal shellfish license commits a civil violation for which a fine of not less than \$100 nor more than \$500 may be adjudged.

See title page for effective date.

CHAPTER 285

H.P. 1074 - L.D. 1469

An Act To Raise the Fee Cap for Dentists

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

Sec. 1. 32 MRSA §1084, as amended by PL 1993, c. 600, Pt. A, §66, is further amended to read:

§1084. Licenses; fees

The board shall issue under its seal to any person who successfully meets all licensure requirements a license to practice dentistry in this State, signed by the members of the board. A dentist shall publicly exhibit the dentist's license. The license is prima facie evidence of authority to practice dentistry in this State, except that it is unlawful for a person to practice dentistry in this State after the expiration date that appears on the license unless the practitioner pays to the board on or before January 1st of even-numbered years a fee of not more than ~~\$200~~ \$400 to be determined by the board, and meets other conditions that the board may require. Upon receipt of the required fee, the board shall issue a renewal of the practitioner's

license, which the practitioner shall place beside or attach to the practitioner's initial license. Practitioners who have not paid as provided and who otherwise qualify for renewal may be reinstated upon payment of a fee to be determined by the board of not more than ~~\$100~~ \$200 if paid before February 1st. A license to practice is automatically suspended on February 1st for nonpayment of the license renewal fee and may be reinstated, if approved by the board, on payment of a fee to be determined by the board of not more than ~~\$200~~ \$400. A new applicant having paid the application fee shall pay either the biennial licensure fee, if the applicant applies on an even-numbered year, or half the biennial licensure fee if the applicant applies in an odd-numbered year.

Sec. 2. 32 MRSA §1085, as amended by PL 2001, c. 260, Pt. B, §3, is further amended to read:

§1085. Endorsement; fees

The board is authorized, at its discretion, without the examination as provided, to issue a license to an applicant who furnishes proof, satisfactory to the board, that the applicant has been licensed to practice dentistry in another state after full compliance with the requirements of its dental laws. If an applicant is licensed to practice dentistry in another state, that applicant's professional education may not be less than is required in this State and the applicant must have been at least 3 years in actual practice in the state in which the license was granted. Applicants for licensure by endorsement who meet the requirements of this section must be interviewed in person by the board or members of the board, prior to being issued a license. Every license of this type issued by the board must state upon its face the grounds upon which it is issued and the applicant may be required to furnish proof upon affidavit. The fee for the license is determined by the board, but may not be more than ~~\$300~~ \$400.

Sec. 3. 32 MRSA §1087, as amended by PL 1993, c. 600, Pt. A, §70, is further amended to read:

§1087. Fee for duplicate license

An applicant for a duplicate license granted upon proof of loss of the original shall pay a fee of ~~\$15~~ no more than \$50.

See title page for effective date.

CHAPTER 286

S.P. 477 - L.D. 1439

An Act To Protect Young Drivers and Passengers