

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-SECOND LEGISLATURE

SECOND SPECIAL SESSION
July 29, 2005

SECOND REGULAR SESSION
January 4, 2006 to May 24, 2006

THE GENERAL EFFECTIVE DATE FOR
SECOND SPECIAL SESSION
NON-EMERGENCY LAWS IS
OCTOBER 28, 2005

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
AUGUST 23, 2006

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

Penmor Lithographers
Lewiston, Maine
2006

geologist, state-licensed professional engineer or other qualified professional must make the determination that the actions taken by the property owner in accordance with this section are only those actions necessary to alleviate the imminent threat and do not include increasing the height or length of the structure.

If a local code enforcement officer, state-licensed professional engineer or state-certified geologist fails to determine within 6 hours of initial contact by the property owner whether the integrity of a structure is destroyed or threatened, the property owner may proceed as if the local code enforcement officer, state-licensed professional engineer or state-certified geologist had determined that the integrity of the structure was destroyed or threatened.

4. Replacement after emergency action under permit by rule. Notwithstanding any other provision of this chapter, the department shall approve a permit by rule to repair or replace a seawall, bulkhead, retaining wall or similar structure that has been destroyed or threatened with a structure that is identical in all dimensions and location as long as a property owner files a completed permit-by-rule notification for the repair or replacement of the structure and the following standards are met:

A. During project construction, disturbance of dune vegetation must be avoided and native vegetation must be retained on the lot to the maximum extent possible. Any areas of dune vegetation that are disturbed must be restored as quickly as possible. Dune vegetation includes, but is not limited to, American beach grass, rugosa rose, bayberry, beach pea, beach heather and pitch pine.

B. Sand may not be moved seaward of the frontal dune between April 1st and September 1st unless the owner has obtained written approval from the Department of Inland Fisheries and Wildlife.

C. The replacement of a seawall may not increase the height, length or thickness of the seawall beyond that which legally existed within the 24 months prior to the submission of the permit-by-rule notification. The replaced seawall may not be significantly different in construction from the one that previously existed.

~~If a local code enforcement officer fails to determine whether the integrity of a structure is destroyed or threatened within 12 hours of initial contact by the property owner, the property owner may proceed as if the code enforcement officer had determined that the integrity of the structure was destroyed or threatened.~~

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

Effective April 6, 2006.

CHAPTER 549

H.P. 1383 - L.D. 1975

An Act To Ensure Adequate Funding for Cleanup of Hazardous Waste, Biomedical Waste and Waste Oil

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

Sec. 1. 38 MRSA §1319-I, sub-§1, ¶A, as repealed and replaced by PL 1987, c. 491, §25, is amended to read:

A. For hazardous waste ~~which~~ that is disposed of on the site of generation in a licensed hazardous waste disposal facility, ~~2.0¢~~ 3¢ a pound; and

Sec. 2. 38 MRSA §1319-I, sub-§2, ¶A, as amended by PL 1997, c. 258, §1, is further amended to read:

A. For hazardous waste that is transported off the site to a licensed hazardous waste disposal facility for disposal, ~~2.0¢~~ 3¢ a pound; and

Sec. 3. 38 MRSA §1319-I, sub-§2, ¶B, as amended by PL 1997, c. 258, §1, is further amended to read:

B. For hazardous waste that is transported off the site to a licensed hazardous waste treatment facility for treatment, storage facility for storage or other licensed facility for handling, including beneficial reuse, reclamation or recycling, ~~4.5¢~~ 3¢ a pound.

Sec. 4. 38 MRSA §1319-I, sub-§3, as amended by PL 1987, c. 787, §19, is further amended to read:

3. Fee for transportation into Maine from out of state. If hazardous waste or waste oil is transported into Maine from out of state, the person who first transports the hazardous waste or waste oil into Maine shall pay a the fee equal to twice the amount indicated by the schedules outlined in subsection 2 for hazardous waste or subsection 4-A for waste oil, as if that person were the waste oil dealer.

~~The commissioner may waive up to 50% of the fee imposed under this subsection if the state from which the hazardous waste or waste oil is transported to~~

~~Maine observes the same reciprocity with regard to hazardous waste transported to that state from Maine.~~

Sec. 5. 38 MRSA §1319-I, sub-§4-A, as affected by PL 1989, c. 890, Pt. A, §40 and amended by Pt. B, §259, is further amended to read:

4-A. Fee on waste oil sale or disposal. A fee of ~~4¢~~ 2¢ a gallon on each gallon of waste oil transported, collected or stored must be paid by the waste oil dealer that first transports, collects or stores that waste oil. Waste oil dealers shall maintain records sufficient to determine whether the dealer is liable for any and all fees imposed pursuant to this subsection and shall submit such records to the commissioner as required by rule of the board.

Sec. 6. 38 MRSA §1319-O, sub-§3, ¶D, as enacted by PL 1989, c. 124, §3, is amended to read:

D. The board may assess licensing and registration fees sufficient to pay for the department's administrative costs in regulating biomedical waste.

Sec. 7. Report. The Department of Environmental Protection shall prepare a report on funding for cleanup of sites contaminated by hazardous waste, biomedical waste and waste oil. The report must include an assessment of the adequacy of the Maine Hazardous Waste Fund and must be submitted to the joint standing committee of the Legislature having jurisdiction over natural resources matters no later than February 1, 2007. The committee may report out legislation dealing with the fees for the transport and disposal of hazardous waste to the First Regular Session of the 123rd Legislature.

See title page for effective date.

CHAPTER 550

H.P. 1474 - L.D. 2083

**An Act To Implement the
Recommendations of the Joint
Standing Committee on Agriculture,
Conservation and Forestry Relating
to Review of the Department of
Conservation**

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

Whereas, statutes authorizing the Department of Conservation, Bureau of Forestry to study outcome-based forest policy as an alternative to prescriptive regulation will be repealed on July 1, 2006 unless action is taken by the Legislature; and

Whereas, an extension of this repeal date is necessary for further study by the bureau of this potentially beneficial policy; 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. 3 MRSA §959, sub-§1, ¶A, as amended by PL 2003, c. 578, §1 and c. 600, §1, is further amended to read:

A. The joint standing committee of the Legislature having jurisdiction over agriculture, conservation and forestry matters shall use the following list as a guideline for scheduling reviews:

- (1) Baxter State Park Authority in 2009;
- (2) Department of Conservation in ~~2005~~ 2011;
- (3) Blueberry Advisory Committee in ~~2005~~ 2011;
- (4) Board of Pesticides Control in ~~2005~~ 2011;
- (5) Wild Blueberry Commission of Maine in ~~2005~~ 2011;
- (6) Seed Potato Board in ~~2005~~ 2011;
- (7) Maine Dairy and Nutrition Council in 2007;
- (8) Maine Dairy Promotions Board in 2007;
- (9) Maine Milk Commission in 2007;
- (10) State Harness Racing Commission in 2007;
- (11) Maine Agricultural Bargaining Board in ~~2003~~ 2009;
- (12) Department of Agriculture, Food and Rural Resources in 2009; and
- (14) Land for Maine's Future Board in 2007.

Sec. 2. 12 MRSA §8003, sub-§3, ¶Q, as enacted by PL 2001, c. 339, §1, is amended to read: