

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE

FIRST SPECIAL SESSION
September 27, 2011

SECOND REGULAR SESSION
January 4, 2012 to May 31, 2012

THE EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
LAWS IS
SEPTEMBER 28, 2011

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
AUGUST 30, 2012

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

Augusta, Maine
2012

Sec. 5. 30-A MRSA §3772, sub-§3, ¶F, as enacted by PL 2007, c. 549, §1, is amended to read:

F. The consideration paid; ~~and~~

Sec. 6. 30-A MRSA §3772, sub-§3, ¶G, as enacted by PL 2007, c. 549, §1, is amended to read:

G. A signed statement that the seller is the owner or is otherwise authorized to sell the scrap metal on a form provided by the buyer that conspicuously bears the warning that making a false statement is a Class D crime under Title 17-A, section 453; and

Sec. 7. 30-A MRSA §3772, sub-§3, ¶H is enacted to read:

H. The make, model and number and state of issue of the license plate of the vehicle being used to deliver the scrap metal.

Sec. 8. 30-A MRSA §3775-A is enacted to read:

§3775-A. Holding period; inspection

1. Seven-day hold. If a law enforcement officer has a reasonable suspicion that scrap metal being held by a scrap metal processor is stolen or related to criminal activity, the officer may issue a written order to the scrap metal processor, specifying the scrap metal that must be retained and the length of time, which may not exceed 7 days, that the scrap metal processor must retain the identified scrap metal.

2. Additional 7-day hold. Prior to the expiration of the time period of the hold pursuant to subsection 1, a law enforcement officer may impose an additional hold period, which may not exceed 7 days. The law enforcement officer imposing the additional hold shall provide the scrap metal processor with a written description of the scrap metal to be retained and the length of time the scrap metal processor must retain the identified scrap metal.

Sec. 9. 30-A MRSA §3777, as enacted by PL 2007, c. 549, §1, is repealed.

Sec. 10. 30-A MRSA §3778 is enacted to read:

§3778. Violation; penalties

1. Violation. A person may not violate this subchapter.

2. Penalties. In addition to any other penalties provided by law, the following penalties apply to violations of this subchapter:

A. A person who violates this subchapter commits a civil violation for which a fine of \$1,000 must be adjudged;

B. A person who violates this subchapter after having previously been adjudicated of violating

this subchapter commits a civil violation for which a fine of \$3,000 must be adjudged; and

C. A person who violates this subchapter after having previously been adjudicated of violating this subchapter more than once commits a civil violation for which a fine of \$4,500 must be adjudged and is prohibited from acting as a scrap metal processor for 6 months.

Sec. 11. Department of Public Safety to review the proposed development of an integrated criminal alert network for scrap metal thefts. Beginning September 1, 2012, the Commissioner of Public Safety shall review the merits of using a statewide integrated criminal alert network to track scrap metal thefts across the State, as well as the costs associated with requiring scrap metal processors and local law enforcement agencies to access and use a database designed for the purpose of alerting participating members to scrap metal thefts. The commissioner shall report by January 15, 2013 to the joint standing committee of the Legislature having jurisdiction over labor, commerce, research and economic development matters regarding the merits and costs of using such a network. The joint standing committee may report out a bill implementing the recommendations in the report to the First Regular Session of the 126th Legislature.

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

Effective March 29, 2012.

CHAPTER 546

H.P. 1302 - L.D. 1768

An Act To Improve the Department of Environmental Protection's Annual Waste Discharge License Fee System

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

Whereas, this legislation revises the Department of Environmental Protection's annual waste discharge license fee system; and

Whereas, in order to maintain a consistent cash flow into the waste discharge license fee account at the Department of Environmental Protection, one-quarter of the regulated community is billed in each quarter of the year; and

Whereas, if the revised fee schedule does not become effective until 90 days after adjournment of

the Legislature, one-half of the regulated community will be billed under the current fee system and the other half will be billed under the revised system, creating inequity within the regulated community as to how fees are assessed; 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. 38 MRSA §353-B, sub-§1, as amended by PL 2007, c. 558, §2, is further amended to read:

1. Fees assessed. After the effective date of this section, licensees must pay annual waste discharge license fees consisting of a base or minimum fee, an annualized license renewal service fee and amounts from paragraph B reflecting the quantity of pollutants actually discharged or licensed to be discharged and from paragraph C in consideration of the potential for water quality impact. Annual waste discharge license fees for existing licensees are determined as set out in subsection 2. Annual waste discharge license fees for new licensees, or licensees that have been reclassified to a new discharge group, are determined by the discharge group to which the facility is assigned. The fee for a new waste discharge license is the median fee for the selected discharge group, and this fee must be paid at the time of application. If the application for a new license is denied, 50% of the initial annual fee must be refunded.

~~A. A base fee and an annualized license renewal service fee are assessed for the categories of waste discharge licenses identified in subsection 2, paragraph A. When a license authorizes discharges in more than one category, only the largest base fee and the associated annualized license renewal service fee may be applied to the license. When discharge fees described in paragraph B are not applicable or appropriate for a particular license group or discharge activity, only the base and annualized license renewal service fees are assessed.~~

~~B. In addition to the base fee and annualized license renewal service fee amounts, fees are assessed in consideration of the quantity and nature of pollutants discharged. When data are available, average daily discharge quantities are used in computing fees for conventional and nonconventional pollutants discharged from publicly owned sanitary and industrial process wastewater~~

~~sources. When data are not available and for other pollutants and categories, fees are determined using the discharge limits established in a waste discharge license.~~

~~C. In addition to the base, annualized license renewal service and discharge fees described in paragraphs A and B, fees may be assessed for the following:~~

~~(1) The base fee may be increased by a factor reflecting the initial dilution of an effluent as discharged to the receiving water. This assessment is applied to nonresidential domestic wastewater and industrial process wastewater sources licensed for more than 50,000 gallons per day and having initial dilutions of less than 1,000 to one, except those sources where the licensed flow is less than 50,000 gallons per day and the initial dilution is greater than 50 to one. The assessment is determined by multiplying the applicable base fee times 1.5 divided by the square root of the chronic dilution factor.~~

~~(2) When a license authorizes multiple discharge points from the same location, there is an additional fee of \$35 per discharge point.~~

~~D. If there are no discharges pursuant to a waste discharge license during an entire year, only the base and annualized license renewal service fees are assessed for that year plus applicable water quality impact and multiple discharge points adjustments from paragraph C may be assessed the fee for that year must be reduced to 25% of the fee amount that would otherwise apply to that license.~~

~~E. If a licensee continues to discharge following expiration of the license, the licensee shall must continue to pay any applicable waste discharge license fees provided for in this section. This paragraph does not authorize the discharge and does not affect the applicability of any penalty or enforcement provision.~~

Sec. 2. 38 MRSA §353-B, sub-§2, as amended by PL 2009, c. 213, Pt. FFFF, §2, is repealed and the following enacted in its place:

2. Fee amounts. Waste discharge license fees are determined as specified in this subsection.

A. The fees for waste discharge license groups are as follows.

<u>Discharge group</u>	<u>Basis for annual fee</u>	<u>Median fee for discharge group</u>	<u>Water quality improvement surcharge</u>

Publicly owned treatment facilities, 10,000 gallons per day or less	annual fee	2011 bill amount	\$306	Major industrial facility, process wastewater (based on EPA list of major source discharges)	annual fee	Average of 2009, 2010 and 2011 bill amounts	\$19,672
Publicly owned treatment facilities, more than 10,000 gallons per day to 0.1 million gallons per day	annual fee	2011 bill amount	\$400	Other industrial facility, process wastewater	annual fee	2011 bill amount	\$1,214
Publicly owned treatment facilities, more than 0.1 million gallons per day to 1.0 million gallons per day	annual fee	Average of 2009, 2010 and 2011 bill amounts	\$617	Food handling or packaging wastewater	annual fee	2011 bill amount	\$659
Publicly owned treatment facilities, more than 1.0 million gallons per day to 5.0 million gallons per day	annual fee	Average of 2009, 2010 and 2011 bill amounts	\$1,300	Fish-rearing facility 0.1 million gallons per day or less	annual fee	2011 bill amount	\$312
Publicly owned treatment facilities, greater than 5 million gallons per day or with significant industrial waste	annual fee	Average of 2009, 2010 and 2011 bill amounts	\$4,553	Fish-rearing facility over 0.1 million gallons per day	annual fee	2011 bill amount	\$794
				Marine aquaculture facility	annual fee	2011 bill amount	\$308
				Noncontact cooling water	annual fee	2011 bill amount	\$192
				Industrial or commercial sources, miscellaneous or incidental nonprocess wastewater	annual fee	2011 bill amounts	\$363
				Municipal combined sewer overflow	annual fee	2011 bill amount	\$413

<u>Sanitary wastewater, excluding overboard discharge</u>	<u>annual fee</u>	<u>2011 bill amount</u>	<u>\$736</u>	
<u>Sanitary overboard discharge, commercial sources</u>	<u>annual fee</u>	<u>2011 bill amount</u>	<u>\$446</u>	<u>\$75</u>
<u>Sanitary overboard discharge, residential sources 600 gallons per day or less</u>	<u>annual fee</u>	<u>2011 bill amount</u>	<u>\$231</u>	<u>\$75</u>
<u>Sanitary overboard discharge, residential sources more than 600 gallons per day</u>	<u>annual fee</u>	<u>2011 bill amount</u>	<u>\$313</u>	<u>\$75</u>
<u>Sanitary overboard discharge, public sources</u>	<u>annual fee</u>	<u>2011 bill amount</u>	<u>\$315</u>	<u>\$75</u>
<u>Aquatic pesticide application</u>	<u>annual fee</u>	<u>2011 bill amount</u>	<u>\$644</u>	
<u>Snow dumps</u>	<u>annual fee</u>	<u>2011 bill amount</u>	<u>\$319</u>	
<u>Salt and sand storage pile</u>	<u>annual fee</u>	<u>2011 bill amount</u>	<u>\$429</u>	
<u>Log storage permit</u>	<u>annual fee</u>	<u>2011 bill amount</u>	<u>\$422</u>	

<u>General permit coverage for industrial storm water discharges (except construction)</u>	<u>annual fee</u>	<u>2011 bill amount</u>	<u>\$300</u>
<u>General permit coverage for marine aquaculture facility</u>	<u>annual fee</u>	<u>2011 bill amount</u>	<u>\$134</u>
<u>General permit coverage (other)</u>	<u>annual fee</u>	<u>2011 bill amount</u>	<u>\$164</u>
<u>Experimental discharge license</u>	<u>license fee</u>	<u>2011 bill amount</u>	<u>\$899</u>
<u>New or amended mixing zone, in addition to other applicable fees</u>	<u>flat fee</u>	<u>\$5,368</u>	<u>---</u>
<u>Formation of sanitary district</u>	<u>flat fee</u>	<u>\$402</u>	<u>---</u>
<u>Transfer of license for residential or commercial sanitary wastewater</u>	<u>flat fee</u>	<u>\$100</u>	<u>---</u>

On an annual basis, municipalities and publicly owned treatment works whose combined sewer overflows have the potential to affect shellfish harvesting areas as determined by the department by virtue of their locations within estuarine or marine waters of the State must be assessed a surcharge on their wastewater discharge licenses in a total amount of \$12,000. This amount must be allocated among the municipalities and publicly owned treatment works according to their prior 3-year average annual flows as reported to the department.

On an annual basis, publicly owned treatment works whose outfalls licensed for the discharge of treated effluent cause adjacent shellfish growing areas to be closed for the purposes of harvesting shellfish must be assessed a license surcharge in a total amount of \$25,000. This amount must be allocated among the publicly owned treatment works according to the acreage that each licensed outfall closes. This acreage must be determined by the Department of Marine Resources in consultation with the department.

Sec. 3. 38 MRSA §353-B, sub-§§3 and 4, as enacted by PL 1997, c. 794, Pt. B, §7, are amended to read:

3. Schedule. The fee for existing licenses must be paid on the anniversary date of the license or another date initially established by the department. This date, once established, remains the scheduled date for paying the annual fee, regardless of future changes of the anniversary date. ~~The annual fee for new applications must be estimated and paid at the time of filing the application. When the processing of the application is complete or following the first year of discharge, if applicable, the final annual fee is determined. Any additional amount due or refund of overpayment must be paid within 30 days of determination of the final fee. If the application is denied, 50% of the initial annual fee must be refunded.~~

4. Renewals, amendments and modifications. Except for transfers of licenses for discharges of sanitary wastewater from commercial or residential sources as provided for in subsection 2, there are no additional fees assessed for license renewals, amendments or modifications. Upon significant changes in discharge flow, a licensee may apply for modification of the license to change the licensed discharge flow. The percent change in discharge flow must be used to adjust the annual waste discharge license fee by an equivalent percentage.

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

Effective March 29, 2012.

CHAPTER 547

S.P. 558 - L.D. 1659

An Act To Facilitate Recovery of Debts Owed to the State for Indigent Legal Services

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

Sec. 1. 4 MRSA §1806, sub-§1, ¶D is enacted to read:

D. "Case information" means:

- (1) The court in which a case is brought;
- (2) Any criminal charges or juvenile crime charges and the type, but not the contents, of any petition giving rise to a case;
- (3) The docket number;
- (4) The identity of assigned counsel and the date of assignment;
- (5) The withdrawal of assigned counsel and the date of withdrawal; and
- (6) Any order for reimbursement of assigned counsel fees.

Sec. 2. 4 MRSA §1806, sub-§3 is enacted to read:

3. Confidential information disclosed by the Judicial Department. The Judicial Department may disclose to the commission confidential information necessary for the commission to carry out its functions, including the collection of amounts owed to reimburse the State for the cost of assigned counsel, as follows:

A. Case information and individual client information with respect to court proceedings that are confidential by statute or court rule in which one or more parties are represented by assigned counsel; and

B. The name, address, date of birth and social security number of any person ordered by the court to reimburse the State for some or all of the cost of assigned counsel.

This information remains confidential in the possession of the commission and is not open to public inspection, except that the names of criminal defendants and the names of juvenile defendants charged with offenses that if committed by an adult would constitute murder or a Class A, Class B or Class C crime are not confidential.

Sec. 3. 36 MRSA §5276-A, sub-§8, as enacted by PL 1985, c. 501, Pt. B, §21, is amended to read:

8. Disclosure of information. In any civil or criminal action in which a fine, forfeiture, order to pay or money judgment is entered in favor of the State or any agency or department thereof, or in any action in which counsel is ~~appointed~~ assigned for an indigent party, the court may require the party so indebted to the State, its agencies or department, or the party for whom counsel has been ~~appointed~~ assigned, to provide that party's social security number and other financial information under oath and on such forms as may be prepared by the Judicial Department in order to effectuate the purposes of this section. The Judicial Department may disclose social security numbers and