

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-EIGHTH LEGISLATURE

SECOND SPECIAL SESSION
June 19, 2018 to September 13, 2018

THE GENERAL EFFECTIVE DATE FOR
SECOND SPECIAL SESSION
NON-EMERGENCY LAWS IS
DECEMBER 13, 2018

ONE HUNDRED AND TWENTY-NINTH LEGISLATURE

FIRST REGULAR SESSION
December 5, 2018 to June 20, 2019

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 19, 2019

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

Augusta, Maine
2019

2. Foreign subpoena. "Foreign subpoena" means a subpoena issued under authority of a court of record of a foreign jurisdiction.

3. Person. "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency or instrumentality or any other legal or commercial entity.

4. State. "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, a federally recognized Indian tribe or any territory or insular possession subject to the jurisdiction of the United States.

5. Subpoena. "Subpoena" means a document, however denominated, issued under authority of a court of record requiring a person to:

A. Attend and give testimony at a deposition;

B. Produce and permit inspection and copying of designated books, documents, records, electronically stored information or tangible things in the possession, custody or control of the person; or

C. Permit inspection of premises under the control of the person.

§403. Issuance of subpoena

The issuance of a subpoena is governed by this section.

1. Request issuance. To request issuance of a subpoena under this section, a party must submit a foreign subpoena to the clerk of a District Court in the district or to the clerk of the Superior Court of the county in which the discovery is to be conducted. A request for the issuance of a subpoena under this Act does not constitute an appearance in the courts of the State.

2. Submission of foreign subpoena. When a party submits a foreign subpoena to a clerk of court in the State, the clerk, in accordance with that court's procedure, shall promptly issue a subpoena for service upon the person to which the foreign subpoena is directed.

3. Requirements. A foreign subpoena submitted under subsection 2 must:

A. Incorporate the terms used in the foreign subpoena; and

B. Contain or be accompanied by the names, addresses and telephone numbers of all counsel of record in the proceeding to which the subpoena relates and of any party not represented by counsel.

§404. Service of subpoena

A subpoena issued by a clerk of court under section 403 must be served in compliance with the Maine Rules of Civil Procedure, Rule 45.

§405. Deposition, production and inspection

The Maine Rules of Civil Procedure and the provisions of Title 16, sections 101, 102 and 251 apply to depositions and discovery carried out under this Act and subpoenas issued under section 403.

§406. Application to court

An application to the court for a protective order or to enforce, quash or modify a subpoena issued by a clerk of court under section 403 must comply with the Maine Rules of Civil Procedure and be submitted to the District Court in the district or to the Superior Court of the county in which the discovery is to be or is being conducted.

§407. Uniformity of application and construction

In applying and construing this Act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

§408. Application to pending actions

Notwithstanding Title 1, section 302, this Act applies to requests for discovery in cases pending on the effective date of this Act.

See title page for effective date.

CHAPTER 110

H.P. 907 - L.D. 1246

An Act To Protect the Health and Safety of Maine State Park Visitors and Staff

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

Sec. 1. 12 MRSA §1804, sub-§5, as amended by PL 2001, c. 604, §4; PL 2011, c. 657, Pt. W, §7; and PL 2013, c. 405, Pt. A, §24, is further amended to read:

5. Bureau budget. Prepare and submit to the commissioner the budget for the bureau; ~~and~~

Sec. 2. 12 MRSA §1804, sub-§6, as enacted by PL 2001, c. 604, §5 and amended by PL 2011, c. 657, Pt. W, §7 and PL 2013, c. 405, Pt. A, §24, is further amended to read:

6. Restrictions on public access. Post notice of any restrictions to public access at points commonly used to access the land or at a facility or structure where such rules and notices are regularly posted. The

director may restrict public access to any portion of the land or waters within the bureau's jurisdiction when the restrictions reasonably relate to protecting public health, safety or welfare or the economic interests or natural resources of the State; and

Sec. 3. 12 MRSA §1804, sub-§7 is enacted to read:

7. Minimum staffing levels. Determine minimum levels of staffing for all state parks, except Baxter State Park, and historic sites and national parks that are controlled and managed by the State. When making a determination of staffing levels under this subsection, the director shall consider for each park and historic site the following:

- A. Visitor capacity limits;
- B. Historical data regarding visitor use;
- C. Availability of local emergency response services;
- D. If local emergency response services are used, response time of emergency response;
- E. Distance to medical services;
- F. Communication capacity of staff to summon emergency response services or assistance;
- G. Relative to emergency response, training and authority levels of staff;
- H. Emergency planning issues specific to a park or historic site;
- I. Historical record of emergency response incidents and near misses; and
- J. Historical record of severe weather emergencies.

For purposes of this subsection, historical data must include 10 years of data at a minimum.

See title page for effective date.

**CHAPTER 111
S.P. 332 - L.D. 1100**

**An Act To Clarify the Contents
of the Complete Agency
Record in the Appeal of an
Agency's Failure or Refusal To
Act**

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

Sec. 1. 5 MRSA §11005, as enacted by PL 1977, c. 551, §3, is amended to read:

§11005. Responsive pleading; filing of the record

No responsive pleading need be filed unless required by order of the reviewing court. The agency shall file in the reviewing court within 30 days after the petition for review is filed, or within such shorter or longer time as the court may allow on motion, the original or a certified copy of the complete record of the proceedings under review. In the case of the alleged failure or refusal of an agency to act, the record must include written, electronic or otherwise memorialized communications, directives, orders and other documentation of all decisions by the agency to act, to refuse to act or to delay action. Within 20 days after the petition for review is filed, all parties to the agency proceeding who wish to participate in the review shall file a written appearance ~~which shall state~~ that states a position with respect to affirmance, vacation, reversal or modification of the decision under review.

See title page for effective date.

**CHAPTER 112
H.P. 837 - L.D. 1148**

**An Act Regarding the Costs
Incurred by Municipalities in
the Administration of
Aquaculture Lease and License
Applications**

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

Sec. 1. 12 MRSA §6088 is enacted to read:

§6088. Municipal fees

If a person submits an application to the commissioner for a lease or license under this subchapter and the municipality provides the commissioner with information necessary for the completion of that lease or license application, the municipality may not charge that person a fee of more than \$50 for the administrative costs associated with providing that information to the commissioner on that person's behalf.

See title page for effective date.

**CHAPTER 113
H.P. 1022 - L.D. 1407**

**An Act To Revise and Recodify
Certain Provisions of the
Maine Criminal Code**

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until