

# 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.**

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**Augusta, Maine**  
**2019**

C. Erosion control measures are taken to prevent sedimentation of the water on either side of the dam as a result of the maintenance or repair activities;

D. Resurfacing of the upstream or downstream vertical faces of the dam, retaining walls or associated structures does not exceed 4 inches in thickness;

E. Precast concrete used for the repair or resurfacing of the dam is cured in air for a minimum of 3 weeks and fresh concrete poured in forms on site used for the repair or resurfacing of the dam is cured in air for a minimum of one week prior to use to prevent impacts to fish and other aquatic organisms from high pH levels associated with concrete;

F. The maintenance and repair activities do not result in permanent changes to impounded water levels or to downstream flows;

G. All necessary approvals from state and federal fisheries agencies for any temporary drawdown of the impounded waters needed to accomplish the maintenance and repair activities have been obtained prior to the commencement of those activities; and

H. Removal of accumulated materials from the upstream side of the dam, including natural sediment buildup, vegetative materials and woody debris, is limited to an area within 6 feet of the dam, measured perpendicularly from its upstream face, and is performed by hand only.

For the purposes of this subsection, "nonhydropower dam" means a water-impounding structure not used for the generation of hydroelectric power and includes any associated wing walls, abutments, spillways, gates and earthen embankments.

See title page for effective date.

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## CHAPTER 125

### S.P. 292 - L.D. 1013

#### **An Act To Clarify the Disqualification from Unemployment Benefits of a Person Who Is Terminated from Employment for Being Under the Influence of Marijuana**

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

**Sec. 1. 26 MRSA §1043, sub-§23, ¶A, as enacted by PL 1999, c. 464, §2, is amended to read:**

A. The following acts or omissions are presumed to manifest a disregard for a material interest of the employer. If a culpable breach or a pattern of irresponsible behavior is shown, these actions or omissions constitute "misconduct" as defined in this subsection. This does not preclude other acts or omissions from being considered to manifest a disregard for a material interest of the employer. The acts or omissions included in the presumption are the following:

- (1) Refusal, knowing failure or recurring neglect to perform reasonable and proper duties assigned by the employer;
- (2) Unreasonable violation of rules that are reasonably imposed and communicated and equitably enforced;
- (3) Unreasonable violation of rules that should be inferred to exist from common knowledge or from the nature of the employment;
- (4) Failure to exercise due care for punctuality or attendance after warnings;
- (5) Providing false information on material issues relating to the employee's eligibility to do the work or false information or dishonesty that may substantially jeopardize a material interest of the employer;
- (6) Intoxication while on duty or when reporting to work, or unauthorized use of alcohol or marijuana while on duty except for the use of marijuana permitted under Title 22, chapter 558-C;
- (7) Using illegal drugs or being under the influence of such drugs while on duty or when reporting to work;
- (8) Unauthorized sleeping while on duty;
- (9) Insubordination or refusal without good cause to follow reasonable and proper instructions from the employer;
- (10) Abusive or assaultive behavior while on duty, except as necessary for self-defense;
- (11) Destruction or theft of things valuable to the employer or another employee;
- (12) Substantially endangering the safety of the employee, coworkers, customers or members of the public while on duty;
- (13) Conviction of a crime in connection with the employment or a crime that reflects adversely on the employee's qualifications to perform the work; or

(14) Absence for more than 2 work days due to incarceration for conviction of a crime.

See title page for effective date.

## CHAPTER 126

### S.P. 341 - L.D. 1121

#### An Act To Acknowledge Potable Water as a Necessity

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

**Sec. 1. 10 MRSA §1105, sub-§1, ¶C**, as amended by PL 2005, c. 580, §1, is amended to read:

C. "Necessities" includes food for human or animal consumption; potable water; pharmaceutical products, including prescription medications; wearing apparel; shoes; building materials; gas and electricity for light, heat and power; ice; fuel of all kinds; and fertilizer and fertilizer ingredients; together with tools, utensils, implements, machinery and equipment required for the actual production or manufacture of the same. "Necessities" includes any other vital or necessary good or service except those:

- (1) Subject to continuous maximum price regulation under the provisions of any state or federal law;
- (2) As to which the State's authority is preempted; or
- (3) Furnished or provided by:
  - (a) Insurers; or
  - (b) Nonprofit hospitals, medical service organizations or health maintenance organizations authorized to transact business within the State pursuant to Title 24 and Title 24-A.

**Sec. 2. 22 MRSA §4301, sub-§1**, as amended by PL 1991, c. 9, Pt. U, §1, is further amended to read:

**1. Basic necessities.** "Basic necessities" means food, potable water, clothing, shelter, fuel, electricity, nonelective medical services as recommended by a physician, nonprescription drugs, telephone where it is necessary for medical reasons and any other commodity or service determined essential by the overseer in accordance with the municipality's ordinance and this chapter. "Basic necessities" do not include security deposits for rental property, except for emergency purposes. For the purposes of this subsection, "emergency purposes" means any situation in which no other permanent lodging is available unless a security deposit is paid.

**Sec. 3. 30-A MRSA §1654**, as amended by PL 2015, c. 44, §6, is further amended to read:

#### **§1654. Supplies for jails; accounts audited**

The county commissioners of the several counties shall, without extra charge or commission to themselves or to any other person, procure all necessary supplies, including necessary food, potable water, fuel, bedding and clothing for the jails and the prisoners in the jails, to be furnished and purchased under their direction and at the expense of the counties. A county commissioner may not be interested directly or indirectly in the purchase of any such supplies or in any contract for such supplies made by the board of which and while the county commissioner is a member, and all contracts made in violation of this provision are void. A suitable person must be employed to prepare the foods of the prisoners in each county at the expense of the county. The service of the food to the prisoners is under the general direction of the jailer, master or keeper. The sheriff shall appoint the person employed to prepare the food of the prisoners subject to the approval of the county commissioners. The county commissioners may at any time direct specific rations or articles of food, clothing, soap, fuel or other necessities to be provided to the prisoners. The bills and accounts for supplies furnished and the items of expense incurred in preparing and serving these supplies must be audited pursuant to section 951.

See title page for effective date.

## CHAPTER 127

### S.P. 366 - L.D. 1192

#### An Act To Establish Municipal Access to Utility Poles Located in Municipal Rights-of-way

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

**Sec. 1. 35-A MRSA §2524** is enacted to read:

#### **§2524. Municipal access to poles**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Make-ready work" means the rearrangement or transfer of existing facilities, replacement of a pole, complete removal of any pole replaced or any other changes required to make space available for an additional attachment to a shared-use pole.

B. "Municipality" means a town, city, plantation, county, regional council of governments, quasi-municipal corporation or district as defined in Title 30-A, section 2351, regional municipal utility