

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

Legislative Document

No. 1671

S.P. 594

In Senate, May 16, 1989

Submitted by the Joint Standing Committee on Judiciary pursuant to Joint Rule 20.
Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-NINE

An Act to Correct Errors and Inconsistencies in the Laws of Maine.

(EMERGENCY)



1 I, II and III; consumers' cooperatives, as that term is used
2 in Title 13, section 1501 et seq; and fish marketing
3 associations, as that term is used in Title 13, section 2001
4 et seq.

5
6 **Sec. 63. 14 MRSA §5524**, as amended by PL 1987, c. 736, §15
7 and as repealed by PL 1987, c. 758, §5, is repealed.

8
9 **Sec. 64. 14 MRSA §8111, sub-§1**, as repealed and replaced by PL
10 1987, c. 740, §8, is amended to read:

11
12 **I. Immunity.** Notwithstanding any liability that may have
13 existed at common law, employees of governmental entities shall
14 be absolutely immune from personal civil liability for the
15 following:

16
17 **A.** Undertaking or failing to undertake any legislative or
18 quasi-legislative act, including, but not limited to, the
19 adoption or failure to adopt any statute, charter,
20 ordinance, order, rule, policy, resolution or resolve;

21
22 **B.** Undertaking or failing to undertake any judicial or
23 quasi-judicial act, including, but not limited to, the
24 granting, granting with conditions, refusal to grant or
25 revocation of any license, permit, order or other
26 administrative approval or denial;

27
28 **C.** Performing or failing to perform any discretionary
29 function or duty, whether or not the discretion is abused;
30 and whether or not any statute, charter, ordinance, order,
31 resolution, rule or resolve under which the discretionary
32 function or duty is performed is valid;

33
34 **D.** Performing or failing to perform any prosecutorial
35 function involving civil, criminal or administrative
36 enforcement; or

37
38 **E.** Any intentional act or omission within the course and
39 scope of employment; provided that such immunity shall not
40 exist in any case in which an employee's actions are found
41 to have been in bad faith.

42
43 The absolute immunity provided by ~~this subsection~~ paragraph C
44 shall be applicable whenever a discretionary act is reasonably
45 encompassed by the duties of the governmental employee in
46 question, regardless of whether the exercise of discretion is
47 specifically authorized by statute, charter, ordinance, order,
48 resolution, rule or resolve and shall be available to all
49 governmental employees, including police officers and
50 governmental employees involved in child welfare cases, who are
51 required to exercise judgment or discretion in performing their
official duties.

1 determined by the State Tax Assessor for underpayments pursuant
2 to this section, shall be paid ~~from the date of overpayment upon~~
3 ~~any overpayment of tax, interest or penalty on overpayments of~~
4 tax from the date the return listing the overpayment was filed,
5 or the payment was made, whichever is later.

7 Sec. 212. PL 1987, c. 772, §35, first 2 lines are repealed and the
8 following enacted in their place:

9 Sec. 35. 36 MRS §4433 to 4436 are enacted to read:

11 Sec. 213. PL 1987, c. 787, §10, in subsection 5, by striking out
12 that part relating to 587, and inserting in its place the
13 following:

14 587, Ambient air quality or emissions 5,050 50
15 standards, variances

16 Sec. 214. PL 1987, c. 860, §1, first 2 lines are repealed and the
17 following enacted in their place:

18 Sec. 1. 30 MRS §3223-B, as enacted by PL 1987, c. 381, and
19 as amended by PL 1987, c. 553, is repealed and the following
20 enacted in its place:

21 Sec. 215. PL 1987, c. 882, §6, the first 3 lines are amended to read:

22 Sec. 6. Allocation. The following funds are allocated from the
23 General Special Revenue Fund to carry out the purposes of this
24 Act.

25 Sec. 216. P&SL 1989, c. 2, §1, 2nd sentence is amended to read:

26 Each voter who signs a nomination paper shall add the candidate's
27 voter's place of residence with the street and number, if any.

28 **Emergency clause.** In view of the emergency cited in the
29 preamble, this Act shall take effect when approved.

30 STATEMENT OF FACT

31 Section 1 corrects a statutory reference.

32 Section 2 removes a conflict created by 2 public laws
33 amending the same subsection and incorporates changes made by
34 both laws.

1 Section 47 corrects a cross-reference to a repealed section.

3 Section 48 corrects a technical error.

5 Sections 49 and 50 resolve a conflict created by 2 public
7 laws enacting the same section number.

9 Section 51 resolves a conflict by combining provisions of 2
11 laws.

13 Section 52 corrects an erroneous statutory reference.

15 Sections 53 and 54 combine provisions of 2 public laws
17 amending the same section.

19 Section 55 repeals Title 12, section 6022, subsection 13
21 which required the Commissioner of Marine Resources to provide
23 information to the Department of Transportation for publication
25 of the official state map, as the Department of Transportation no
27 longer publishes a state map.

29 Section 56 deletes a reference to the salmon permit law
31 which was repealed in 1985.

33 Section 57 repeals Title 12, section 7034, subsection 9
35 which required the Commissioner of Inland Fisheries and Wildlife
37 to provide information to the Department of Transportation for
39 publication of the official state map as the department no longer
41 publishes a state map.

43 Section 58 corrects a technical error.

45 Section 59 corrects a statutory reference.

47 Section 60 deletes a reference to a section which was
49 repealed.

51 Section 61 corrects a reference to a repealed section.

 Section 62 corrects a technical error.

 Section 63 resolves a conflict created as a result of the
 new Maine Bail Code, Title 15, chapter 105-A.

 Section 64 clarifies a statutory reference.

 Section 65 corrects a reference to a repealed section.

 Section 66 corrects a statutory cross-reference.

 Section 67 corrects an erroneous cross-reference.