

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND ELEVENTH LEGISLATURE

FIRST REGULAR SESSION
December 1, 1982 to June 24, 1983
Chapters 1-452

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J.S. McCarthy Co., Inc.
Augusta, Maine
1983

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION

and

FIRST SPECIAL SESSION

of the

ONE HUNDRED AND ELEVENTH LEGISLATURE

1983

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

Sec. 1. 7 MRSA §2903, as amended by PL 1981, c. 315, §§10 and 11, is further amended by adding before the next to the last paragraph 4 new paragraphs to read:

It is unlawful for any person to sell or advertise for sale, any milk, skim milk, nonfat or low fat milk, as defined in sections 2901 to 2904 and 3101 to 3103, which contains milk solids or nonfat milk solids, unless the milk is labeled as or advertised as "nonfat milk solids added" or "milk solids added." "Nonfat milk solids added," or "milk solids added," shall appear immediately after or immediately under anywhere the words milk, nonfat milk, skim milk or low fat milk appear and shall be printed in letters no less than 1/2 the size of the words milk, nonfat milk, skim milk or low fat milk.

It is unlawful for any person to sell any milk containing any nonfat milk solids or milk solids unless the amount of calories per 8-ounce serving is listed on the container.

It is unlawful for any person to sell any milk labeled or advertised as "low fat milk" unless the percent of fat content of that product is listed on the label.

It is unlawful for any person to sell any eggnog, eggnog flavored milk or imitation eggnog unless the ingredients are listed on the container.

Sec. 2. Effective date. The effective date of section 1 is January 1, 1984.

Effective January 1, 1984.

CHAPTER 349

S.P. 482 - L.D. 1464

AN ACT to Restructure Maine's Insurance
Management Program.

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

Sec. 1. 2 MRSA §6, sub-§5, as repealed and replaced by PL 1981, c. 705, Pt. L, §§1-3, is

repealed and the following enacted in its place:

5. Range 86. The salaries of the following state officials and employees shall be within the salary range 86:

Director of Labor Standards;

Deputy Chief of the State Police;

Director of State Lotteries;

State Archivist;

Director of Maine Geological Survey;

Executive Director, Maine Land Use Regulation Commission;

Chairman, Maine Employment Security Commission;
and

Director of the Risk Management Division.

Sec. 2. 5 MRSA §711, sub-§2, ¶A, as amended by PL 1981, c. 708, §§1-3, is further amended to read:

A. The following positions in the following departments are major policy-influencing positions. These positions and their successor positions shall be subject to this subsection, notwithstanding any other provision of law:

(1) Department of the Attorney General:

(a) Deputy Attorneys General; and

(b) Assistant Attorneys General;

(1-A) Department of Agriculture, Food and Rural Resources:

(a) Deputy commissioners;

(b) Associate Commissioner for Policy Development;

(c) Director, Bureau of Agricultural Productions;

(d) Director, Bureau of Agricultural Marketing;

(e) Director, Bureau of Agricultural and Rural Resources; and

- (f) Director, Bureau of Public Services; i
- (2) Department of Business Regulation:
 - (a) Superintendent, Bureau of Banking;
 - (b) Superintendent, Bureau of Consumer Credit Protection; and
 - (c) Superintendent, Bureau of Insurance; i
- (3) Department of Conservation:
 - (a) Director, Administrative Services;
 - (b) Director, Planning and Program Services;
 - (c) Director, Bureau of Forestry;
 - (d) Director, Maine Geological Survey;
 - (e) Executive Director, Maine Land Use Regulation Commission;
 - (f) Director, Bureau of Parks and Recreation;
 - (g) Director, Bureau of Public Lands; and
 - (h) Forest Insect Manager, Bureau of Forestry; i
- (4) Department of Educational and Cultural Services:
 - (a) Assistant to the Commissioner;
 - (b) Deputy Commissioner;
 - (c) Associate Commissioner, Bureau of School Management;
 - (d) Associate Commissioner, Bureau of Instruction; and
 - (e) Associate Commissioner, Bureau of Vocational Education; i
- (5) Department of Finance and Administration:
 - (a) State Controller;

- (b) State Purchasing Agent;
 - (c) State Tax Assessor;
 - (d) Director, Bureau of Public Improvements;
 - (e) Director, Bureau of Alcoholic Beverages; and
 - (f) State Budget Officer; and
 - (g) Director, Risk Management Division;
- (6) Department of Human Services:
- (a) Deputy Commissioners;
 - (b) Director, Bureau of Maine's Elderly;
 - (c) Director, Bureau of Resource Development;
 - (d) Director, Bureau of Health;
 - (e) Director, Bureau of Rehabilitation;
 - (f) Director, Bureau of Income Maintenance;
 - (g) Director, State Health Planning and Development Agency; and
 - (h) Director, Bureau of Medical Services; ;
- (7) Maine Human Rights Commission:
- (a) Executive Director; and
 - (b) Chief Compliance Officer; ;
- (8) Department of Indian Affairs:
- (a) Deputy Commissioner; ;
- (9) Department of Inland Fisheries and Wildlife:
- (a) Deputy Commissioner; ;

- (10) Maine State Lottery Commission:
 - (a) Deputy Director; 1
- (11) Department of Labor:
 - (a) Director, Manpower Training Division;
 - (b) Director, Bureau of Labor Standards; and
 - (c) Executive Director, Maine Labor Relations Board; 1
- (12) Department of Marine Resources:
 - (a) Deputy Commissioner; 1
- (13) Department of Mental Health and Mental Retardation:
 - (a) Associate Commissioner;
 - (b) Director, Bureau of Mental Health;
 - (c) Superintendent, Augusta Mental Health Institute;
 - (d) Superintendent, Bangor Mental Health Institute;
 - (e) Director, Bureau of Mental Retardation;
 - (f) Superintendent, Pineland Center; and
 - (g) Director, Bureau of Corrections; 1
- (14) Department of Defense and Veterans Services:
 - (a) Deputy Adjutant General;
 - (b) Director, Bureau of Civil Emergency Preparedness; and
 - (c) Director, Bureau of Veterans Services; 1
- (15) Department of Public Safety:
 - (a) Chief, Bureau of State Police;

- (b) Director, Bureau of Liquor Enforcement;
 - (c) Director, Office of State Fire Marshal; and
 - (d) Director, Maine Criminal Justice Academy;
- (16) Department of Secretary of State:
- (a) Deputy Secretaries of State; and
 - (b) State Archivist; and
- (17) Department of Transportation:
- (a) Deputy Commissioners; and
 - (b) Chief Counsel, Bureau of Legal Services.

Sec. 3. 5 MRSA §1725, as enacted by PL 1971, c. 239, §2, is repealed.

Sec. 4. 5 MRSA §1725-A is enacted to read:

§1725-A. Risk Management Division

1. Creation and authority. The Department of Finance and Administration is designated as the agency through which this chapter shall be administered and the Commissioner of Finance and Administration, in this chapter called the "commissioner," is empowered with such authority as may be necessary to carry out its purposes.

There is created within the Department of Finance and Administration a Risk Management Division, in this chapter called the "division." The division shall be under the administrative control of the commissioner and under the direct supervision of the Director of Risk Management.

2. Director of Risk Management. The commissioner shall appoint a Director of Risk Management, in this chapter called the "director," to administer the state's policy on insurance management, as developed through the authority of this chapter. The director shall serve at the pleasure of the commissioner and shall be knowledgeable of insurance practices and principles and shall be qualified by actual experience in the field of risk management to carry out the purposes of this chapter. The director shall

receive compensation as determined pursuant to Title 2, section 6, subsection 5.

3. Personnel. The director may employ such assistants and employees as are necessary, and distribute the duties assigned to the division among such persons as he deems necessary for economy and efficiency of administration. Professional employees shall be hired as unclassified employees. All other employees shall be subject to the Personnel Law.

Sec. 5. 5 MRSA §1726, as amended by PL 1971, c. 622, §17, is repealed.

Sec. 6. 5 MRSA §1727, as enacted by PL 1971, c. 239, §2, is repealed.

Sec. 7. 5 MRSA §1727-A is enacted to read:
§1727-A. Conflict of interest prohibited

The director or any other employee of the division shall not be financially interested, directly or indirectly, in any insurer, agency or insurance transaction, except as a policyholder or claimant under a policy, nor shall the director or any other employee be licensed under Title 24-A, as an agent, broker, consultant or adjuster.

Sec. 8. 5 MRSA §1728, as amended by PL 1979, c. 14, is repealed.

Sec. 9. 5 MRSA §1728-A is enacted to read:
§1728-A. Powers and duties of the director

1. Duties. The director shall provide insurance advice and services for the State Government and any department or agency thereof for all forms of insurance, except for those departments or agencies and those types of insurance otherwise provided for by law. The director shall be responsible for the acquisition and administration of all insurance purchased by the State, including the authority to purchase, on a competitive bid basis, insurance for the State for automobile, fire, liability and any other type of coverage which may be necessary to protect the State from financial loss. The director may enter into contracts for various types of claims management services in order to insure the most economically advantageous insurance protection in the operation of the state's insurance coverage program. In these regards, the director has the following duties:

A. To review annually the entire subject of

insurance as it applies to all state property and activities, and to provide to the commissioner a statement of its activities during the year ending the preceding June 30th. This report shall include:

(1) An evaluation of the state insurance program;

(2) A complete statement of all types and costs of insurance in effect;

(3) Names of agents and companies of record; and

(4) Such other matters as the director determines to be appropriate and necessary or as the commissioner may request;

B. To recommend to the commissioner such insurance protection as the director may deem necessary or desirable for the protection of all state property or activities;

C. Pursuant to programs approved by the commissioner, to provide insurance protection for state property and liability insurance in accordance with the Maine Tort Claims Act, Title 14, section 8116, and premises liability, when required by a state lease or private property approved by the Attorney General, by self-insured retention, as provided, or purchase of insurance from companies or agents licensed to do business in this State, or by both, to effect the best possible contracts as to services, coverages and costs. The purchase of insurance under this section normally shall be made upon competitive bidding, except that the director may, in appropriate circumstances, purchase insurance by negotiation.

In the event of the purchase of insurance upon competitive bidding by qualified insurers, the director shall announce the low bid at a meeting advertised for the opening of bids, which, when approved by the commissioner, shall constitute an award of a contract of insurance;

D. To determine and review the values of property in which the State has an insurable or legal interest and recommend limits and types of insurance protection for that property;

E. To establish and promote safety and other loss prevention programs;

F. To receive and, with the assistance of the Attorney General, administer all claims for personal injury and property damage against the State; and

G. With the assistance of the Attorney General, to pursue all claims against 3rd parties in all cases in which the State may be subrogated to the rights of injured employees or where damage to state property may have resulted from the negligence of a 3rd party.

2. Appraisal. In case an agreement as to the amount of loss sustained to any building or property insured under this chapter cannot be arrived at between the state agency claimant and the director, the loss shall be referred to appraisal as provided for in Title 24-A, section 3002.

3. Rejection of risk. In the event that the director determines that a risk may be prejudicial to the state's insurance program, he may refuse to include that risk in the program until such time as hazards of the risk have been removed or ameliorated to a satisfactory degree.

When coverage is declined by the director, the department or agency in charge of the risk may request that the director procure separate insurance thereon from any authorized insurance company, and the premium therefor shall be a proper charge against the department or agency responsible for the property.

4. Forms and rules. The director may prescribe forms of policies, proofs of losses and other forms and make such rules as may be necessary or expedient for the proper administration of this chapter.

Sec. 10. 5 MRSA §1729, as enacted by PL 1971, c. 239, §2, is repealed.

Sec. 11. 5 MRSA §1730, as enacted by PL 1971, c. 239, §2, is amended to read:

§1730. Records; audit

The board division shall keep a record of all its proceedings and expenditures of the board, attested by affidavits of its chairman and secretary.

The board division shall have an audit made of its accounts annually covering the last complete fiscal year by the Department of Audit.

The policies for all insurance placed shall be

kept on file with the board division.

Sec. 12. 5 MRSA §1731, as enacted by PL 1971, c. 239, §2, is amended to read:

§1731. Reserve fund for self-insured retention losses

A reserve fund, ~~hereinafter~~ in this chapter called "the fund," is created to indemnify the State for self-insured retention losses and related loss adjustment expenses from those perils insured against under a deductible or self-insured retention program, as recommended by the board director and approved by the Governor commissioner. The fund may be used for loss prevention programs, including materials, equipment and temporary employees. The amount used in loss prevention for one year may not exceed 5% of the fund as of July 1st of that fiscal year. The fund shall be a continuing fund and shall not lapse.

Sec. 13. 5 MRSA §1731-A, 2nd ¶, as enacted by PL 1971, c. 239, §2, is amended to read:

The board director may ~~recommend to the Governor purchase~~ such reinsurance of the deductible or self-insured retentions hereunder as ~~the board he~~ may deem necessary or desirable, ~~and pursuant to programs approved by the Governor, the board~~ The director may purchase such reinsurance protection from companies or agents licensed or approved by the Superintendent of Insurance to do business in the State of Maine.

Sec. 14. 5 MRSA §1732, as enacted by PL 1971, c. 239, §2, is amended to read:

§1732. Administration

The fund shall be administered by the Commissioner of Finance and Administration. ~~Subject to the approval of the board, the~~ The commissioner of Finance and Administration shall deposit the fund with the Treasurer of State for investment. All proceeds of such investment shall accrue to the fund.

Sec. 15. 5 MRSA §1733, 3rd ¶, as enacted by PL 1971, c. 239, §2, is amended to read:

All other state departments and agencies, except those specifically excluded by statute, shall pay to the fund premiums on a pro rata basis as determined by the board director, ~~not to exceed in each case an amount equal to the difference between the premium for insurance proposed to be purchased and the pre-~~

mium for mandatory deductible or full insurance coverage plus a pro-rata share of the cost of the step-less insurance and based upon the prior claims experience of the departments or agencies. In any instance in which the State has a 100% self-insured retention, the premium shall be that for full insurance coverage adjusted for any mandatory deductible.

Sec. 16. 5 MRSA §1734, first ¶, as enacted by PL 1971, c. 239, §2, is amended to read:

The fund shall not exceed 2% of the then current value of all state-insured or self-insured retention property protected by the fund as determined by the board director.

Sec. 17. 5 MRSA §1735, as amended by PL 1971, c. 622, §17-A, is further amended to read:

§1735. Depletion of fund

In the event that payments from the fund should reduce it below \$1,000,000, the board commissioner shall recommend to the Legislature that funds be appropriated to restore the fund up to the maximum amount it had previously attained.

Sec. 18. 5 MRSA §1736, first ¶, as enacted by PL 1971, c. 239, §2, is amended to read:

Pursuant to the recommendation of the board director, the commissioner of Finance and Administration shall cause payments from the fund or proceeds of insurance purchased in accordance with this chapter, or both, to be made available for repair or replacement of insured property and payment of losses and loss adjustment expenses.

Sec. 19. Funding. In order to carry out the purposes of this Act, all equipment and supplies of the Maine Insurance Advisory Board shall be transferred to the Risk Management Division. Notwithstanding any other provision of law, all appropriations, accrued expenditures, assets, liabilities, balances of funds, transfers, revenues or other available funds of the Maine Insurance Advisory Board shall be reallocated to the Risk Management Division by the State Controller.

Effective September 23, 1983.
