

# MAINE STATE LEGISLATURE

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**LAWS**  
OF THE  
**STATE OF MAINE**

AS PASSED BY THE  
ONE HUNDRED AND FOURTEENTH LEGISLATURE  
**FIRST REGULAR SESSION**

December 7, 1988 to July 1, 1989

Chapters 1 - 502

THE GENERAL EFFECTIVE DATE FOR  
NON-EMERGENCY LAWS IS  
SEPTEMBER 30, 1989

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

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J.S. McCarthy Company  
Augusta, Maine  
1989

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**PUBLIC LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED AT THE**  
**FIRST REGULAR SESSION**

**of the**  
**ONE HUNDRED AND FOURTEENTH LEGISLATURE**

**1989**

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(2) Is unmixed with any other food and there are no receipts available to prove the product is crayfish.

A violation of this paragraph is subject to the penalties provided by section 6858.

2. Mix or commingle. It shall be unlawful to mix or commingle crayfish in any form with lobster or to possess such a mixture or to cause or allow it to be done.

3. List. It shall be unlawful to list, label, advertise, sell, offer for sale or represent, for the purpose of sale, crayfish as lobster or imitation lobster, unless the country or state of origin is clearly disclosed or the listing, labeling or advertising is designed to clearly and affirmatively reflect the product being offered for sale.

4. Records. Any person, licensed under section 6851 or 6852 who deals in crayfish, shall make records available to a marine patrol officer on demand.

5. Rules. The commissioner shall adopt or amend any rules necessary to supervise and control licensees dealing in crayfish and to protect the interests of the State in the conduct, management and operation of the business of dealing in crayfish to assure compliance with this section.

6. Penalty. Violation of this section shall be a Class D crime, except that the court shall impose a fine of not less than \$100.

7. License exception for bait purposes. A license shall not be required for crayfish kept or sold for bait purposes and marked or labeled "Not for Human Consumption."

See title page for effective date.

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## CHAPTER 349

S.P. 171 - L.D. 328

### An Act to Clarify the Applicability of the Maine Tort Claims Act to the Consumer Advisory Board

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

**Sec. 1. 14 MRSA §8102, sub-§1**, as repealed and replaced by PL 1987, c. 737, Pt. C, §§27 and 106, and as amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10; and c. 769, Pt. A, §52, is repealed and the following enacted in its place:

**1. Employee.** "Employee" means a person acting on behalf of the governmental entity in any official capacity, whether temporarily or permanently, and whether with or without compensation from local, state or federal funds, including elected or appointed officials, volunteer firefighters as defined in Title 30-A, section 3151, emergency medical

service personnel, members and staff of the Consumer Advisory Board pursuant to Title 34-B, section 1216, Maine National Guardsmen while receiving state active duty pay under Title 37-B, section 143, in accordance with Title 37-B, sections 181 to 183 and 742, and while engaged in the Domestic Action Program, but the term employee does not mean a person or other legal entity acting in the capacity of an independent contractor under contract to the governmental entity.

**Sec. 2. 34-B MRSA §1216** is enacted to read:

#### **§1216. Consumer Advisory Board**

**1. Responsibilities.** The Consumer Advisory Board, as established by the Pineland Consent Decree, functions as an independent body which carries out responsibilities pursuant to appendices A and B of the consent decree and subsequent agreements approved by the United States District Court for the District of Maine.

**2. Maine Tort Claims Act.** The Consumer Advisory Board members and staff act as employees of the State, as defined in Title 14, section 8102, subsection 1, when engaged in official duties specified in the consent judgment or assigned by the board.

See title page for effective date.

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## CHAPTER 350

S.P. 491 - L.D. 1333

### An Act to Amend the Laws Concerning the Use of Seat Belts

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

**29 MRSA §1368-C**, as amended by PL 1987, c. 402, Pt. C, §§8 and 9, is further amended to read:

**§1368-C. Use of seatbelts; children at least 4 but under 16 years of age**

**1. Children at least 4 but under 16 years of age.** When a child 4 years of age or older, but less than ~~13~~ 16 years of age, is a passenger in a motor vehicle, which is required by the United States Department of Transportation to be equipped with seat belts, the operator of the motor vehicle shall have the child properly secured in a seat belt or in a child safety seat that meets the requirements set out in 49 Code of Federal Regulations, Part 571.

**2. Exception.** Subsection 1 does not apply when the number of passengers exceeds the seating capacity of the vehicle.

**3. Warnings.** Any person stopped for a violation of this section, during the initial 6 months after this section

takes effect, shall be issued a warning that a violation of this section has occurred.

4. **Penalty.** Following the initial 6-month warning period, violation of this section is a civil violation for which a forfeiture of \$25 for the first violation and \$50 for each subsequent violation may be adjudged.

5. **Failure to secure child; use as evidence.** Failure to secure a child, in accordance with this section, may not be considered negligence imputable to the child, nor may that failure be admissible as evidence in any civil or criminal action.

See title page for effective date.

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**CHAPTER 351**

**S.P. 203 - L.D. 481**

**An Act to Amend the Maine Insurance Code**

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

**Sec. 1. 24-A MRSA §2302, sub-§1, ¶C,** as amended by PL 1973, c. 585, §12, is further amended to read:

C. Property, marine and inland marine insurance on risks located in this State. Inland marine insurance shall be deemed to include insurance now or hereafter defined by statute, or by interpretation thereof, or if not so defined or interpreted, by ruling of the superintendent, or as established by general custom of the business, as inland marine insurance; and

**Sec. 2. 24-A MRSA §2302, sub-§1, ¶D** is enacted to read:

D. Title insurance.

**Sec. 3. 24-A MRSA §2302, sub-§2, ¶E,** as enacted by PL 1969, c. 132, §1, is amended to read:

E. Life insurance; or

**Sec. 4. 24-A MRSA §2302, sub-§2, ¶F,** as enacted by PL 1969, c. 132, §1, is repealed.

**Sec. 5. 24-A MRSA §2303, sub-§1, ¶C,** as amended by PL 1987, c. 559, Pt. A, §2, is further amended to read:

C. Due consideration shall be given:

(1) To past and prospective loss experience within and outside this State;

(2) To the conflagration and catastrophe hazards;

(3) To a reasonable margin for underwriting profit and contingencies;

(4) To dividends, savings or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members or subscribers;

(5) To past and prospective expenses both countrywide and those specially applicable to this State;

(6) To all other relevant factors within and outside this State;

(6-A) In the case of workers' compensation rates, consideration shall be given to the information required to be filed under section 2363; ~~and~~

(7) In the case of fire insurance rates, consideration shall be given to the experience of the fire insurance business during a period of not less than the most recent 5-year period for which such experience is available; and

(8) In the case of title insurance rates, consideration shall be given to the reasonableness of commission levels and other acquisition costs both countrywide and those specifically applicable to this State.

**Sec. 6. Applicability.** The requirements of this Act shall apply to rates utilized on or after January 1, 1990. No title insurer may utilize a rate after January 1, 1990, which has not been filed with the superintendent pursuant to this Act.

**Sec. 7. Allocation.** The following funds are allocated from Other Special Revenue funds of the Bureau of Insurance within the Department of Professional and Financial Regulation to carry out the purposes of this Act.

1989-90

**PROFESSIONAL AND FINANCIAL  
REGULATION, DEPARTMENT OF**

**Bureau of Insurance**

All Other \$10,000

See title page for effective date.

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**CHAPTER 352**

**S.P. 401 - L.D. 1045**

**An Act Concerning the Regulation of  
Cable Television**