

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND NINETEENTH LEGISLATURE

FIRST REGULAR SESSION
December 2, 1998 to June 19, 1999

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 18, 1999

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

J.S. McCarthy Company
Augusta, Maine
1999

The board may establish fee schedules and, through its administrative unit, collect fees for technical services or information systems support provided to municipalities, counties or other providers of governmental services.

§356. Administration

The Office of the Secretary of State shall provide administrative support to the board in the execution of its duties and responsibilities. The Office of the Secretary of State is responsible for all regular operations of the board, including, but not limited to, the administration of grants, technical and training requirements and consultant contracts.

§357. Funding established

The Maine Governmental Information Network Fund is established as a nonlapsing Other Special Revenue account to carry out the purposes of this chapter. The Secretary of State shall pay to the fund all money appropriated or allocated and all money or fees received by the Secretary of State for the purposes of this chapter. The Secretary of State may utilize funds available to offset the actual cost of collecting fees under this subsection. The money in the fund may be invested as provided by law with the earnings credited to the fund. This fund may be used to fund grants, consultant fees, technical support and training undertaken to carry out the purposes of this chapter.

Sec. 2. 5 MRSA §12004-L, sub-§11 is enacted to read:

<u>11. Maine Governmental Information Network Board</u>	<u>Expenses Only</u>	<u>5 MRSA §353</u>
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Sec. 3. Allocation. The following funds are allocated from Other Special Revenue funds to carry out the purposes of this Act.

	1999-00	2000-01
SECRETARY OF STATE, DEPARTMENT OF THE Maine Governmental Information Network Fund		
All Other	\$500	\$500
Provides initial allocations to authorize expenditures in the event that funds are deposited in the Maine Governmental		

Information Network Fund.

See title page for effective date.

CHAPTER 429

S.P. 626 - L.D. 1791

An Act to Promote Effective Management of Occupational Exposure to HIV

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

Sec. 1. 5 MRSA §19201, sub-§§1-A and 1-B, as enacted by PL 1995, c. 404, §1, are amended to read:

1-A. Bona fide occupational exposure. "Bona fide occupational exposure" means skin, eye, mucous membrane or parenteral contact of a person with the potentially infectious blood or other body fluids of another person that results from the performance of duties by the exposed person in the course of employment. It also includes such contact resulting from performance of emergency services by a volunteer firefighter as defined by Title 30-A, section 3151 or by an emergency medical services person licensed under Title 32, chapter 2-B when responding to an emergency as part of a governmental, nonprofit or other organized entity, whether the firefighter or emergency medical services person is compensated for such services or not.

1-B. Employer; employer of the person exposed. "Employer" and "employer of the person exposed" include a self-employed person who is exposed to the potentially infectious blood or other body fluids of another person. It also includes, in the case of a volunteer firefighter or emergency medical services person, the organization for which the services are performed.

Sec. 2. 5 MRSA §19201, sub-§2-A is enacted to read:

2-A. Health care setting. "Health care setting" means any location where there is provision of preventive, diagnostic, therapeutic, rehabilitative, maintenance or palliative care, services, procedures or counseling, including emergency services performed in the field, and appropriate assistance with disease or symptom management and maintenance that affects an individual's physical, mental or behavioral condition, including the process of banking blood, sperm, organs or any other tissue.

Sec. 3. 5 MRSA §19203-A, sub-§4-A is enacted to read:

4-A. Occupational exposure in health care setting. When a bona fide occupational exposure occurs in a health care setting, authorization to test the source patient for HIV must be obtained from that patient if the patient is present or can be contacted at the time of exposure and is capable of providing consent. At the time of exposure, if the source patient is not present and can not be contacted or is incapacitated, then any reasonably available member of the following classes of individuals, in descending order of priority, may authorize an HIV test on a blood or tissue sample from the source patient:

- A. The patient's legal guardian;
- B. An individual known to have power of attorney for health care for the patient;
- C. An adult relative, by blood, marriage or adoption;
- D. An adult with whom the patient has a meaningful social and emotional relationship; and
- E. A physician who is familiar with occupational exposures to HIV.

The individual authorizing the HIV test must be informed of the nature, reliability and significance of the HIV test and the confidential nature of the test.

If the person contacted for authorization refuses to authorize the test, the test may not be conducted unless consent is obtained from the source patient or from the court pursuant to section 19203-C.

This subsection does not authorize a person described in paragraphs A to D to receive the test result. Test results must be given to the exposed person, to a personal physician if designated by the exposed person and to either the physician who authorizes the test or the health care provider who manages the occupational exposure.

The patient may choose not to be informed about the result of the HIV test. Without express patient authorization, the results of the HIV test and the fact that an HIV test was done as a result of an occupational exposure in a health care setting may not appear in the patient's health care records. The exposed individual's occupational health care record may include documentation of the occupational exposure and, if the record does not reveal the source patient's identity, the results of the source patient's HIV test.

Sec. 4. 5 MRSA §19203-C, sub-§1, ¶C, as amended by PL 1995, c. 404, §7, is further amended to read:

C. Written informed consent was not given by the person whose blood or body fluid is the source of the exposure and that person has refused to be tested, or, in the event of an occupational exposure in a health care setting when the source patient was not present and could not be contacted or was incapacitated, the individual contacted for authorization to test the source patient's blood or tissue sample denied the authorization.

Sec. 5. Study. The Department of Human Services, Bureau of Health, shall convene a study group to examine options for expanding the application of this Act to other groups of employers and employers subject to the federal OSHA regulation on blood-borne pathogens. The group must include representatives of the Maine HIV Advisory Committee, hospitals and other health care providers, employers, labor and state or federal officials with expertise in the OSHA blood-borne pathogen standard.

By December 31, 1999, the department shall present a report to the Joint Standing Committee on Judiciary with information regarding various options and a recommendation on expansion of the application of this Act. The Joint Standing Committee on Judiciary is authorized to report out legislation to the Second Regular Session of the 119th Legislature by March 1, 2000 in response to the report.

See title page for effective date.

CHAPTER 430

H.P. 1537 - L.D. 2192

An Act to Prohibit Law Suits by Municipalities Against Firearm or Ammunition Manufacturers

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

Sec. 1. 30-A MRSA §2005 is enacted to read:

§2005. Civil action against firearm and ammunition manufacturers

A municipality may not commence a civil action against any firearm or ammunition manufacturer for damages, abatement or injunctive relief resulting from or relating to the lawful design, manufacture, marketing or sale of firearms or ammunition to the public. This section does not prohibit a municipality from bringing an action against a firearm or ammunition manufacturer or dealer for breach of contract or