

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

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IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

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Augusta, Maine
1999

substantial probability that the defendant can be competent in the foreseeable future, the court shall dismiss all charges against the defendant and order the Commissioner of Mental Health, Mental Retardation and Substance Abuse Services to commence involuntary commitment proceedings pursuant to Title 34-B, chapter 3, subchapter IV. If the defendant is charged with offenses not listed in the previous sentence, and the court determines that the defendant is not competent to stand trial and there does not exist a substantial probability that the defendant can be competent in the foreseeable future, the court shall dismiss all charges against the defendant and notify the appropriate authorities who may institute civil commitment procedures for the individual; or

See title page for effective date.

CHAPTER 504

S.P. 315 - L.D. 949

An Act to Encourage Economic Development in the State

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

Sec. 1. 7 MRSA §434, sub-§1, as enacted by PL 1995, c. 658, §1, is repealed and the following enacted in its place:

1. Agricultural enterprise. "Agricultural enterprise" means a person or business located in this State and engaged in the commercial growing or harvesting of plants; raising of animals; growing or obtaining plant or animal by-products; aquaculture, as defined in Title 12, section 6001, subsection 1; or further processing, storing, packaging or marketing a raw product derived from plants, animals, plant or animal by-products or aquaculture, as defined in Title 12, section 6001, subsection 1, with the intent that the product be sold or otherwise disposed of to generate income. "Agricultural enterprise" does not include a business engaged primarily in the growing, harvesting or further processing of forest species of trees for the purpose of producing pulp or other materials used in the paper manufacturing or wood manufacturing process.

Sec. 2. 10 MRSA §382, sub-§4, as enacted by PL 1995, c. 699, §3, is amended to read:

4. Qualifying small business. "Qualifying small business" means a business employing ~~25~~ 50 or fewer employees or having gross sales not exceeding ~~\$2,000,000~~ \$5,000,000 within the most recent 12 months for which financial statements are available.

Sec. 3. 10 MRSA §384, sub-§3, as enacted by PL 1995, c. 699, §3, is amended to read:

3. Terms. The members other than the Commissioner of Economic and Community Development or the commissioner's designee serve for ~~one year~~ 2-year terms and may be reappointed for up to 3 consecutive terms. A member may serve for more than 3 2-year terms if the terms are not consecutive.

Sec. 4. 10 MRSA §385, sub-§3, as enacted by PL 1995, c. 699, §3, is amended to read:

3. Ownership interests. The board may not hold an ownership interest in a private enterprise ~~unless when~~ it is determined by the board that such an interest is necessary to recover amounts due to the fund and the agreement between the board and the private enterprise contains a specific plan for the board to divest itself of the ownership at some future time or desirable in order for the fund to obtain a reasonable return on its investment in the private enterprise.

Sec. 5. 10 MRSA §386, sub-§3, ¶C, as enacted by PL 1995, c. 699, §3, is repealed.

Sec. 6. 10 MRSA §388, sub-§1, as enacted by PL 1995, c. 699, §3, is amended to read:

1. Disbursements. Disbursements may not exceed ~~\$150,000~~ \$500,000 to a qualifying small business, including an affiliated entity. The Finance Authority of Maine shall report annually by December 20th of each year to the joint standing committee of the Legislature having jurisdiction over business and economic development matters on all disbursements made under this subsection.

Sec. 7. 10 MRSA §388, sub-§§2 and 3, as enacted by PL 1995, c. 699, §3, are repealed and the following enacted in their place:

2. Provide evidence. The qualifying small business shall provide evidence satisfactory to the board that the small business has obtained or will obtain, prior to the board's disbursement, matching funds in an amount at least equal to the board's investment in the form of debt or equity that is at risk in the small business.

3. Agreement. The board must enter into an agreement with the recipient of the disbursement setting forth the terms of repayment of the fund's investment in the recipient. This agreement may include such terms and conditions as the board determines will provide a reasonable return on its investment taking into consideration the risk of the investment. These terms and conditions may include one or more of the following:

- A. Repayment of the full amount disbursed;
- B. Payment of interest based on the board's assessment of the risk of the investment;
- C. Payment of return based on the board's ownership interest in the recipient;
- D. Flexible payments based on the financial success of the recipient;
- E. Royalties or additional payments based on sales, net cash flow or other financial measures;
- F. Rights to equity in the enterprise in the form of warrants or similar rights; or
- G. Such other terms and conditions as the board determines are appropriate for the investment.

Sec. 8. 10 MRSA §963-A, sub-§31-A, as enacted by PL 1995, c. 4, §4, is amended to read:

31-A. Major business expansion project. "Major business expansion project" means any building, structure, machinery, equipment or facility proposed to be constructed, rehabilitated, expanded, modernized or acquired in the State by a business entity; that has a projected cost of ~~\$5,000,000~~ \$1,000,000 or more, that is projected to result in a net gain of at least ~~400~~ 50 job opportunities within the State or the retention of at least ~~400~~ 50 jobs, directly or indirectly, and that benefits from financing assistance from the authority including use of a capital reserve fund pursuant to section 1053. A major business expansion project does not include electric rate stabilization projects or projects primarily involved in the provision of housing or retail sales to consumers.

Sec. 9. 10 MRSA §1026-B, sub-§4, as amended by PL 1991, c. 511, Pt. A, §6, is further amended to read:

4. Retail store projects. The authority may insure mortgage loans for a retail store project, provided that:

- A. The principal amount of mortgage insurance for the project does not exceed ~~\$200,000;~~ \$400,000 in the aggregate for all retail projects insured.
- ~~B. The project includes only one retail store that is not attached or does not adjoin another retail store that has received an insured mortgage loan under this chapter; and~~
- ~~C. The applicant has not received mortgage insurance under this subsection for any other retail store.~~

Sec. 10. 10 MRSA §1100-T, sub-§2, ¶B, as amended by PL 1991, c. 854, Pt. A, §8, is further amended to read:

B. The Maine business must be a manufacturer; must provide a product or service that is sold or rendered, or is projected to be sold or rendered, predominantly outside of the State; must be engaged in the development or application of advanced technologies; or must bring capital into the State, as determined by the authority.

Sec. 11. 38 MRSA §568-A, sub-§2, ¶A, as enacted by PL 1995, c. 361, §5, is amended to read:

A. For purposes of this paragraph, the number of facilities or capacity in gallons owned by the facility owner must be determined at the time of the discovery of the discharge. A facility owner includes any entity that is directly owned by the facility owner or owns the facility owner; any entity of which the facility owner is a franchisee; any entity that is a member of a partnership or limited partnership that includes the facility owner; any entity of which the facility owner is a subsidiary corporation, a parent corporation or a sibling corporation; or any entity that is related, whether directly or indirectly, to a person who owns a majority of shares in any other entity described in this paragraph. Standard deductibles are as follows.

(1) For expenses related to a leaking underground oil storage facility, the deductible amount is determined in accordance with the following schedule:

Number of underground storage facilities owned by the facility owner	Deductible
1	\$2,500
2 to 5	5,000
6 to 10	10,000
11 to 20	25,000
21 to 30	40,000
over 30	62,500

(2) For expenses related to a leaking aboveground oil storage facility, the deductible amount is determined in accordance with the following schedule:

Total aboveground oil storage capacity in gallons owned by the facility owner	Deductible
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Less than 1,320	\$500
1,321 to 50,000	2,500
50,001 to 250,000	5,000
250,001 to 500,000	10,000
500,001 to 1,000,000	25,000
1,000,001 to 1,500,000	40,000
greater than 1,500,000	62,500

(3) For facilities with both aboveground and underground tanks when the source of the discharge can not be determined or when the discharge is from both types of tanks, the standard deductible is the applicable amount under subparagraph (1) or (2), whichever is greater.

See title page for effective date.

CHAPTER 505

H.P. 1141 - L.D. 1626

An Act to Assist in the Cleanup of the Town of Wells Maine Waste Oil Site

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

PART A

Sec. A-1. 5 MRSA §1513, sub-§1-L is enacted to read:

1-L. Transfer from Maine Rainy Day Fund; Wells Waste Oil Clean-up Fund. Notwithstanding subsection 2 and section 1585, \$3,100,000 must be transferred by the State Controller from the available balance in the Maine Rainy Day Fund to the Wells Waste Oil Clean-up Fund established in Title 10, section 1023-L no later than September 30, 1999.

Sec. A-2. 10 MRSA §963-A, sub-§42-C is enacted to read:

42-C. Orphan share. "Orphan share" means the percentage of the total response costs payable by parties who are bankrupt, dissolved, insolvent or no longer in business or whose current identity or location can not be determined.

Sec. A-3. 10 MRSA §963-A, sub-§47-A is enacted to read:

47-A. Responsible party. "Responsible party" has the same meaning as set forth in Title 38, section 1362, subsection 2 and has the same meaning as the term "potentially responsible party" as defined in 40 Code of Federal Regulations, Section 304-12(m).

Sec. A-4. 10 MRSA §963-A, sub-§49-G is enacted to read:

49-G. Total response costs. "Total response costs" means the total costs that have been or will be paid in association with the Portland-Bangor Waste Oil Services Site in Wells. "Total response costs" includes any payments that either have been made or will be made to the Department of Environmental Protection or any payments that either have been made or will be made as a total or partial settlement with any entity that assumes that person's liability at that site. "Total response costs" includes costs incurred by the Department of Environmental Protection or 3rd parties in connection with the investigatory, removal or remedial activities regarding the Portland-Bangor Waste Oil Services Site in Wells.

Sec. A-5. 10 MRSA §963-A, sub-§§51-B and 51-C are enacted to read:

51-B. Waste oil. "Waste oil" means a petroleum-based oil that, through use or handling, has become unsuitable for its original purpose due to the presence of impurities or loss of original properties. "Waste oil" includes mixtures of waste oil and water.

51-C. Waste oil disposal site. "Waste oil disposal site" means the Portland-Bangor Waste Oil Services Site in Wells designated by the Department of Environmental Protection as an uncontrolled hazardous substance site.

Sec. A-6. 10 MRSA §1023-D, sub-§2, as amended by PL 1995, c. 399, §1 and affected by §21, is further amended to read:

2. Sources of money. There must be paid into the fund the following:

- A. All money appropriated for inclusion in the fund or appropriated to the authority for use in providing financial assistance to owners of underground oil storage facilities or tanks, subject to any restrictions applicable to the appropriation;
- B. Subject to any pledge, contract or other obligation, all interest, dividends or other pecuniary gains from investment of money of the fund;
- C. Subject to any pledge, contract or other obligations, any money the authority receives in repayment of advances from the fund; and
- D. Any other money available to the authority and directed by the authority to be paid into the fund.

Without limiting the generality of any other power or authority given to or conferred upon the authority in anticipation of the appropriation or transfer of any