

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE
AS PASSED BY THE

ONE HUNDRED AND EIGHTH LEGISLATURE
AT THE

SECOND REGULAR SESSION

January 4, 1978 to April 6, 1978

FIRST SPECIAL SESSION

(No laws enacted)

September 6, 1978 to September 15, 1978

SECOND SPECIAL SESSION

October 18, 1978

THIRD SPECIAL SESSION

December 6, 1978

PUBLISHED BY THE DIRECTOR OF LEGISLATIVE RESEARCH IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED, TITLE 3, SECTION 164, SUBSECTION 6.

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1979

PUBLIC LAWS
OF THE
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AS PASSED AT THE
SECOND REGULAR SESSION
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ONE HUNDRED AND EIGHTH LEGISLATURE
January 4, 1978 to April 6, 1978

the advisory council or the Atlantic Sea Run Salmon Commission which have been appointed under prior marine resources' laws, which shall continue until they expire under the term as established by statute at the time of appointment. The new qualifications for membership to the advisory council shall only apply to members appointed under this Act after its effective date.

5. Personnel. This Act shall have no effect on the term or appointment of any employee of the department, except as provided in subsection 6.

6. Deputy commissioner. Notwithstanding the provisions of this Act, the incumbent deputy commissioner on December 31, 1978, may retain his appointment subject to the Personnel Law until January 1, 1983.

7. Funds and equipment transferred. Notwithstanding the provisions of Title 5, all accrued expenditures, assets, liabilities, balances of appropriations, transfers, revenues or other available funds in any account or subdivision of any account of the department shall be transferred to the proper place under this Act by the State Controller, upon the recommendation of the commissioner and State Budget Officer, and with the approval of the Governor.

8. Municipal programs and ordinances. Municipal programs and ordinances authorized and adopted under prior marine resources' laws shall continue to be valid under the terms of authorization and adoption until they expire or are rescinded, amended or revoked.

Sec. 10. Effective date. Sections 1, 2, 4, 5, 6, 7, 8 and 9 of this Act shall become effective January 1, 1979. Section 3 of this Act shall become effective 90 days after adjournment.

Effective July 6, 1978 Unless otherwise indicated.

CHAPTER 662

AN ACT to Lower the Costs of Medical Malpractice Arbitration.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the first regular session of the 108th Legislature enacted by PL 1977, chapter 492, "AN ACT to Implement the Recommendations of the Pomeroy Commission on Medical and Hospital Malpractice Insurance;" and

Whereas, one of the intentions of this Act was to decrease the costs of processing damage claims for medical malpractice; and

Whereas, it has come to the attention of the Legislature that provisions of the Act may still require a substantial and unnecessary financial outlay by a claimant before and during the medical malpractice arbitration conducted under the Act; and

Whereas, it is possible, by providing for the choice of a neutral arbitrator or a panel instead of a panel of 3 arbitrators only and by providing free use of state facilities for arbitration, to substantially cut this financial outlay while still providing for an equitable system for arbitrating malpractice claims; and

Whereas, it is necessary that these changes be enacted as soon as possible to eliminate unnecessary financial barriers to the arbitration of malpractice claims; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 24 MRSA § 2704, sub-§ 7 is enacted to read:

7. Location of proceedings. The arbitration proceeding may be held in a District Court building at a location agreed to by the parties in writing, or in any other location agreed to by the parties in writing. The District Court shall establish procedures by which parties may request and receive use of a room, facilities and equipment for an arbitration. This room shall be provided by the district court system to the parties and arbitrators at no cost to the parties or arbitrators.

Sec. 2. 24 MRSA § 2705, as enacted by PL 1977, c. 492, § 3, is repealed and the following enacted in its place:

§ 2705. Arbitrators

1. Panel of arbitrators; membership; selection. An arbitration under this chapter shall be heard by a panel of 3 arbitrators. Within 5 days of the commencement of arbitration proceedings, the patient shall select one arbitrator and the health care provider or physician, or both, shall select one arbitrator. The parties shall immediately thereafter notify each other in writing of the name and address of the person so selected. The 2 arbitrators so selected and named shall, within 10 days from the request, agree upon and select and name a neutral arbitrator. If either party shall not select its arbitrator or if the 2 arbitrators shall fail to agree upon, select and name a neutral arbitrator within that 10 days, either party may request the American Arbitration Association to assist in selection of or to select the neutral arbitrator. As soon as possible after receipt of that request, the neutral arbitrator shall be selected in accordance with the provisions of subsection 2 and the rules and procedures prescribed by the American Arbitration Association for making that selection.

2. Neutral arbitrator; method of selection. If the American Arbitration Association is requested to assist in selection of or to select a neutral arbitrator, the following procedure shall apply.

A. The association shall send simultaneously to each party an identical list of 5 neutral arbitrator candidates, together with a brief biographical statement on each candidate. A party may strike from the list any name which is unacceptable and shall number the remaining names in order of preference and return the list to the association. When the lists are returned, they shall be

compared by the association and the first mutually agreeable candidate shall be invited to serve.

B. If no mutually agreed upon neutral arbitrator is selected, then a 2nd list shall be sent in the same manner.

C. If no mutually agreed upon neutral arbitrator is selected from the 2nd list, then, under the applicable rules and procedures of the association, the association shall appoint a neutral arbitrator. The appointment by the association shall be subject to challenge by any party for cause. The challenge may allege facts to establish that unusual community or professional pressures will unreasonably influence the objectivity of the neutral arbitrator. A request to strike the arbitrator for cause shall be determined by the regional director or comparable officer of the association.

D. If the appointment is struck for cause, the association shall appoint another neutral arbitrator in the same manner, until an appointment stands.

3. Agreements of parties concerning arbitrators. Notwithstanding subsections 1 and 2, the parties may agree upon arbitrators or any method of selecting arbitrators or the number of arbitrators, provided the agreement is made after the commencement of arbitration proceedings.

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

Effective March 20, 1978

CHAPTER 663

AN ACT to Empower the Oil Burner Men's Licensing Board to Inspect and Approve Coal and Wood Fuel Central Heating Equipment.

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

Sec. 1. 32 MRSA § 2301, sub-§ 5 is enacted to read:

5. Coal and wood central heating equipment. "Coal and wood fuel central heating equipment" shall mean any heating plant equipped with a furnace or boiler using coal or wood, or both, as fuel and designed specifically to be attached to or as an integral part of a central heating distribution system. Fireplace stoves and radiant room heaters as defined by the National Fire Protection Association or Underwriters Laboratories Inc. shall not be considered to be within the definition of central heating equipment.

Sec. 2. 32 MRSA § 2301-A is enacted to read: