

# 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 453-End

AND AT THE

**FIRST SPECIAL SESSION**  
September 6, 1983 to September 7, 1983  
Chapters 583-588

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

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

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

AS PASSED AT THE  
FIRST REGULAR SESSION

CONTINUED

and

FIRST SPECIAL SESSION

of the

ONE HUNDRED AND ELEVENTH LEGISLATURE

1983

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	<u>1983-84</u>	<u>1984-85</u>
<u>SECRETARY OF STATE,</u>		
<u>DEPARTMENT OF</u>		
Positions	(6)	(8)
Personal Services	\$124,714	\$161,516
All Other	11,012	12,408
Capital Expenditures	<u>21,664</u>	<u>          </u>
TOTAL	\$157,390	\$173,924

Effective September 23, 1983.

## CHAPTER 568

H.P. 1306 - L.D. 1735

AN ACT Relating to the Identification  
and the Hazards of Exposure to Toxic and  
Hazardous Substances.

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

Sec. 1. 7 MRSA §607, sub-§4, as enacted by PL 1975, c. 382, §3, is amended to read:

4. Test results. The commissioner may require a full description of the tests made and the results thereof upon which the claims are based on any pesticide not registered pursuant to ~~of FIFRA~~ the Federal Insecticide, Fungicide and Rodenticide Act, Section 3, or on any pesticide on which restrictions are being considered. In the case of renewal of registration, a statement shall be required only with respect to information which is different from that furnished when the pesticide was registered or last reregistered. Notwithstanding Title 1, section 402, data submitted under this subsection and subsections 3 and 5 are confidential and shall not be available for public inspection.

Sec. 2. 22 MRSA §1471-M, sub-§3 is enacted to read:

3. Enforcement of chemical substance identification. The board shall have primary enforcement responsibility for inspection of any workplace subject to the provisions of Title 26, chapter 22, solely because of the presence of a pesticide. The

board shall have primary enforcement responsibility for training programs to be provided by employers under Title 26, chapter 22, in those instances where the employer is subject to the provisions of that law solely because of the presence or use of a pesticide.

Sec. 3. 26 MRSA §1702, sub-§6, as enacted by PL 1979, c. 500, is amended to read:

6. Hazardous substance. "Hazardous substance" means a chemical which:

A. Is listed in the Department of Transportation Hazardous Materials Table, 49 CFR 172.101; and

B. Meets one or more of the following criteria for hazard class:

(1) Is a combustible substance. For purposes of this section, a combustible substance is any liquid with a flash point above 100° F. and below 200° F.;

(2) Is a compressed gas. For purposes of this section, a compressed gas is any chemical having in the container an absolute pressure exceeding 40 PSI at 70° F. or having an absolute pressure exceeding 104 PSI at 130° F., or any flammable liquid having a vapor pressure exceeding 40 PSI absolute pressure at 100° F.;

(3) Is an explosive. For purposes of this section, an explosive is any chemical which is capable of producing an instantaneous release of gas and heat;

(4) Is a flammable substance. For purposes of this section, a flammable substance is any liquid with a flash point of below 100° F., solid heat from manufacturing or processing or gas which at atmospheric temperature and pressure forms a flammable mixture with air when present at a concentration of 13% or less by volume or that forms a range of flammable mixtures with air wider than 12% regardless of the lower limit;

(5) Is an organic peroxide. For purposes of this section, an organic peroxide is an organic compound that contains the bivalent - O- O- structure and which is a derivative of hydrogen peroxide where one or more hydrogen atoms have been replaced by organic radicals; or

(6) Is an oxidizer. For purposes of this section, an oxidizer is a chemical that readily yields oxygen and can stimulate the combustion of organic matter; or

C. Is listed as a radioactive material in regulations promulgated by the United States Nuclear Regulatory Commission.

Sec. 4. 26 MRSA §1702, sub-§6-A is enacted to read:

6-A. Material safety data sheet. "Material safety data sheet" means a form containing information concerning a hazardous or toxic substance substantially equivalent in content to form 20 of the United States Occupational Safety and Health Administration and which includes acute and chronic health hazard information.

Sec. 5. 26 MRSA §1702, sub-§7, as enacted by PL 1979, c. 500, is amended to read:

7. Toxic substance. "Toxic substance" means a chemical which is:

A. Listed in the Toxic and Hazardous Substances section of the regulations of the Occupational Health and Safety Act labeling standard in the United States Code of Federal Regulations 29, Part 1910, Subpart Z; or

B. Contained on a list established by the director by rule and which meets any of the following criteria:

(1) Has a median lethal oral dose of not more than 500 milligrams per kilogram of body weight;

(2) Has a median lethal dermal dose of not more than 1,000 milligrams per kilogram of body weight;

(3) Has a median inhalation lethal concentration in air of not more than 2,000 parts per million by volume of gas or vapor, or more than 2 milligrams per liter but not more than 20 milligrams per liter of mist, fume or dust; or

(4) Has been found by the director, based on established scientific evidence, to have significant potential to cause adverse health effects because it is carcinogenic, mutagenic, teratogenic, neurotoxic or bioaccumulative.

Sec. 6. 26 MRSA §1702, sub-§7-A is enacted to read:

7-A. Trade secret. "Trade secret" means any formula, pattern, process, device, information or compilation of information, including chemical name, that is used in any employer's business that gives the employer an opportunity to obtain any advantage over competitors who do not know or use it.

Sec. 7. 26 MRSA §1702, sub-§9 is enacted to read:

9. Workplace. "Workplace" means an establishment or business at one geographic location containing one or more work areas.

Sec. 8. 26 MRSA §1703-A is enacted to read:

§1703-A. Material safety data sheets

1. Manufacturers, suppliers or distributors to provide. Manufacturers, suppliers or distributors of hazardous or toxic substances shall provide their direct purchasers with the current material safety data sheet for each substance subject to this chapter that they manufacture or sell in this State.

2. Employers to maintain. Each employer shall maintain in each workplace a material safety data sheet for each hazardous or toxic substance to which employees may be exposed. All material safety data sheets maintained by employers shall be available to their employees for examination during all hours of operation.

3. Trade secret information. An employer may withhold the identity of a toxic or hazardous substance on a material safety data sheet if disclosure would reveal a trade secret. All other information, including the routes of exposure, effects of exposure, type and degree of hazard and emergency treatment and response procedures, shall be provided. An employer shall, upon request, provide the identity of any hazardous or toxic substance that is a trade secret to the director or to the authorized physician of an employee for medical treatment under an appropriate confidentiality agreement by the physician.

4. Copies to local fire chiefs. Employers shall, upon request, provide to local fire chiefs copies of the material safety data sheets maintained in the workplace.

5. Trade secret determination. If the director believes a manufacturer, supplier, distributor or

employer has improperly designated a chemical substance or its use in a particular process as a trade secret, the director may challenge the designation in Superior Court. Pending final determination, the director may also seek injunctive relief. If the director prevails, and the chemical or its use in a particular process is determined not to be a trade secret, as defined in this chapter, the other party shall pay all costs and reasonable attorneys' fees.

Sec. 9. 26 MRSA §1704, sub-§1, as enacted by PL 1979, c. 500, is amended to read:

1. Educational and training program required. The employer shall institute an ~~education~~ educational and training program for all employees who are ~~reutinely~~ reutinely exposed to hazardous or toxic ~~chemieals~~ chemicals substances.

Sec. 10. 26 MRSA §1704, sub-§2, as enacted by PL 1979, c. 500, is amended to read:

2. Schedule for educational and training program. The education and training shall commence prior to initial assignment and shall be repeated at least annually thereafter. Additional instruction shall be provided whenever chemicals or processes change, or newly acquired information indicates the need for additional protective measures. Programs shall be conducted during the employee's regular working hours.

Sec. 11. 26 MRSA §1704, sub-§3, as enacted by PL 1979, c. 500, is amended to read:

3. Educational and training contents. The ~~education~~ educational and training program shall include the following:

A. The location, properties and acute and chronic health effects of the chemicals to which the employees are ~~reutinely~~ reutinely exposed in the work area;

B. The nature of the operations which could result in exposure to these chemicals as well as any necessary handling or hygienic practices or precautions;

C. The purpose, proper use and limitation of personal protective equipment required by any other Occupational Health and Safety Act standard or otherwise used in the work area; and

D. An explanation of the information contained on the labels, and the appropriate material safety data sheets; and



E. The provisions of this chapter.

Sec. 12. 26 MRSA §1704, sub-§4-A is enacted to read:

4-A. Employer to maintain records. Each employer subject to this chapter shall maintain an outline of its training programs and a list of employees by name and job title or classification who have received training, the type of training provided and the dates it was provided.

Sec. 13. 26 MRSA §1704, sub-§6 is enacted to read:

6. Rules; minimum training programs. The director may by rule establish minimum training programs to be provided to employees who are exposed to specific hazardous or toxic substances.

Sec. 14. 26 MRSA §1705, sub-§3 is enacted to read:

3. Reports. The director may by rule require that employers send copies of material safety data sheets maintained by them and annual updates to the bureau.

Sec. 15. 26 MRSA §1706-A is enacted to read:

§1706-A. Administration and enforcement

1. Enforcement. The Bureau of Labor Standards shall administer and enforce the provisions of this chapter, except that the Board of Pesticides Control shall have primary responsibility for inspection and training programs in workplaces subject to the provisions of this chapter solely because of the presence of a limited or restricted use pesticide within the meaning of the Maine Pesticides Control Act of 1975, Title 7, sections 601, subchapter II-A.

2. Inspections. For the purposes of enforcing this chapter, the director may, at any reasonable time and upon presentation of appropriate identification, enter and inspect a workplace accompanied by the employer representative.

3. Cooperation with other agencies. The director may obtain the assistance of the Bureau of Health and other state agencies in the administration of this chapter. The director shall provide by rule appropriate procedures for transferring to other state agencies information provided by employers which is subject to confidential treatment.

4. Assistance to employers. The director may

provide assistance to employers in the development and conduct of training programs for employees and local public safety personnel and the completion of material safety data sheets. The director may establish by rule a segregated, nonlapsing Training Assistance Fund which shall be financed by fees levied on employers subject to this chapter. The fees shall be graduated based on the number of material safety data sheets maintained by an employer and shall not be less than \$30 nor more than \$300 a year for each employer. Revenues paid into the fund, including interest, shall be used exclusively for carrying out the purposes of this subsection. Expenditures from the fund shall be allocated and approved by the Legislature.

The director may not assess fees for materials subject to fees under Title 7, chapter 103.

5. Waiver by rule. If the director determines that, with respect to certain amounts or concentrations of specific hazardous or toxic substances, strict compliance with the requirements of this chapter will not contribute to the health and safety of employees, the director may by rule waive those requirements.

Sec. 16. 26 MRSA §1707, as enacted by PL 1981, c. 261, is amended to read:

§1707. Penalty

Any person, partnership, corporation or other legal entity who refuses to comply, in whole or in part, with this chapter commits a civil violation for which a forfeiture not to exceed \$500 for the first violation and not to exceed \$1,000 for any subsequent violation may be adjudged.

Sec. 17. 26 MRSA §1708 is enacted to read:

§1708. Prohibited practices; remedy

It is unlawful for any employer to discharge, discipline or otherwise discriminate against any of its employees who have assisted in the enforcement of this chapter. The director may, after investigation and hearing, bring an action in Superior Court on behalf of any employee to enforce this section. In addition to the civil penalties set forth in section 1707, the director may seek all other appropriate relief, including payment of compensation actually lost as a result of a violation. If the court finds that there has been no violation of this section, the court may award costs and reasonable attorneys' fees to the employer.

Sec. 18. Allocation of Training Assistance Fund. There is allocated from the Training Assistance Fund the following funds to carry out the purposes of this Act.

<u>LABOR, DEPARTMENT OF</u>	<u>1983-84</u>	<u>1984-85</u>
Bureau of Labor Standards		
Positions	(1 1/2)	(2)
Personal Services	\$28,000	\$38,800
All Other	7,500	9,900
Capital Expenditures	<u>1,900</u>	<u>          </u>
Total	\$37,400	\$48,700

Effective September 23, 1983.

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## CHAPTER 569

S.P. 617 - L.D. 1751

AN ACT to Establish a Program to Abate, Clean up and Mitigate Threats to Public Health and the Environment from Uncontrolled Hazardous Substance Sites.

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

Whereas, the Legislature deems it necessary to alleviate the threat or potential threat to the public health, safety or welfare of all the people of the State, to prevent the contamination of ground and surface waters and air of the State and to preserve land and other resources; and

Whereas, uncontrolled hazardous substance sites in the State pose a threat to the people of the State and problems associated with these sites have occurred in the past, are occurring now and present future threats to the public health, safety or welfare and to the environment of potentially grave proportions; and

Whereas, these threats are inimical to the paramount interests of the State; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of