

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWELFTH LEGISLATURE

FIRST REGULAR SESSION

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Chapters 1-384

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J.S. McCarthy Co., Inc.
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PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION

of the
ONE HUNDRED AND TWELFTH LEGISLATURE

1985

home baby-sitting services before those services may be provided.

Effective September 19, 1985.

CHAPTER 359

H.P. 1075 - L.D. 1564

AN ACT to Provide Expanded Markets for Products and Services from Rehabilitation Facilities and Work Centers.

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

Whereas, there is a need to strengthen existing statutes which attempt to expand employment opportunities for disabled persons; and

Whereas, legislation is urgently needed to accomplish that goal by providing expanded markets for products and services from rehabilitation facilities and work centers; 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Sec. 1. 5 MRSA c. 155, first 2 lines are repealed and the following enacted in its place:

CHAPTER 155

PURCHASES

SUBCHAPTER I

GENERAL PROVISIONS

Sec. 2. 5 MRSA §1816, sub-§11, as enacted by PL 1981, c. 495, is repealed.

Sec. 3. 5 MRSA c. 155, sub-c. II is enacted to read:

SUBCHAPTER II

PRODUCTS AND SERVICES FROM REHABILITATION
FACILITIES AND WORK CENTERS

§1826-A. Purpose and intent

The Legislature finds that the goal of intergrating disabled persons into all aspects of community life is enhanced by providing expanded markets for products and services of work centers. The Legislature further believes that work centers provide a valuable means of transitional employment for the State's disabled population and for some, such as the most severely disabled persons, they may offer the only opportunities available for long-term, gainful employment.

In order to assure continued opportunities for disabled persons to obtain this employment through work centers, it is the intent of the Legislature to provide reliable and steady income and job opportunities to work centers. It is the purpose of this section and sections 1826-B to 1826-D to ensure that some portion of state purchases for commodities and services be available to work centers.

§1826-B. Definitions

As used in this subchapter, unless the context indicates otherwise, the following terms have the following meanings.

1. Disabled person. "Disabled person" means an individual who has a physical or mental disability which substantially limits one or more major life activities, has a record of such impairment or is perceived to have such an impairment.

2. Work center. "Work center" means a rehabilitation facility or that part of a rehabilitation facility engaged in production or service operation for the primary purpose of providing gainful employment as an interim step in the rehabilitation process for those who cannot be absorbed readily in the competitive labor market or during such time as employment opportunities for them in the competitive labor market do not exist. For the purposes of sections 1826-A to 1826-D, a work center shall meet the following conditions:

A. Is certified as a regular work program or work activity center by the wage and hour division of the United States Department of Labor or by the State Department of Labor;

B. Has complied with occupational health and safety standards required by the laws of the United States or this State;

C. Employs during the fiscal year in commodity production or service provision disabled persons at a quota of not less than 66% of the total hours of direct labor on all production, whether or not government related; and

D. Has, or is part of, an ongoing placement program which includes at least preadmission evaluation and annual review to determine each worker's capability for normal competitive employment and maintenance of liaison with the appropriate community services for the placement in the employment of any of its workers who may qualify for that placement.

§1826-C. Work Center Purchases Committee

1. Committee established. There is established the Work Center Purchases Committee, consisting of the State Purchasing Agent, the Director of the Bureau of Rehabilitation, a representative of the Department of Mental Health and Mental Retardation, a representative of work centers, a disabled person and a representative of the business community.

2. Appointments; terms; compensation. The members of the Work Center Purchases Committee shall be appointed by and shall serve at the pleasure of the Governor. All members of the committee shall serve without compensation, except for reimbursement of necessary expenses incurred in the performance of their duties. The 3 agencies of the State Government that are represented on the committee shall absorb any necessary expenses.

3. Powers and duties. The powers and duties of the Work Center Purchases Committee shall include the following:

A. Develop and use a work center purchases schedule, pursuant to subsection 4;

B. Develop and carry out procedures for standard competitive bidding for the products and services on the work center purchases schedule pursuant to subsection 5;

C. Award contracts, pursuant to subsection 6;

D. Develop and implement procedures for appealing decisions of the committee;

E. Develop and, when necessary, implement procedures to ensure that any member of the committee who has an actual or potential conflict of interest with respect to any contract under consideration by the committee is prohibited from taking any action on that contract in his capacity as a committee member in accordance with the same provisions and standards that apply to executive employees as described in Title 5, section 18; and

F. Issue rules, pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375, to carry out the purpose and intent of this subchapter.

4. Work center purchases' schedule. The Work Center Purchases Committee shall develop and use a work center purchases' schedule. The committee shall:

A. Identify and develop a list of all products and services purchased or scheduled to be purchased by State Government;

B. Identify and develop a list of all work centers in the State, including a description of the products and services work centers are currently providing or have recently provided and including an assessment of the products and services that work centers are capable of providing, but have not recently provided; and

C. Develop from the information obtained in paragraphs A and B a work center purchases' schedule which describes all products and services to be purchased by the State which, in the view of the committee, could be provided by work centers. In developing this schedule, the committee shall give consideration to the abilities of work centers to meet contract requirements and to meet generally excepted quality control standards and any potential technical assistance that may be required to enable a work center to compete fairly for contracts, pursuant to this subchapter.

5. Competitive bidding. The Work Center Purchases Committee shall develop procedures for competitive bidding by eligible work centers only for products and services identified on the work center purchase schedule. Any product or service on the

schedule for which no bids are received from a work center shall be put out to general bid by the State Purchasing Agent, in accordance with his standard rules and procedures. If only one work center bid is received, the committee shall review the bid and make a determination regarding the fairness of the price and terms of the proposed contract. If the committee determines that the work center should not be awarded this bid, the contract shall be offered for standard competitive bid by the State Purchasing Agent through normal rules and procedures.

6. Award of contracts; fair price. The Work Center Purchases Committee shall have final determination in awarding contracts to work centers through the competitive bidding process. The committee's judgment shall prevail in the determination that the price and contract terms are fair and reasonable both to the work center and to the State. In determining a fair price, the committee shall ensure the ability of the work center to recover the costs of labor, material, equipment, overhead and delivery.

7. Assignment of contracts. The Work Center Purchases Committee shall ensure that contracts awarded to work centers may not be assigned to any other vendor, except as may be necessary to complete the contracts, because of extraordinary events beyond the control of the work centers. Any additional costs incurred because of these assignments shall be borne by the work center as a normal cost of doing business.

§1826-D. Sunset

This subchapter is repealed effective July 1, 1988, unless reenacted. The Bureau of Rehabilitation, in cooperation with the Bureau of Purchases and the Department of Mental Health and Mental Retardation, shall report to the Legislature, no later than February 1, 1988, on the effectiveness of this subchapter in fulfilling its purposes.

Sec. 4. 5 MRSA §12004, sub-§8, ¶A, sub-¶(12-A) is enacted to read:

<u>(12-A) Finance</u>	<u>Work Center</u>	<u>Expenses only</u>	<u>5 MRSA §1826-C</u>
	<u>Purchases Com-</u>	<u>for Nonstate</u>	
	<u>mittee</u>	<u>employee members</u>	
		<u>to be paid from</u>	
		<u>funds of depart-</u>	
		<u>ments represented</u>	
		<u>on the committee</u>	

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

Effective June 14, 1985.

CHAPTER 360

H.P. 617 - L.D. 887

AN ACT to Establish Special Motor Vehicle License Plates for Firefighters.

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

29 MRSA §252-C is enacted to read:

§252-C. Firefighters; special license plates

On the application of an active firefighter whose active status is certified to by the fire chief, assistant fire chief or acting fire chief of the fire department of the active firefighter, the Secretary of State shall issue a special registration plate designating the vehicle as belonging to an active firefighter. The Secretary of State may design this special registration plate which shall be numerical with the letters F F as a suffix. The special registration plate for firefighters may be used only on one motor vehicle whose registered gross weight shall not exceed 9,000 pounds.

An additional one-time fee of \$5 shall be charged for a plate under this section, other than the annual registration fee.

If a firefighter ceases to be an active firefighter, the fire chief shall notify the Secretary of State who shall recall the license plate.

Effective September 19, 1985.

CHAPTER 361

H.P. 1003 - L.D. 1445

AN ACT to Require Recognition of Nursing Licenses Granted in other Jurisdictions.