

# 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**

December 5, 1984 to June 20, 1985  
Chapters 384-End

AND AT THE

**FIRST SPECIAL SESSION**

November 13, 1985

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

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J.S. McCarthy Co., Inc.  
Augusta, Maine  
1985

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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 TWELFTH LEGISLATURE

1985

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3. Post-retirement spouse option. If the sole beneficiary under an option 2, option 3 or option 4, who is the spouse of the recipient of the reduced retirement allowance payable under such an option, predeceases the recipient, the recipient upon remarriage shall have the right to elect to have his reduced retirement allowance payable under the same option with payments to his new spouse after his death, in lieu of continuing the reduced retirement allowance payable to himself during his lifetime, provided that he has not attained his 70th birthday, or 72nd birthday for a period of 30 days after the effective date of this subsection, and is in good health at the date of election. This option may be elected at any time after the death of the original spouse of the recipient by written request to the executive director, together with submission of evidence satisfactory to the executive director of the good health of the recipient.

The amount of the benefits payable under the option elected shall be computed to be the actuarial equivalent at the date of commencement of payment of benefits under the option of the amount of reduced retirement allowance the recipient has been receiving.

Effective September 19, 1985.

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## CHAPTER 388

S.P. 166 - L.D. 453

AN ACT to Amend the Code of Fair Practices  
and Affirmative Action as the Equal  
Opportunity Standard for State  
Financed Agencies.

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

Sec. 1. 5 MRSA §782, as enacted by PL 1975, c. 153, §1, is amended to read:

§782. Definition of affirmative action

An affirmative action program includes procedures designed to increase the numbers of minorities and women and handicapped at all levels and in all segments of the work force where imbalances exist. Such a program should include an assessment of the exist-

ing situation, and the development of realistic goals for necessary action. These goals and related procedures and timetables should not require rigid quotas, but are commitments which an employer should make every good faith effort to achieve.

Sec. 2. 5 MRSA §§783 to 787, as enacted by PL 1975, c. 153, §1, are amended to read:

§783. Appointment, assignment and promotion of personnel

Officials and supervisory employees shall appoint, assign and promote personnel on the basis of merit and fitness, without regard to race, color, religious creed, national origin, sex, ancestry, age ~~or~~, physical handicap or mental handicap, unless related to a bona fide occupational qualification. Each appointing authority shall designate an equal opportunity affirmative action officer. The officer must be so placed within the agency's organizational structure that he or she shall have direct access to the appointing authority. Each department or agency shall prepare an affirmative action program for that department or agency in accordance with criteria set forth by the State Department of Personnel.

§784. State action and contracts

1. State action. No agency or individual employee of the State or state related agencies will discriminate because of race, color, religious creed, sex, national origin, ancestry, age ~~or~~, physical handicap or mental handicap while providing any function or service to the public, in enforcing any regulation, or in any education, counseling, vocational guidance, apprenticeship and on-the-job training programs. Similarly, no state or state related agency contractor, subcontractor, or labor union or representative of the workers with which the contractor has an agreement, will discriminate unless based on a bona fide occupational qualification. State agencies or related agencies may withhold financial assistance to any recipient found to be in violation of the Maine Human Rights Act or the Federal Civil Rights Act. Any state agency or related agency shall decline any job order carrying a specification or limitation as to race, color, religious creed, sex, national origin, ancestry, age ~~or~~, physical handicap or mental handicap, unless it is related to a bona fide job requirement.

2. Public contracts. Every state or state related agency contract for public works or for services

shall incorporate by reference the following provisions: "During the performance of this contract, the contractor agrees as follows.

A. The contractor will not discriminate against any employee or applicant for employment because of race, color, religious creed, sex, national origin, ancestry ~~or~~, age, physical handicap or mental handicap. Such action shall include, but not be limited to, the following: Employment, upgrading, demotions, transfers, recruitment or recruitment advertising; layoffs or terminations; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

B. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religious creed, sex, national origin, ancestry ~~or~~, age, physical handicap or mental handicap.

C. The contractor will send to each labor union or representative of the workers with which he has a collective or bargaining agreement, or other contract or understanding, whereby he is furnished with labor for the performances of his contract, a notice, to be provided by the contracting department or agency, advising the said labor union or workers' representative of the contractor's commitment under this section and shall post copies of the notice in conspicuous places available to employees and to applicants for employment."

D. The contractor will cause the foregoing provisions to be inserted in all contracts for any work covered by this agreement so that such provisions will be binding upon each subcontractor.

#### §785. State employment services

Any state agency or state related agency engaged in employment, referral or placement service for private industry or public agencies shall fill all job orders on a nondiscriminatory basis, and shall decline any job order carrying a specification or limitation as to race, color, religious creed, sex, national origin, ancestry ~~or~~, age, physical handicap or mental handicap, unless it relates to a bona fide job requirement.

§786. Training for job opportunities

All educational and vocational-guidance counseling programs and all apprenticeship and on-the-job training programs conducted, supervised or funded by the State or state related agency shall be conducted to encourage the fullest development of interest and aptitudes without regard to race, color, religious creed, sex, national origin, ancestry or, age, physical handicap or mental handicap, unless sex or age relates to a bona fide job requirement. In the event that any such programs are conducted in conjunction with private employers or private educational institutions, the supervising or contracting department or agency shall insure that the provisions of this subchapter are complied with fully by such private employer or private educational institution.

§787. State financial assistance

No state agency or state related agency shall approve a grant of state financial assistance to any recipient who is engaged in discriminatory practices. All recipients of state financial assistance shall submit to the Maine Human Rights Commission, at its request, information relating to the recipient's operations with regard to race, color, religious creed, sex, national origin, ancestry or, age, physical handicap or mental handicap. Such information shall be furnished on a form to be prescribed by the Maine Human Rights Commission.

Sec. 3. 5 MRSA §§788 and 789, as enacted by PL 1975, c. 153, §1, are amended to read:

§788. The State Department of Personnel

The State Department of Personnel shall take positive steps to insure that the entire civil service examination and testing process, including the development of job specifications and employment qualifications, is free from either conscious or inadvertent bias. Furthermore, the Department of Personnel will have the initial responsibility of resolving civil service conflicts and complaints, changing administrative procedures when necessary and providing assistance for preparing affirmative action programs. It is the responsibility of the Equal Opportunity Personnel Specialist State Affirmative Action Coordinator in the Department of Personnel to monitor the civil service affirmative action program and insure compliance with all federal and state regulations.

§789. Human Rights Commission

All affirmative action programs, whether part of the civil service or not, shall be subject to the review and comment of the Human Rights Commission.

All powers and duties granted to the Maine Human Rights Commission under sections 4551, et seq., as amended, apply to this section. Complaints of discrimination based on race, color, religious creed, sex, national origin, age ~~or~~, physical handicap or mental handicap should be made to the Maine Human Rights Commission.

Effective September 19, 1985.

**CHAPTER 389**

S.P. 556 - L.D. 1502

**AN ACT Affecting the Statutes of Agencies  
within the Department of Business,  
Occupational and Professional  
Regulation.**

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

Sec. 1. 5 MRSA §12004, sub-§1, ¶A, as amended by PL 1983, c. 862, §§17 to 19, is further amended to read:

A. This classification includes the following boards:

	NAME OF ORGANIZATION	RATE OF COMPENSATION	STATUTORY REFERENCE
(1)	Board of Accountancy	\$35/Day	32 MRSA §3971
(2)	Arborist Examining Board	\$25/Day	32 MRSA §2001
(3)	Maine State Board for Registration of Architects and Landscape Architects	\$35/Day	32 MRSA §211
(4)	Board of Examiners of Applicants for Admission to the Bar	Legislative Per Diem	4 MRSA §801