

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWELFTH LEGISLATURE

SECOND REGULAR SESSION
January 8, 1986 to April 16, 1986

SECOND SPECIAL SESSION
May 28, 1986 to May 30, 1986

AND AT THE

THIRD SPECIAL SESSION
October 17, 1986

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

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

RESOLVES
OF THE
STATE OF MAINE

AS PASSED AT THE
SECOND SPECIAL SESSION

of the
ONE HUNDRED AND TWELFTH LEGISLATURE

1985

CHAPTER 89

H.P. 1624 - L.D. 2289

Resolve, to Establish a Commission to Examine Problems of Tort Litigation and Liability Insurance in Maine.

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

Whereas, many concerns about problems of tort litigation and liability insurance have been presented to the Legislature; and

Whereas, individual problems with tort litigation and insurance cannot be addressed by the Legislature until an examination of the relationship among tort law, tort litigation and liability insurance has been undertaken; 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

Study commission created. Resolved: That there is created the Commission to Examine Problems of Tort Litigation and Liability Insurance in Maine; and be it further

Appointment. Resolved: That the commission shall consist of 11 members, as follows: Two Senators appointed by the President of the Senate, provided that there shall be one member of the Joint Standing Committee on Judiciary and one member of the Joint Standing Committee on Business and Commerce among the Senators appointed; 2 Representatives appointed by the Speaker of the House of Representatives, provided that there shall be one member of the Joint Standing Committee on Judiciary and one member of the Joint Standing Committee on Business and Commerce among the Representatives appointed; one member of the Maine Trial Lawyers Association and one member of the Maine State Bar Association, each to be appointed by the Governor from lists of members selected and proposed by the president of the respective organizations; 2 members representing insurance providers appointed by the Governor; and 3 members of the public appointed by the Governor. The Superintendent of Insurance

shall advise the commission upon request. The commission shall ask the Chief Justice of the Supreme Judicial Court to appoint a judge or justice to serve as an advisor to the commission. The Governor shall select a chairman from among the commission members.

Each person required to make an appointment or appointments under this resolve shall make the appointment or appointments by August 1, 1986, and shall inform the Executive Director of the Legislative Council upon making the appointment or appointments.

A commission member who is not a Legislator shall serve until he becomes unable to do so by death or resignation or by no longer being a member of the group he was appointed to represent. A commission member who is a Legislator shall serve until he becomes unable to do so by death or resignation, but shall continue to serve even if he is not elected to a term in the 113th Legislature. When any commission member vacates his commission membership, the authority who appointed the member shall appoint a new member to take his place; and be it further

Duties. Resolved: That the commission shall investigate and propose recommendations to address problems of the tort system in Maine and other problems of the insurance industry that affect the availability of liability insurance in Maine. The goal of the commission's recommendations shall be to assure the reasonable availability in Maine of liability insurance at a reasonable cost. In its investigation, the commission shall emphasize questions of liability insurance and the tort system as they relate to non-governmental entities.

In conducting its investigation, the commission shall gather information on the substantive law of torts in Maine, on tort litigation in Maine and on the availability of liability insurance in Maine. In gathering this information, the commission shall identify any problems in any of these 3 areas that create injustices or unreasonable costs. The commission shall prepare a report presenting the information gathered. The commission shall make recommendations to address any problems identified; and be it further

Investigative powers. Resolved: That the commission may administer oaths, issue subpoenas, compel the attendance of witnesses and the production of any papers, books, accounts, documents and testimony and cause the deposition of witnesses, whether residing

within or without the State to be taken in the manner prescribed by law for taking depositions in civil actions in the Superior Court. In exercising these powers, the commission is governed by the Maine Revised Statutes, Title 3, chapter 21; and be it further

Report. Resolved: That the commission shall present its report, together with any recommended legislation, to the Second Regular Session of the 113th Legislature by January 15, 1988; and be it further

Assistance. Resolved: That the commission may request staff assistance from the Legislative Council. The commission may contract, with the approval of the Legislative Council, with an actuary, certified public accountant or other expert professional for assistance; and be it further

Compensation. Resolved: That the members of the commission who are Legislators shall receive the legislative per diem, as defined in the Maine Revised Statutes, Title 5, section 12002, for days of attendance at commission meetings. If the commission meets on a day when the Legislature is in session, the members of the commission who are Legislators shall receive only one legislative per diem on that day. All members of and judicial advisors to the commission shall receive expenses, as defined in the Maine Revised Statutes, Title 5, section 12002, upon application to the Executive Director of the Legislative Council for those expenses; and be it further

Convening of commission. Resolved: When the appointment of all commission members is completed, the Executive Director of the Legislative Council shall call the commission together for its first meeting no later than September 8, 1986; and be it further

Appropriation. Resolved: That there is appropriated from the General Fund for the fiscal year ending June 30, 1987, the following funds to provide for an examination of problems of tort litigation and liability insurance in Maine.

1986-87

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Commission to Examine Problems of Tort Litigation and Liability Insurance in Maine	
Personal Services	\$ 1,200
All Other	13,800
Total	<u>\$15,000</u>

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

Effective June 10, 1986.
