

# MAINE STATE LEGISLATURE

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

AS PASSED BY THE  
ONE HUNDRED AND THIRTEENTH LEGISLATURE  
FIRST REGULAR SESSION

December 3, 1986 to June 30, 1987

Chapters 1-542

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IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,  
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**PUBLIC LAWS**

OF THE

**STATE OF MAINE**

AS PASSED AT THE  
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1987

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## CHAPTER 270

H.P. 1090 — L.D. 1481

**AN ACT to Clarify Abrogation of  
Confidentiality of Communicable  
Disease Information for Child and  
Adult Protection Purposes.**

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

22 MRSA §1032, as amended by PL 1985, c. 771, §4, is further amended to read:

§1032. Confidentiality

The names and related information which may identify individuals having or suspected of having a notifiable communicable disease shall be confidential and may be released only to other public health officials, agents or agencies, or to school officials where a child is enrolled, for a public health purpose, or to the department for adult or child protection purposes in accordance with chapters 958-A and 1071. In a public health emergency, as declared by the state health officer, the information may also be released to private health care providers and agencies for the purpose of preventing further disease transmission. All other information submitted pursuant to this article may be made available to the public.

Effective September 29, 1987.

## CHAPTER 271

H.P. 1096 — L.D. 1487

**AN ACT to Clarify Existing Federal  
Compensation and Care as the Primary  
Resource to an Injured Service Member  
before Seeking Benefits under the  
Workers' Compensation Act.**

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

37-B MRSA §186, as enacted by PL 1983, c. 460, §3, is repealed and the following enacted in its place:

§186. Injuries sustained in connection with military duty

1. Compensation as state employee. A member of the state military forces shall receive compensation as a state employee according to the provisions of Title 39 and this section.

A. Duty status is as follows.

(1) The types of duty which are covered are:

(a) Active state duty by order of the Governor under this subchapter;

(b) Inactive duty training, with or without pay, under the United States Code, Title 32, Section 502;

(c) Annual training under the United States Code, Title 32, Sections 502 and 503;

(d) Full-time training duty for 30 days or less under the United States Code, Title 32, Section 502; and

(e) Other training duties or schools under the United States Code, Title 32, with status of less than 30 days' duration;

(2) The types of duty which are not covered are:

(a) Annual training or any other types of duty under the United States Code, Title 10, including Section 672, Subsections (b) and (d);

(b) Initial active duty for training, such as initial active duty service schools;

(c) Full-time training duty for over 30 days under the United States Code, Title 32, Section 502, Subsection (f); and

(d) Federal technician civilian duty under the United States Code, Title 32, Section 709;

B. Types of injuries cognizable are as follows:

(1) The injury, disability or disease must have been received, incurred or contracted as a result of qualified duty;

(2) Service members must be under the control and supervision of the military. Incidents occurring during periods of leave or pass are not compensable; and

(3) An injury, disability or disease received not incident to duty or contracted with willful negligence or misconduct is not compensable;

C. Preconditions for benefits under Title 39 are as follows:

(1) Federal income maintenance benefits must be applied for and, if they exceed comparable Title 39 benefits, must be exhausted by the member before receiving weekly compensation benefits under Title 39. Medical care at military or Veterans' Administration facilities, civilian care paid for by the military forces and other benefits furnished by the military force or the Veterans' Administration, including military schools offered to retrain or occupationally rehabilitate the service member, must be

used by the service member before entitlement to medical care benefits under Title 39. Military schools are fully creditable under Title 39 in an approved plan of rehabilitation; and

(2) Title 39 benefits are based on inability to perform the usual civilian occupation;

D. For the purpose of calculation of compensation, average weekly wage shall be computed solely on the earning capacity of the injured member in the civilian occupation in which he is regularly engaged. In case of death, dependents shall be entitled to compensation as provided in Title 39 and any amendments to that Title;

E. If the member remains in a federal pay status or continues to receive pay in accordance with section 143, the member's medical care shall be through the military or Veterans' Administration unless referred to civilian care. If, the member is eligible for military or Veterans' Administration care and knowingly declines or through his actions forfeits his rights to the benefits of section 143 or to federal care benefits, this declination or conduct serves to waive his rights to seek compensation for civilian care under Title 39;

G. For the purpose of Title 39, section 62, all federal benefits received by the member as a result of an injury, disability or disease shall be considered to be derived from the employer and shall constitute a setoff to compensation awarded as a result of this section. A dollar-for-dollar setoff is authorized for all federal benefits to include continuation of pay under section 143, continuation of federal pay and allowances, incapacitation pay, severance pay, disability retirement pay, Veterans' Administration disability payments and military and Veterans' Administration death benefits; and

G. Reporting under the early pay provisions of Title 39 do not have to be initiated until a final decision is reached on the injured service member's entitlement to federal benefits or while military or veterans' disability benefits are received in lieu of compensation under Title 39, whichever ceases first. Veterans' disability benefits provided in this subsection include state military duty pay received under section 143, federal continuation pay, or incapacitation pay in lieu of Title 39 benefits. The time provisions of Title 39 are effective upon notification to the service member that federal benefits are not authorized, or the gross monetary federal benefits are determined to be less than the entitlements under the provisions of Title 39 without taking into account the setoff prescribed in paragraph E.

Effective September 29, 1987.

## CHAPTER 272

H.P. 1123 — L.D. 1526

### AN ACT to Define Reference to "Standard Premium" in the Workers' Compensation Self-insurance Laws.

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

Sec. 1. 39 MRSA §23, sub-§6, ¶A, as enacted by PL 1981, c. 484, §7, is amended to read:

A. The bond or security deposit required of an individual self-insurer shall not be less than the greater of an amount determined by the following formula or \$50,000. The bond or security deposit shall be the greater of an amount equal to the loss and loss adjustment expense portion of the annual standard premium for the prospective fiscal coverage period or outstanding loss reserves minus recoveries from all excess carriers and subrogation reduced to net collections plus 25% of annual standard premiums for the prospective fiscal coverage period. The percentage factor used to determine the portion of standard annual standard premium allocated for loss and loss adjustment expenses shall be acceptable to the superintendent. For the purposes of this paragraph, "annual standard premium" means the annual premium produced by applying the manual rates, rating rules, excluding any premium discount, and the experience rating procedure approved by the Superintendent of Insurance for the Safety Pool of the residual market mechanism, as described in Title 24-A, section 2350, to the exposure and experience of the individual self-insurer.

For individual self-insurers who have a net worth equal to or in excess of \$10,000,000; who have had positive net earnings demonstrated by certified statements of financial condition in at least 3 of the 5 latest fiscal years, including therein one of the 2 most recent years; and whose mean annual earnings for the 5 latest fiscal years are at least equal to the normal annual premium for the prospective fiscal coverage period, the minimum security deposit or bond shall be an amount determined by the formula above or as hereinafter adjusted for applicable levels of working capital funds.

An employer meeting the above test may deduct from the penal value of its surety bond or from market value of securities deposited, an amount not exceeding demonstrated working capital in such current statement of financial condition; the bond or deposit shall not be less than \$100,000.

For those self-insurers unable to meet the foregoing standards, the security deposit shall be governed by this subsection. Self-insurers failing these tests shall deposit acceptable funds or a surety bond in that amount produced by the formula to be written by a