

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

**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

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

---

Twin City Printery  
Lewiston, Maine  
1987

---

---

**PUBLIC LAWS**

OF THE

**STATE OF MAINE**

AS PASSED AT THE  
FIRST REGULAR SESSION  
of the  
ONE HUNDRED AND THIRTEENTH LEGISLATURE  
1987

---

---

2. An insurer may dispute a claim by furnishing to the insured, or his representative, a written statement that the claim is disputed with a statement of the grounds upon which it is disputed.

3. If an insurer fails to pay an undisputed claim or any undisputed part of the claim when due, the amount of the overdue claim or part of the claim shall bear interest at the rate of 1 1/2% per month after the due date.

4. A reasonable attorneys fee for advising and representing a claimant on an overdue claim or action for an overdue claim shall be paid by the insurer if overdue benefits are recovered in an action against the insurer or if overdue benefits are paid after receipt of notice of the attorney's representation.

5. Nothing in this section prohibits or limits any claim or action for a claim which the claimant has against the insurer.

Effective September 29, 1987.

## CHAPTER 345

H.P. 1137 — L.D. 1547

### AN ACT to Create Immunity from Liability.

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

24-A MRSA §2183 is enacted to read:

#### §2183. Immunity from liability

1. Definition. For the purpose of this section, "fraudulent insurance act" means an act committed by any person who, knowingly and with intent to defraud, presents, causes to be presented or prepares with knowledge or belief that it will be presented to or by an insurer, purported insurer, broker or any agent of an insurer, any written statement as part of or in support of an application for the issuance of or the rating of an insurance policy for commercial insurance or a claim for payment or other benefit pursuant to an insurance policy for commercial or personal insurance which he knows to contain materially false information concerning any material fact or conceals, for the purpose of misleading, information concerning any material fact.

2. Immunity from liability concerning fraudulent insurance acts. In the absence of fraud or bad faith, no person is subject to civil liability for libel, slander or any other relevant tort cause of action by virtue of filing reports, without malice, or furnishing other information, without malice, required by this Title or required by the superintendent under the authority granted in this Title, and no civil cause of action of any nature may arise against such person for any information relating to suspected fraudulent insurance acts furnished to or received

from law enforcement officials, their agents and employees; for any information relating to suspected fraudulent insurance acts furnished or received from other persons subject to this section; or for any such information furnished in reports to the Bureau of Insurance, the National Association of Insurance Commissioners or any organization established to detect and prevent fraudulent insurance acts, their agents, employees or designees, nor may the superintendent or any employee of the Bureau of Insurance, acting without malice, in the absence of fraud or bad faith, be subject to civil liability for libel, slander or any other relevant tort and no civil cause of action of any nature may arise against such person by virtue of the publication of any report or bulletin related to the official activities of the Bureau of Insurance. Nothing in this section is intended to abrogate or modify in any way any common law or statutory privilege or immunity previously enjoyed by any person.

Effective September 29, 1987.

## CHAPTER 346

H.P. 1319 — L.D. 1803

### AN ACT to Provide for Noise Generated by Developments.

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

Whereas, the Department of Environmental Protection has adopted rules under the site location of development law which provides for control of excessive noise from developments which are reviewed under that law; and

Whereas, those rules have proven to be difficult to interpret for applicants, the public and the department; and

Whereas, applicants have difficulty determining whether their developments will be found to produce excessive noise because of uncertainty in the rule as to how background and other noise levels will be measured; and

Whereas, applicants are unable to predict what noise controls will be required on their projects; and

Whereas, there is confusion as to the role of municipal noise ordinances and municipal zoning under the site location of development law; and

Whereas, recent Board of Environmental Protection decisions have resulted in added confusion and uncertainty regarding noise standards; and

Whereas, as a result of these circumstances, municipalities, permit applicants, property owners and others are unable to ascertain, plan and rely on consistent quantifiable and predictable noise standards; and

Whereas, these circumstances have a substantial and material negative impact on the economic climate in the State; 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.** 38 MRSA §481, as amended by PL 1983, c. 513, §1, is further amended by adding at the end a new paragraph to read:

The Legislature further finds that noise generated at development sites has primarily a geographically restricted and frequently transient impact which is best regulated at the municipal level pursuant to a municipality's economic development and land use plans. It is the intent of the Legislature that regulation of noise from developments is primarily the responsibility of local municipal governments. It is further the intent of the Legislature that any action by the board regulating the effects of noise taken after July 1, 1986, which is inconsistent with section 482-A, shall be reconsidered and amended only on the issue of noise upon the petition of an applicant or intervenor to the permitting action within 180 days of the effective date of rules adopted pursuant to section 482-A.

**Sec. 2.** 38 MRSA §482-A is enacted to read:

§482-A. Noise effect

The effect of noise from a development may be regulated pursuant to section 484, subsection 3.

1. Amended rules; adoption. On or before December 31, 1987, the Department of Environmental Protection shall adopt amended rules for the control of noise generated by developments. These rules shall:

A. Reflect consideration of local zoning with regard to both the zone in which the development is located and the proximity of the development to residential areas;

B. Employ a consistent methodology to assess background and intrusive noise effects of developments of a similar nature;

C. Provide that the board may limit the hours of operation of the development to minimize the impact on surrounding uses; and

D. Contain an appropriate list of activities which, although connected with a development, are wholly or partially exempt from review by the board.

2. Consideration of local ordinance. In determining whether a developer has made adequate provision for the control of noise generated by a development, the board shall consider its own regulations and the quantifiable noise standards of the municipality in which the development is located and of any municipality which may be affected by the noise.

3. Prohibition. Nothing in this section may be construed to prohibit any municipality from adopting noise regulations stricter than those adopted by the Department of Environmental Protection.

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

Effective June 18, 1987.

**CHAPTER 347**

H.P. 1292 — L.D. 1770

**AN ACT to Provide Health Care Benefits to Uninsured Individuals.**

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

**Sec. 1.** 5 MRSA §12004, sub-§8, ¶A, sub-¶(15-A) and (15-B) are enacted to read:

<u>(15-A)</u>	<u>Insurance</u>	<u>Maine High-Risk Insurance Organization</u>	<u>Not Authorized</u>	<u>24-A MRSA §6052</u>
<u>(15-B)</u>	<u>Insurance</u>	<u>Special Select Commission on Access to Health Care</u>	<u>Expenses Only</u>	<u>24-A MRSA §6071</u>

**Sec. 2.** 22 MRSA §396-D, sub-§9, ¶F is enacted to read:

F. In determining payment-year financial requirements, the commission shall include an adjustment for the hospital's assessment by the Maine High-Risk Insurance Organization pursuant to Title 24-A, section 6052, subsection 2.

**Sec. 3.** 22 MRSA §396-F, sub-§1, as enacted by PL 1983, c. 579, §10, is repealed and the following enacted in its place:

1. Charity care. The commission shall make provision for a reasonable amount of revenue deduction attributable to charity care. For purposes of this section, the amount of revenue deduction attributable to charity care shall be defined as the amount of revenue, net of recoveries, which is expected to be written off as a result of a determination that the patient is unable to pay for the hospital services received, provided that the hospital's determination is made pursuant to a policy