

# 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

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

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Twin City Printery  
Lewiston, Maine  
1987

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**PUBLIC LAWS**

OF THE

**STATE OF MAINE**

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

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8. Bureau of Health. To the Bureau of Health, to carry out its duties as provided in Title 22, sections 3, 7 and 42 and chapter 251.

This section does not prohibit limited administrative disclosure in conjunction with a mandatory testing program of a military organization subject to Title 37-B.

§19203-A. Informed consent required

1. Individual tested. Except as provided in section 19203, subsections 4 and 5, no person may test for the presence of antibodies to HIV without first obtaining the written informed consent of the person to be tested. Anonymous test sites under section 19203-B, are exempt from the requirement that the informed consent be in writing.

2. Insurers. Persons required to take the HIV antibody test by an insurer, nonprofit hospital or medical service organization or nonprofit health care plan must provide their written informed consent on forms approved by the Superintendent of Insurance. The superintendent may promulgate rules to define language requirements of the form.

§19203-B. Anonymous testing sites

The Department of Human Services may designate or establish certification and approval standards for and support anonymous testing sites where an individual may request an HIV test under conditions which ensure anonymity.

§19204. Restrictions upon revealing HIV antibody test results

No insurer, nonprofit hospital or medical services organization or nonprofit health care plan may request any person to reveal whether the person has obtained a test for the presence of antibodies to HIV, a test to measure the virus or the results of such tests taken prior to an application for insurance coverage.

This section is repealed on October 1, 1988.

§19204-A. Post-test counseling

Persons who are required to give their informed consent to an HIV test shall be offered post-test counseling. The counseling shall include:

1. Test result. The test results and the significance of the test results;

2. Social and emotional consequences. The social and emotional consequences of the information;

3. Preventive practices. Information on good preventive practices and risk reduction plans; and

4. Referrals. Referrals for medical care and other

support services as needed.

§19205. Coordination of services to persons with AIDS, AIDS Related Complex and viral positivity

1. Policy; services. It shall be the policy of the State to provide to persons who test positive for HIV or have been diagnosed as having AIDS or Aids Related Complex services of departments and agencies, including, but not limited to, the Department of Educational and Cultural Services, the Department of Mental Health and Retardation, the Department of Human Services and the Department of Corrections.

2. Coordination of services. A person designated by the Commissioner of Human Services shall insure coordination of new and existing services so as to meet the needs of persons with AIDS, Aids Related Complex and viral positivity and identify gaps in programs.

The committee established in section 12004, subsection 10, shall work with the person designated in this chapter to insure the coordination of services to meet the needs of persons with AIDS, ARC and viral positivity.

§19206. Civil liability

Any person violating sections 19203 and 19204 is liable to the subject of the test for actual damages and costs plus a civil penalty of up to \$1,000 for a negligent violation and up to \$5,000 for an intentional violation.

Any person may bring an action for injunctive relief for a violation of sections 19203 and 19204 in addition to or instead of the penalties provided in this section. The applicant for injunctive relief under this section shall not be required to give security as a condition upon the issuance of the injunction.

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

Effective July 7, 1987.

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## CHAPTER 540

H.P. 1381 — L.D. 1883

### AN ACT to Clarify the Hazardous Waste Lien Law.

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

Whereas, Public Law 1987, chapter 419, was enacted as emergency legislation and signed by the Governor on June 24, 1987; and

Whereas, Public Law 1987, chapter 419, enacted a hazardous waste superlien law in Maine which if not amended may have adverse effects on lending, develop-

ment and the transfer of real estate in Maine; and

Whereas, amendments to the law enacted by Public Law 1987, chapter 419, are necessary to clarify its impact on residential lending, remove its retroactive effect and otherwise clarify its scope; 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:

38 MRSA §1371, as enacted by PL 1987, c. 419, §14, is repealed and the following enacted in its place:

§1371. Lien established

1. Established. All costs incurred by the State for the abatement, cleanup or mitigation of hazards posed by an uncontrolled hazardous substance site and all interest and penalties shall be a lien against the real estate of the responsible party.

2. Priority. The priority of a lien filed pursuant to this section shall be governed by the following.

A. Any lien filed pursuant to this section on real estate which encompasses an uncontrolled hazardous substance site shall have precedence over all encumbrances on the real estate recorded after the effective date of this section. The term, "real estate" in this paragraph includes all real estate of a responsible party which has been included in the property description of the affected real estate within the 3-year period preceding the date of filing of the lien or on or after the effective date of this section, whichever period is shorter.

B. Any lien filed pursuant to this section on any other real estate of the party responsible for the uncontrolled hazardous substance site shall have precedence over all transfers and encumbrances filed after the date that the lien is filed with the registry of deeds.

3. Notice. A certificate of lien signed by the Commissioner of Environmental Protection shall be mailed by certified mail, return receipt requested, to all those persons of record holding an interest in the real estate over which the commissioner's lien is entitled to priority under subsection 2, paragraph A. A certificate may be filed for record in the office of the clerk of any municipality in which the real estate is situated.

4. Recording. Any lien filed pursuant to this section shall be effective when filed with the registry of deeds for the county in which the real estate is located. The lien shall include a description of the real estate, the amount of the lien and the name of the owner as grantor.

5. Limitation. This section does not apply to a unit of real estate which consists primarily of real estate used or under construction as single or multi-family housing at the time the lien is recorded or to property owned by a municipality.

6. Discharge of lien. When the amount with respect to which a lien has been recorded under this section, has been paid or reduced, the commissioner, upon request by any person of record holding interest in the real estate which is the subject of the lien, shall issue a certificate discharging or partially discharging the lien. The certificate shall be recorded in the registry in which the lien was recorded. Any action of the foreclosure of the lien shall be brought by the Attorney General in the name of the State in the Superior Court for the judicial district in which the property subject to the lien is situated.

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

Effective July 7, 1987.

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## CHAPTER 541

H.P. 1237 — L.D. 1689

### AN ACT to Amend the Civil Service Law to Set Standards for the Creation of Job Classification Specifications.

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

5 MRSA §7061, as enacted by PL 1985, c. 785, Pt. B, §38, is repealed and the following enacted in its place:

§7061. Classification plan

The director, in accordance with policies and procedures established by the director and the Policy Review Board and in accordance with this section, shall record the duties and responsibilities of all positions in state service and establish classes for these positions. The titles of the positions and classes shall be used in all personnel, accounting, budget, appropriation and financial records of all state departments, commissions and institutions.

1. Involvement of commissioners and directors. In recording the duties and responsibilities of each position, the commissioners and directors of the departments and agencies of State Government shall be involved to the greatest extent possible.

2. Development of job classifications. Job classifications created pursuant to this section shall be developed to meet the needs of each department in the most efficient and pertinent manner.