

# 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 SPECIAL SESSION**

October 9, 1987 to October 10, 1987

**SECOND SPECIAL SESSION**

October 21, 1987 to November 20, 1987

and the

**SECOND REGULAR SESSION**

January 6, 1988 to May 5, 1988

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  
1988

---

---

**PUBLIC LAWS**

OF THE

**STATE OF MAINE**

AS PASSED AT THE  
FIRST AND SECOND SPECIAL SESSIONS  
and  
SECOND REGULAR SESSION  
of the  
ONE HUNDRED AND THIRTEENTH LEGISLATURE  
1987

---

---

pose of this section, the transfer of property is deemed to have been made in the context of a confidential or fiduciary relationship if the transferee had a close relationship with the elderly dependent person prior to the transfer. Confidential or fiduciary relationships include the following:

A. A family relationship between the elderly dependent person and the transferee, including relationships by marriage and adoption;

B. A fiduciary relationship between the elderly dependent person and the transferee, such as with a guardian, conservator, trustee, accountant, broker or financial advisor;

C. A relationship between an elderly dependent person and a physician, nurse or other medical or health care provider;

D. A relationship between the elderly dependent person and a psychologist, social worker or counselor;

E. A relationship between the elderly dependent person and an attorney;

F. A relationship between the elderly dependent person and a priest, minister, rabbi or spiritual advisor;

G. A relationship between the elderly dependent person and a person who provides care or services to that person whether or not care or services are paid for by the elderly person;

H. A relationship between an elderly dependent person and a friend or neighbor; or

I. A relationship between an elderly dependent person and a person sharing the same living quarters.

When any of these relationships exist and when a transfer is made to a corporation or organization primarily on account of the membership, ownership or employment interest of the fiduciary or confidante, a fiduciary or confidential relationship with the corporation or organization is deemed to exist.

#### §1023. Civil action; relief available

1. Civil action. A civil action may be brought to obtain relief under this chapter.

2. Relief available; protected transfers. When a court finds that a transfer of property was the result of undue influence, it shall grant appropriate relief enabling the elderly dependent person to avoid the transfer, including the rescission or reformation of a deed or other instrument, the imposition of a constructive trust on property or an order enjoining use of or entry on property or commanding the return of property. When the court finds that undue influence is a good and valid defense to a transferee's suit on a contract to transfer the property, the court shall refuse to enforce the transfer.

No relief obtained or granted under this section may in any way affect or limit the rights of good faith purchasers, mortgagees, holders of security interests or other 3rd parties who obtain an interest in the transferred property for value after its transfer from the elderly dependent person. No relief obtained or granted under this section may affect any mortgage deed to the extent of value given by the mortgagee.

3. Statute of limitations. The limitations imposed by Title 14, section 752, apply to all actions brought under this chapter.

#### §1024. Other common law and statutory causes of action and relief still available

Nothing in this chapter may be construed to abrogate any other causes of action or relief at law or equity to which elderly dependent persons are entitled under other laws or at common law.

**Sec. 2. Application.** This Act shall apply only to transfers of property that occur on or after the effective date of this Act.

Effective August 4, 1988.

---



---

## CHAPTER 700

S.P. 971 — L.D. 2579

### AN ACT to Establish Operating Permits for Commercial Dairy Farms.

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

**Sec. 1.** 7 MRSA §2901, sub-§1-C is enacted to read:

1-C. Commercial dairy farm. Commercial dairy farm means any farm the operator of which sells milk from the farm to a milk dealer.

**Sec. 2.** 7 MRSA §2902-A is enacted to read:

#### §2902-A. Operating permits

1. Sale prohibited. Following the adoption of and in accordance with rules established according to this section, no operator of a commercial dairy farm may sell any milk to a milk dealer, unless the operator holds a valid operating permit for the farm issued by the commissioner.

2. Issuance of operating permits. The commissioner, in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, shall adopt rules for the issuance of operating permits. These rules shall establish permitting procedures and standards for permit issuance. In establishing these procedures and standards, the commissioner shall seek consistency with applicable

federal milk regulations and guidelines and with the provisions of agreements among states relating to the interstate shipment of milk. These permits shall not be transferable with respect to persons or locations or both.

3. Permit granted; requirements; suspension. A permit shall be granted upon the express condition that the permittee shall at all times conduct his operation and maintain his facilities in accordance with the requirements of state law and any rules adopted under this chapter and chapter 609. Any violation which results in a health or safety hazard may lead to suspension of a permit in accordance with Title 5, chapter 375, section 10004 for a period of up to 30 days. A suspension or revocation of a permit for longer than 30 days, or a refusal to renew a permit, shall be in accordance with Title 5, chapter 375, subchapter V.

4. Hearing on suspension of permit. Upon receiving a written request from a person whose permit has been suspended, or who has been given a notice of intent to suspend by the commissioner, the commissioner shall within 72 hours conduct a hearing to ascertain the facts involved in the case and, based upon the evidence presented at that hearing, shall affirm, modify or rescind the suspension or notification of intent to suspend.

5. Exemption. An operator of a commercial dairy farm located outside this State who holds a similar operating permit for that farm from a regulatory agency in another state may be exempted from this permit requirement by the commissioner.

Effective August 4, 1988.

## CHAPTER 701

H.P. 1622 — L.D. 2217

### AN ACT to Facilitate the Collection and Organization of Data for Effective Use in State Government.

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

Sec. 1. 5 MRSA §1892, first ¶, as enacted by PL 1985, c. 785, Pt. A, §78, is amended to read:

The board shall consist of ~~11~~ 14 voting members and advisory members appointed as provided in this section. For the purpose of this section, the word "designee" means a person in a major policy-influencing position as defined in chapter 71.

Sec. 2. 5 MRSA §1892, sub-§1, ¶¶H and I, as enacted by PL 1985, c. 785, Pt. A, §78, are amended to read:

H. Two members appointed by the Governor representing the remaining state agencies of State Government; and

I. Two members, appointed by the Governor who are administrators or managers of data processing systems in the private sector;;

Sec. 3. 5 MRSA §1892, sub-§1, ¶¶J, K and L are enacted to read:

J. The Commissioner of Economic and Community Development or the commissioner's designee;

K. The Executive Director of the Maine State Housing Authority or the director's designee; and

L. The Executive Director of the Finance Authority of Maine or the director's designee.

Sec. 4. 5 MRSA §1893, sub-§8, as enacted by PL 1987, c. 534, Pt. A, §§6 and 19, is repealed and the following enacted in its place:

8. Establish information and data exchange procedures. The board shall propose a set of options for an information and data exchange procedure by January 15, 1989, by which information and data as described in paragraph A shall be made available to the Department of Economic and Community Development and the State Planning Office. The Department of Economic and Community Development and the State Planning Office shall use the information for the evaluation, monitoring and forecasting of economic growth, for the promotion of economic and community development and for the monitoring of poverty and economic and social conditions throughout the State. The confidentiality of any information provided to the Department of Economic and Community Development and the State Planning Office pursuant to this subsection shall be maintained.

A. The data and information subject to the exchange procedure shall include:

(1) Employment data, including employment by the Standard Industrial Classification Code and by occupation;

(2) Wage data by the Standard Industrial Classification Code and by occupation;

(3) Income data, including personal and business income;

(4) Housing data, particularly data to measure the extent of the availability of affordable housing for low-income and moderate-income households throughout the State;

(5) Levels of education of the work force;

(6) Enrollments in secondary vocational-regional centers and the Vocational-Technical Institute System;

(7) Enrollments of Maine residents in colleges and universities located inside and outside the State;