

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 FOURTEENTH LEGISLATURE
FIRST REGULAR SESSION

December 7, 1988 to July 1, 1989

Chapters 1 - 502

THE GENERAL EFFECTIVE DATE FOR
NON-EMERGENCY LAWS IS
SEPTEMBER 30, 1989

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

J.S. McCarthy Company
Augusta, Maine
1989

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION

of the
ONE HUNDRED AND FOURTEENTH LEGISLATURE

1989

to renew. The burden of proof of the reason for cancellation or intent not to renew shall be upon the insurer. The ~~Insurance Superintendent~~ superintendent shall have the authority to order that a policy continue in effect both pending and, if the superintendent finds in favor of the insured, subsequent to a hearing. If the superintendent finds in favor of the insurer at a hearing, the superintendent may order the policy to remain in force for 14 days to allow the insured to obtain other coverage. Acting in conformity with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II, the ~~Insurance Superintendent~~ superintendent may adopt rules and ~~regulations~~ for carrying out this section.

Sec. 6. 24-A MRSA §3007, sub-§§6 and 9, as enacted by PL 1985, c. 671, §2, are amended to read:

6. Any insured who has received a notice of an insurer's intent to cancel a policy may, within 45 days of the receipt of the notice, request a hearing before the superintendent. The purpose of this hearing shall be limited to establishing the existence of the proof or evidence given by the insurer in its notice of cancellation. The burden of proof of the reason for cancellation shall be upon the insurer. The superintendent shall have the authority to order that a policy remain in force both pending and, if the superintendent finds in favor of the insured, subsequent to a hearing. If the superintendent finds in favor of the insurer at a hearing, the superintendent may order the policy to remain in force for 14 days to allow the insured to obtain other coverage.

9. This section applies to all contracts of property insurance, except surplus lines contracts, delivered or issued for delivery in this State, both before and after the effective date of this section. Provisions in this section relating to nonrenewal of policies shall take effect 30 days after the effective date of this section.

Sec. 7. 24-A MRSA §3050, first ¶, as amended by PL 1979, c. 347, §10, is further amended to read:

No notice of cancellation of a policy shall be effective unless received by the named insured at least 20 days prior to the effective date of cancellation, or, where ~~when~~ the cancellation is for nonpayment of premium, at least 10 days prior to the effective date of cancellation. A ~~post-office department~~ postal service certificate of mailing to the named insured at ~~his~~ the insured's last known address shall be conclusive proof of receipt on the ~~3rd~~ 5th calendar day after mailing.

Sec. 8. 24-A MRSA §3054, as amended by PL 1979, c. 347, §13, is further amended to read:

§3054. Hearing before Superintendent of Insurance

Any named insured who has received a statement of reason for cancellation, or of reason for an insurer's intent not to renew a policy, may, within 30 days of the receipt of a statement of reason, request a hearing before the Superintendent of Insurance. The purpose of this hearing shall be limited to establishing the existence of the proof or evidence used by the insurer in its reason for cancellation or intent not to renew. The burden of proof of the reason for cancellation

or intent not to renew shall be upon the insurer. The ~~Insurance Superintendent~~ superintendent shall adopt rules and ~~regulations~~ for carrying out this section. ~~If the insurer does not meet the burden of proof, the Insurance Superintendent~~ The superintendent shall have the authority to order the policy to continue in effect both pending and, if the superintendent finds in favor of the insured, subsequent to a hearing. If the superintendent finds in favor of the insurer at a hearing, the superintendent may order the policy to remain in force for 14 days to allow the insured to obtain other coverage.

Sec. 9. Report on surplus lines insurance. The Superintendent of Insurance shall report to the Joint Standing Committee on Banking and Insurance by February 1, 1990, concerning surplus lines insurance within the State, including such matters as availability of insurance, practices of insurers with respect to cancellation and nonrenewal and any complaints received by the Bureau of Insurance.

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

Effective May 26, 1989.

CHAPTER 173

H.P. 232 - L.D. 316

An Act Relating to Confidentiality of Investigative Records of Boards and Commissions

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

10 MRSA §8003-B is enacted to read:

§8003-B. Confidentiality of investigative records

1. During investigation. All complaints and investigative records of the licensing boards and commissions within the Department of Professional and Financial Regulation shall be confidential during the pendency of an investigation. Those records shall become public records upon the conclusion of an investigation unless confidentiality is required by some other provision of law. For purposes of this section, an investigation is concluded when:

A. A notice of an adjudicatory hearing under Title 5, chapter 375, subchapter IV has been issued;

B. The complaint has been listed on a meeting agenda of the board or commission;

C. A consent agreement has been executed; or

D. A letter of dismissal has been issued or the investigation has otherwise been closed.

2. Exceptions. Notwithstanding subsection 1, during the pendency of an investigation, a complaint or investigative record may be disclosed:

A. To department employees designated by the commissioner;

B. To designated complaint officers of the appropriate board or commission;

C. By a department employee or complaint officer designated by the commissioner when, and to the extent, deemed necessary to facilitate the investigation;

D. To other state or federal agencies when the files contain evidence of possible violations of laws enforced by those agencies;

E. When, and to the extent, deemed necessary by the commissioner to avoid imminent and serious harm. The authority of the commissioner to make such a disclosure shall not be delegated;

F. Pursuant to rules which shall be promulgated by the department, when it is determined that confidentiality is no longer warranted due to general public knowledge of the circumstances surrounding the complaint or investigation and when the investigation would not be prejudiced by the disclosure; and

G. To the person investigated on request. The commissioner may refuse to disclose part or all of any investigative information, including the fact of an investigation, when the commissioner determines that disclosure would prejudice the investigation. The authority of the commissioner to make such a determination shall not be delegated.

3. Attorney General records. The provision or disclosure of investigative records of the Department of the Attorney General to a departmental employee designated by the commissioner or to a complaint officer of a board or commission does not constitute a waiver of the confidentiality, provided under Title 5, section 200-D, of those records for any other purposes. Further disclosure of those investigative records shall be subject to the discretion of the Attorney General.

4. Violation. A person who knowingly or intentionally makes a disclosure in violation of this section commits a civil violation for which a forfeiture not to exceed \$1,000 may be adjudged.

See title page for effective date.

CHAPTER 174

H.P. 88 - L.D. 123

An Act to Clarify Laws Pertaining to the Enforcement of Forestry Fire Control Laws

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

Sec. 1. 12 MRSA §8901, sub-§2, ¶¶F and G, as enacted by PL 1979, c. 545, §3, are amended to read:

F. Have the authority to set backfires to control forest fires; ~~and~~

G. Carry out such other duties as the director prescribes; ~~and~~

Sec. 2. 12 MRSA §8901, sub-§2, ¶H is enacted to read:

H. Have rights of access to all lands within the State to carry out the duties they are authorized by law to administer and enforce. Entry into private property under this paragraph is not a trespass. This paragraph does not authorize entry into any building or structure.

Sec. 3. 12 MRSA §8907 is enacted to read:

§8907. Uniform citations

1. Form. The director may establish a statewide, uniform Maine Forest Service citation form. Prior to its use, the form must be approved by the Chief Judge of the District Court.

2. Citation books. The director shall issue the form established under subsection 1 in books with citations in not less than quadruplicate. The director may provide citation books to other law enforcement agencies and officers for their use in the enforcement of chapters 807 and 809. The director may not require other agencies to use this form.

3. Form requirements. The form must include a statement that signing the citation does not constitute an admission of guilt and that refusal to sign the form after having been ordered by a law enforcement officer to do so constitutes a separate offense which is a Class E crime.

4. Disposition; prohibited act. The director is responsible for the disposition of all Maine Forest Service citation forms. Except in accordance with law and as provided for in an applicable official policy or procedure of the Maine Forest Service, no ranger or other public employee may dispose of an official citation form.

5. Lawful complaint. A Maine Forest Service citation form may be filed in a court having jurisdiction and shall constitute a lawful complaint to commence any criminal prosecution or civil violation proceedings if:

A. The form is duly sworn to and otherwise satisfies the requirements of the general laws of this State, in respect to the form of a complaint; and

B. The form charges an offense.