

# MAINE STATE LEGISLATURE

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**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.

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J.S. McCarthy Company  
Augusta, Maine  
1989

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

**AS PASSED AT THE**  
**FIRST REGULAR SESSION**

**of the**  
**ONE HUNDRED AND FOURTEENTH LEGISLATURE**

**1989**

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**Whereas**, the inability of law enforcement personnel to arrest perpetrators for violations of animal welfare laws has allowed perpetrators to avoid punishment for their crimes; and

**Whereas**, criminal violators of the animal welfare laws commit reprehensible acts deserving of thorough and just prosecution; 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:**

**17 MRSA §1031, sub-§4**, as enacted by PL 1987, c. 383, §4, is amended to read:

**4. Criminal or civil prosecution.** ~~No~~ A person may be arrested or detained for the crime of cruelty to animals in accordance with the rules of criminal procedure. No person may be arrested or detained for the civil violation of cruelty to animals. The attorney for the State shall elect to charge a defendant with the crime of cruelty to animals under this section or the civil violation of cruelty to animals under Title 7, section 4011. In making this election, the attorney for the State shall consider the severity of the cruelty displayed, the number of animals involved, any prior convictions or adjudications of animal cruelty entered against the defendant and such other factors as may be relevant to a determination of whether criminal or civil sanctions will best accomplish the goals of the animal welfare laws in the particular case before ~~him~~ the attorney for the State. The election and determination required by this subsection shall not be subject to judicial review. The factors involved in such election and determination are not elements of the criminal offense or civil violation of animal cruelty and are not subject to proof or disproof as prerequisites or conditions for conviction under this subsection or adjudication under Title 7, section 4011.

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

Effective May 31, 1989.

## CHAPTER 196

H.P. 662 - L.D. 904

### An Act to Improve the Dental Care of Maine Citizens

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

**Sec. 1.** P&SL 1987, c. 44, §7 is repealed.

**Sec. 2.** PL 1987, c. 816, Pt. D, §2 is amended to read:

**Sec. 2. Maternal and Child Health Block Grant Allocations.** ~~Allocations to Maternal and Child Health under the Maternal and Child Health Block Grant include \$20,000 in fiscal year 1988-89 for the Portland Dental Clinic and \$20,000 in fiscal year 1988-89 for the Bangor Dental Clinic. Allocations for these purposes shall be incorporated into future budget preparations.~~ Allocations for the Portland Health Center shall only be included in future budget preparations if the Department of Human Services determines a need still exists.

**Sec. 3. Maternal and Child Health Block Grant Allocations.** Allocations to Maternal and Child Health under the Maternal and Child Health Block Grants include \$16,000 in fiscal year 1989-90 and in fiscal year 1990-91 for each of the following: Chester Dental Clinic, Portland Dental Clinic, Bangor Dental Clinic and the Jessie Albert Memorial Dental Clinic in Bath, Maine. Allocations for these purposes shall be incorporated into future budget preparations.

See title page for effective date.

## CHAPTER 197

H.P. 736 - L.D. 1013

### An Act to Implement an Ozone Control Strategy for the State

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

**Sec. 1.** 38 MRSA §582, sub-§6-B, as enacted by PL 1979, c. 385, §1, is repealed and the following enacted in its place:

**6-B. Bulk gasoline terminal.** "Bulk gasoline terminal" means a gasoline storage facility which receives gasoline from refineries, primarily by pipeline, ship or barge, and delivers gasoline to bulk gasoline plants or commercial or retail accounts primarily by tank truck, and has a daily throughput of more than 76,000 liters, or 20,000 gallons, of gasoline.

**Sec. 2.** 38 MRSA §582, sub-§7-H is enacted to read:

**7-H. Gasoline dispensing facility.** "Gasoline dispensing facility" means any gasoline service station, bulk terminal or bulk plant or any other facility or organization, governmental or private, that stores gasoline in tanks having a capacity of greater than 250 gallons, and dispenses fuel for motor vehicle use.

**Sec. 3.** 38 MRSA §609, as enacted by PL 1979, c. 385, §2, is repealed and the following enacted in its place:

**§609. Petroleum liquid storage vapor control**

1. Scope. This section shall apply in the following circumstances.

A. This section shall be applicable in all ambient air quality regions of the State.

B. This section shall apply to all fixed-roof storage vessels with capacities greater than 150,000 liters, or 39,000 gallons, containing volatile petroleum liquids whose true vapor pressure is greater than 10.5 kilo pascals or 1.52 pounds per square inch absolute, or a Reid vapor pressure of 4 pounds per square inch. The fixed-roof storage vessels are subject to New Source Performance Standards as of the dates specified in and in accordance with the requirements contained in 40 Code of Federal Regulations, Part 60, Subparts K, K(a) and K(b).

2. Prohibition. No owner or operator of a fixed-roof storage vessel may permit the use of those vessels unless:

A. The vessels have been retrofitted with an internal floating roof equipped with a closure seal, or seals, to close the visual space between the roof edge and tank wall; or the vessels have been retrofitted with equally effective alternative controls, as approved by the commissioner and the United States Environmental Protection Agency;

B. The vessel is maintained so that there are no visible holes, tears or other openings in the seal or any seal fabric or materials;

C. All openings except stub drains are equipped with covers, lids or seals so that:

(1) The cover, lid or seal is in the closed position at all times except when in actual use;

(2) Automatic bleeder vents are closed at all times except when the roof is floated off or landed on the roof leg supports; and

(3) Rim vents, if provided, are set to open only when the roof is being floated off the roof by supports or at the manufacturer's recommended setting;

D. Routine inspections are conducted through roof hatches once every 6 months; and

E. A complete inspection of cover and seal is conducted at least once per year.

3. Emission testing. The determination of compliance under this section may be made by visual inspection of the floating cover through the roof hatches by department staff or other qualified representatives of the department. The source shall be found in compliance if:

A. The seal has no visible holes, tears or other openings and is uniformly in place around the circumference of the cover between the cover and tank well;

B. The cover is uniformly floating on or above the liquid and there are no visible holes, tears or other openings in the surface of the cover and no liquid has accumulated on the cover; and

C. All records are being properly maintained.

4. Transition schedule. The owner or operator of fixed-roof petroleum storage vessels located in Air Quality Control Regions III, IV and V shall have until July 1, 1991, to comply with the requirements under subsection 2, paragraph A. In Air Quality Control Regions III, IV and V, the owner or operator of a fixed-roof petroleum storage vessel without a floating roof or other acceptable volatile organic compound emission control equipment shall adhere to the increments of progress contained in the following schedule and shall report to the department within 15 days of the prescribed deadline the status of compliance with the increment of progress.

A. Final plans for the floating roof, other necessary modifications or other acceptable volatile organic compound emission control equipment shall be submitted before November 1, 1989.

B. Contracts for installation of the floating roof, other modifications or other acceptable volatile organic compound emission control equipment or purchase orders for component parts shall be issued before March 1, 1990.

C. Initiation of on-site construction or installation of acceptable volatile organic compound emission control equipment shall begin before July 1, 1990.

D. Final compliance shall be achieved before July 1, 1991.

5. Records. The owner or operator of a fixed-roof storage vessel covered under this section shall assure that the following records are maintained for a minimum of 2 years:

A. Reports of the results of inspections conducted under subsection 2, paragraphs D and E;

B. A record of the monthly throughput quantities and types of volatile petroleum liquids for each storage vessel and period of storage; and

C. Records of the average monthly storage temperatures and true vapor pressures of volatile petroleum liquids stored.

These records shall be available for inspection during normal business hours and copies shall be provided to the commissioner or the commissioner's representative upon request.

Sec. 4. 38 MRSA §§609-A, 609-B and 609-C are enacted to read:

**§609-A. Gasoline service station vapor control**

1. Scope. This section shall be applicable in all ambient air quality control regions in the State.

2. Prohibition. No owner or operator of a gasoline dispensing facility described in this subsection may permit gasoline to be loaded into an underground storage tank except as provided in this subsection.

A. After October 1, 1989, no owner or operator of any gasoline dispensing facility with an annual throughput of greater than 100,000 gallons of gasoline may permit gasoline to be loaded into an underground storage tank unless a submerged fill pipe extends into the gasoline storage tank to within 6 inches of the bottom.

B. After October 1, 1989, no owner or operator of any gasoline dispensing facility, with an annual throughput of greater than 250,000 gallons of gasoline, that is replacing a tank scheduled for removal by October 1, 1989, pursuant to section 563-A, subsections 1 and 2, may permit gasoline to be loaded into that underground storage tank unless a vapor balance system has been properly installed and which is maintained in good working order and ensures a closed vapor loop between the tank truck discharging gasoline and the underground storage tank.

C. After October 1, 1991, no owner or operator of any gasoline dispensing facility with an annual gasoline throughput of greater than 250,000 gallons of gasoline may permit gasoline to be loaded into an underground storage tank unless a vapor balance system has been properly installed and which is maintained in good working order and ensures a closed vapor loop between the tank truck discharging gasoline and the underground storage tank.

3. Variance. Those gasoline dispensing facilities that are replacing an underground storage tank scheduled for removal after October 1, 1991, pursuant to section 563-A, subsections 1 and 2, may apply prior to July 1, 1991, to the commissioner in writing for a variance from the October 1, 1991, compliance date referred to in subsection 2, paragraph C. Variances shall be considered on a case-by-case basis for those facilities that may have to undergo excessively expensive and premature excavation due to such complications as:

- A. Irregular shaped or sized fill pipes;
- B. Diameter of fill pipes less than 3 inches; or
- C. Inadequate clearance or similar problems that require extensive excavation.

Each variance granted shall expire no later than October 1, 1994.

4. Records. Beginning July 1, 1989, each gasoline dispensing facility in the State shall maintain records regarding the quantity of gasoline dispensed each month. Copies of these records shall be maintained for a minimum of 2 years. These records shall be available for inspection during normal business hours and copies shall be provided to the commissioner or the commissioner's representative upon request.

**§609-B. Motor vehicle fuel volatility limit**

1. Scope. This section shall be applicable in all ambient air quality control regions in the State.

2. Prohibition. No owner or operator of any bulk gasoline terminal nor any person who imports gasoline directly to a gasoline service station or a bulk gasoline plant may dispense, sell or supply as fuel for motor vehicles a gasoline having a Reid vapor pressure greater than 9.0 pounds per square inch during the period of May 1st through September 15th of each year.

3. Reid vapor pressure testing. For purposes of showing compliance with this section, any emission test or fuel test required by the department shall be conducted in accordance with ASTM method D4177-82, ASTM method D4057-81, ASTM method D323-58 or any other method approved by the commissioner and the United States Environmental Protection Agency.

4. Records and reports. Any owner or operator of a bulk gasoline terminal and any person who imports gasoline directly to a gasoline service station or a bulk gasoline plant shall maintain records on the Reid vapor pressure of any gasoline that is delivered to or distributed from that terminal, plant or station for at least 2 years. These records shall be available for inspection during normal business hours and copies shall be provided to the commissioner or the commissioner's representative upon request.

5. Report required. The department shall report to the Joint Standing Committee on Energy and Natural Resources no later than February 1, 1990, on the effects of implementing this section. The report shall include the effect of 9.0 Reid vapor pressure gasoline on the performance of motor vehicles, the availability of 9.0 Reid vapor pressure gasoline during the prescribed period and other information deemed by the director to be important in evaluating this issue.

**§609-C. Gasoline tank truck tightness; self-certification**

1. Scope. This section shall be applicable in all ambient air quality control regions in the State.

2. Prohibition. The following acts are prohibited.

A. After May 1, 1989, no person owning, leasing or controlling a tank truck that carries gasoline with a true vapor pressure of 1.5 pounds per square inch, or 10.5 kilo pascals, or greater at 60° Fahrenheit or a Reid vapor pressure of 4 pounds per square inch, or 27 kilo pascals, and receives fuel from a bulk gasoline

terminal subject to section 610 may permit the tank truck to be loaded or unloaded unless the tank truck:

(1) Has been certified as leak-tight according to the procedure specified in subsection 4; and

(2) Displays the initials "DEP" attached to both the left and right bulkhead of the tank truck in contrasting letters that are no less than 2 inches high and displays the date that the test was conducted and that the certification test approval expires June 1st of the year following the test.

B. The owner or operator of a bulk gasoline terminal with a vapor recovery system subject to section 610 shall design and operate the vapor recovery system in such a manner that, during loading operations at the loading rack:

(1) The tank compartments are not subjected to a gauge pressure exceeding 18 inches of water or a vacuum exceeding 6 inches of water;

(2) Readings equal to or greater than 100 percent of the lower explosive limit, measured as 2.2 percent propane by volume in air, are not obtained within one inch, or 2.5 centimeters, around all loading couplings and vapor lines and fittings employed in transferring gasoline to the tank truck; and

(3) There are no visible liquid leaks in the vicinity of the loading rack.

3. Tightness standard. Tightness standards shall be as follows.

A. A tank truck subject to the provisions of this section may sustain a pressure change of no more than 3 inches of water over 5 consecutive minutes when pressurized to a gauge pressure of 18 inches of water or when evacuated to a gauge pressure of 6 inches of water when tested using the procedure specified in subsection 4.

B. A tank truck certified according to subsection 4 must remain leak-tight following the certification test. To verify that this requirement is being met, spot checks with a combustible gas detector must not reveal readings equal to or greater than 100 percent of the lower explosive limit measured as 2.2 percent propane by volume in air, when measured at a distance of one inch, or 2.5 centimeters, from potential leak sources.

4. Annual certification test. A tank truck subject to the provisions of this section must be tested annually by the owner or owner's agent using Reference Method 27, as amended and defined in 40 Code of Federal Regulations, Part 60, Appendix A, or any other methods approved by the

commissioner and the United States Environmental Protection Agency. The department must be informed at least 24 hours in advance of each certification test.

The owner or the owner's agent conducting the certification test must have attended a tank truck tightness certification workshop as approved by the commissioner.

5. Compliance schedule. The owner or operator of any tank truck that fails to meet any of the requirements under this section shall repair and retest the tank truck within 15 days of the test failure. No owner or operator of any tank truck may use or allow to be used any tank truck which fails to meet all the requirements of this section after retesting.

6. Spot inspection tests. The department may, at any time without announcement, measure the back pressure during the loading of tank trucks at the loading rack or the emissions as a percentage of the lower explosive limit from a tank truck using a combustible gas detector to determine the compliance of the tank trucks and vapor collection systems with the requirements set forth in this section. The leak tightness of a tank truck and vapor collection systems shall be measured by use of a gasoline leak detection technique which uses a combustible gas detector or by use of other means approved by the commissioner.

7. Records. Any person owning, leasing or controlling the day-to-day use of a tank truck subject to the provisions of this section shall maintain the following records:

A. The tank identification number, which shall include the manufacturer's serial number, vehicle identification number or the owner's identification number;

B. The calendar year during which the tank was manufactured;

C. The date and location of the most recent pressure-vacuum test; if failed, then the date and location of the retest shall be recorded as well;

D. The name, title and telephone number of the person who conducted the test, and the name and address of the company where the person is employed; and

E. A copy of the test record showing the following:

(1) The tank pressure at the start of the pressure test;

(2) The tank pressure at the end of the pressure test;

(3) The tank pressure at the start of the vacuum test;

(4) The tank pressure at the end of the vacuum test; and

(5) A list of all repairs which were made to the tank truck to enable it to pass all applicable requirements of the test method.

Copies of the records are to be retained by the owner or operator of the tank truck for a minimum of 2 years after the date on which the test was conducted. These records shall be available for inspection during normal business hours and copies shall be provided to the commissioner or the commissioner's representative upon request.

**8. Reciprocity.** At the discretion of the commissioner, the requirements for testing and marking gasoline transport vehicles subject to this section may be satisfied if the vehicle undergoes equivalent certification in another state.

**Sec. 5. 38 MRSA §610**, as amended by PL 1981, c. 580, §§1 and 2, is repealed and the following enacted in its place:

**§610. Petroleum liquids transfer vapor recovery**

**1. Scope.** This section shall apply in the following circumstances.

A. This section applies to all ambient air quality control regions of the State.

B. This section shall apply to all bulk gasoline terminals that have been in existence prior to December 31, 1978, and that have a daily throughput of 20,000 gallons or more and the appurtenant equipment necessary to load tanks, trucks or trailer compartments. The bulk gasoline terminals built or modified after December 17, 1980, are subject to New Source Performance Standards as defined in 40 Code of Federal Regulations, Part 60, Subpart XX.

**2. Prohibition.** No owner or operator of any bulk gasoline terminal may permit gasoline to be loaded into any tank truck or trailer unless:

A. The tank truck or trailer has been certified as vapor-tight, as determined by the requirements specified in section 609-C;

B. The bulk gasoline terminal is equipped to vent all displaced vapors and gases only to a vapor control system that has been properly installed and which is maintained in good working order, and which must be in operation at all times gasoline is being transferred to tank trucks from the storage tanks. This vapor control system shall consist of the following:

(1) An absorber or condensation system which processes and recovers at least 90 percent by weight of all vapors and gases from the equipment being controlled;

(2) A vapor collection system which directs all vapors to a fuel gas system; or

(3) Any other equivalent control system that has the express written approval of the commissioner and the United States Environmental Protection Agency;

C. A means is provided to prevent liquid drainage from the loading device when it is not in use or to accomplish complete drainage before the loading device is disconnected. There shall be no liquid drainage from the loading device when it is not in use;

D. All loading and vapor lines are equipped with fittings which make vapor-tight connections and which close automatically when disconnected; and

E. The pressure in the vapor collection system is not allowed to exceed the tank truck or trailer pressure relief settings.

Gasoline dispensing facilities and bulk gasoline terminals may not allow gasoline to be discarded in sewers or stored in open containers. Gasoline dispensing facilities and bulk gasoline terminals may not allow gasoline to be handled in any manner that would result in evaporation.

**3. Emission standard.** No owner or operator of any bulk gasoline terminal may allow the mass emissions of volatile organic compounds from the terminal to exceed the instantaneous emission limit of 80 milligrams per liter, or 4.7 grains per gallon, of gasoline transferred.

**4. Transition schedule.** The owners or operators of bulk gasoline terminals located in Air Quality Control Regions III, IV and V, as well as those facilities exempted under former section 610 as it existed on September 18, 1981, have until July 1, 1991, to comply with the requirements of subsection 2, paragraph B. In Air Quality Control Regions III, IV and V, the owner or operator of a bulk gasoline terminal without a vapor recovery system or other acceptable volatile organic compound emission control equipment approved under subsection 2, paragraph B, shall adhere to the increments of progress contained in the following schedule and shall report to the department within 15 days of the prescribed deadline the status of compliance with the increment of progress.

A. Final plans for acceptable volatile organic compound emission control equipment shall be submitted before November 1, 1989.

B. Contracts for installation of acceptable volatile organic compound emission control equipment or purchase orders for component parts shall be issued before March 1, 1990.

C. Initiation of on-site construction or installation of acceptable emission control equipment shall begin before July 1, 1990.

D. Final compliance shall be achieved before July 1, 1991.



5. Emission testing. Compliance with this standard shall be determined by methods promulgated in 40 Code of Federal Regulations, Part 60.503, or other methods approved by the commissioner and the United States Environmental Protection Agency.

See title page for effective date.

## CHAPTER 198

H.P. 903 - L.D. 1260

### An Act Relating to the Disclosure of Information Concerning Used Motor Vehicles at the Time of Sale or Transfer

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

**Sec. 1. 10 MRSA §1471, sub-§2**, as amended by PL 1985, c. 569, §1, is further amended to read:

**2. Dealer.** "Dealer" means and includes a natural person, firm, corporation, partnership and any other legal entity that is engaged in the business of selling, offering for sale; or negotiating the sale of used motor vehicles, except auctioneers licensed by the Secretary of State and includes the officers, agents and employees thereof. "Dealer" also includes, but is not limited to, persons licensed to engage in the business of selling, offering for sale or negotiating the sale of used motor vehicles in states other than this State, finance companies, banks, car rental companies and insurance companies that sell or transfer title to used motor vehicles within the State at licensed auction locations in this State or by any other means. "Dealer" does not include departments or agencies of the State when selling, offering for sale or negotiating the sale of used state-owned motor vehicles.

**Sec. 2. 10 MRSA §1475, sub-§3**, as amended by PL 1987, c. 593, is further amended to read:

**3. Written statement.** A dealer shall obtain from the seller of a used motor vehicle a written statement containing the following information:

- A. The make, model, model year and any identification or serial numbers of the motor vehicle;
- B. The name and address of the seller, the principal use to which the motor vehicle was put by the seller, such as personal transportation, police car, daily rental car, taxi or other descriptive term;
- C. A statement identifying any and all mechanical defects known to the seller at the time of sale; and
- D. A statement identifying the type of damage, if any, that the vehicle has sustained, such as fire, water or substantial collision damage, if such information is known to the seller.

The seller of the used motor vehicle shall sign this written statement and the dealer who buys the vehicle shall maintain a record of it for one year following the sale of the motor vehicle.

The word "seller," as used in this subsection, includes any person who sells a used motor vehicle to a dealer, including, but not limited to, individuals, other new or used motor vehicle dealers and insurance companies.

As used in subsections 2 and 3, "substantial collision damage" means any damage to a motor vehicle from a collision when the costs of repair of that damage, at the time of repair, including replacement of mechanical and body parts, exceeded by 3 times the amount of damage that would at the time of the collision have required a report of the collision to a law enforcement agency under the provisions of Title 29, section 891.

**Sec. 3. 10 MRSA §1477, sub-§2**, as amended by PL 1983, c. 311, §4, is further amended to read:

**2. Civil penalty.** Each violation of this chapter constitutes a civil violation and shall be punished by a forfeiture of not less than \$100 nor more than \$1,000. No action may be brought for a civil violation under this subsection more than 2 years after the date of the occurrence of the violation. No dealer may be held liable for a civil violation under this subsection if ~~he~~ that dealer shows by a preponderance of the evidence that the violation was unintentional and a bona fide error, notwithstanding the maintenance of procedures reasonably adopted to avoid any such error. The failure of a dealer or a seller of a used motor vehicle to disclose all information concerning a vehicle which is sold to another dealer as required by section 1475, when the information is known to the dealer or seller at the time of the sale or transfer of the vehicle, shall also be considered a violation of this chapter and shall constitute a civil violation that is subject to the civil penalties provided for in this subsection.

**Sec. 4. 10 MRSA §1477, sub-§3**, as enacted by PL 1983, c. 311, §5, is amended to read:

**3. Private remedies.** In addition to any other remedy, if a dealer violates this chapter, ~~he~~ that dealer is liable to the purchaser in an amount determined by the court of not less than \$100 nor more than \$1,000 as liquidated damages, and for costs and reasonable attorney's fees. No action may be brought under this subsection more than 2 years after the date of the occurrence of the violation. No dealer may be held liable under this subsection if ~~he~~ that dealer shows by a preponderance of the evidence that the violation was unintentional and a bona fide error, notwithstanding the maintenance of procedures reasonably adopted to avoid any such error.

In addition to any other remedy, if a dealer or the seller of a used motor vehicle who sells the vehicle to another dealer fails to disclose facts concerning that vehicle which are required to be disclosed by the provisions of section 1475, which facts were known by the dealer or seller at the time the disclosure was made, the dealer or seller is liable to the purchasing dealer in an amount determined by the court of