

# 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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**Sec. 1. 10 MRSA §1486, sub-§§4 and 5**, as enacted by PL 1987, c. 574, are amended to read:

**4. Home construction contract.** "Home construction contract" means a contract to build, remodel or repair a residence, including not only structural work but also electrical, plumbing and heating work; carpeting; window replacements; and other nonstructural work.

**5. Residence.** "Residence" means a dwelling ~~struc-  
ture~~ with 3 or ~~less~~ fewer living units and garages, if any. Buildings used for commercial or business purposes are not subject to this chapter.

**Sec. 2. 10 MRSA §1487, sub-§§7 and 9**, as enacted by PL 1987, c. 574, are amended to read:

**7. Warranty.** A warranty statement which reads:

"In addition to any additional warranties agreed to by the parties, the contractor warrants that the work will be free from faulty materials; constructed according to the standards of the building code applicable for this location; constructed in a skillful manner and fit for habitation or appropriate use. The warranty rights and remedies set forth in the Maine Uniform ~~Commercial~~ Commercial Code apply to this contract";

**9. Change orders.** A change order statement which reads:

"Any alteration or deviation from the above contractual specifications that ~~involve extra cost~~ results in a revision of the contract price will be executed only upon the parties entering into a written change order";

See title page for effective date.

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## CHAPTER 249

H.P. 284 - L.D. 396

### An Act to Require Mandatory Checking of Motorists' Maintenance of Financial Responsibility

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

**29 MRSA §780, sub-§2**, as amended by PL 1987, c. 789, §16, is further amended to read:

**2. Evidence of insurance or financial responsibility.** ~~Every~~ When a law enforcement officer stops an operator or owner of a motor vehicle, trailer or semitrailer registered in this State ~~shall~~ for a moving violation or the operator is involved in an accident which must be reported under section 891, the officer shall request that the operator present evidence of motor vehicle liability insurance or financial respon-

~~sibility upon the request of a law enforcement officer if the operator is stopped for a moving violation or is involved in an accident which shall be reported under section 891.~~

See title page for effective date.

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## CHAPTER 250

H.P. 476 - L.D. 656

### An Act to Promote Equity in the Court Adjudication of Alimony Awards

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

**Sec. 1. 19 MRSA §721**, as amended by PL 1979, c. 424, §§1 and 2, is repealed and the following enacted in its place:

#### §721. Alimony

1. Factors. The court shall consider the following factors when determining an award of alimony:

- A. The length of the marriage;
- B. The ability of each party to pay;
- C. The age of each party;
- D. The employment history and employment potential of each party;
- E. The income history and income potential of each party;
- F. The education and training of each party;
- G. The provisions for retirement and health insurance benefits of each party;
- H. The tax consequences of the division of marital property, including the tax consequences of the sale of the marital home, if applicable;
- I. The health and disabilities of each party;
- J. The tax consequences of an alimony award;
- K. The contributions of either party as homemaker;
- L. The contributions of either party to the education or earning potential of the other party;
- M. Economic misconduct by either party resulting in the diminution of marital property or income;
- N. The standard of living of the parties during the marriage; and

O. Any other factors the court considers appropriate.

2. Costs and attorney's fees. The court may order either party to pay the costs and attorney's fees of the other party in the defense or prosecution of a divorce.

3. Real estate. The court may order any part of the obligated party's real estate and, if necessary, the rents and profits from that real estate to be assigned and set out to the other party for life.

4. Alternative to alimony. Instead of alimony, the court may order either party to pay a specific sum to the other party, as the court may direct.

5. Modification. The court, at any time, may alter or amend a decree for alimony or specific sum when it appears that justice requires it, except that a court shall not increase the alimony if the original decree prohibits an increase. In making any alteration or amendment, the court shall consider the factors listed in subsection 1.

6. Enforcement. The court may use all necessary legal provisions to enforce its decrees.

7. Limitations. This section does not limit the court, by full or partial agreement of the parties or otherwise, from awarding alimony for a limited period, from awarding alimony which may not be increased regardless of subsequent events or conditions or otherwise limiting or conditioning the alimony award in any manner or term that the court considers just.

**Sec. 2. Effective date.** This Act shall take effect January 1, 1990.

Effective January 1, 1990.

## CHAPTER 251

S.P. 258 - L.D. 648

### An Act to Clarify Jurisdiction over Discrimination Cases Based upon Claims under the Workers' Compensation Act

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

**Sec. 1. 5 MRSA §4572, sub-§1, ¶A,** as amended by PL 1987, c. 782, §1, is further amended to read:

A. For any employer to fail or refuse to hire or otherwise discriminate against any applicant for employment because of race or color, sex, physical or mental handicap, religion, ancestry or national origin or age, or because of the applicant's previous assertion of a claim or right under Title 39, or because of previous actions taken by the applicant which are protected under Title 26, chapter 7, subchapter V-B,

or because of any such reason to discharge an employee or discriminate with respect to hire, tenure, promotion, transfer, compensation, terms, conditions or privileges of employment, or any other matter directly or indirectly related to employment, or in recruiting of individuals for employment or in hiring them, to utilize any employment agency which such employer knows, or has reasonable cause to know, discriminates against individuals because of their race or color, sex, physical or mental handicap, religion, age, ancestry or national origin, or their previous assertion of a claim or right under Title 39, or because of previous actions which are protected under Title 26, chapter 7, subchapter V-B;

(1) This paragraph does not apply to discrimination ~~against any individual after hiring because of that individual's previous or subsequent assertion of a claim or right under Title 39.~~ Such discrimination is governed by Title 39, section 111;

**Sec. 2. 39 MRSA §111,** as amended by PL 1985, c. 118, is further amended by inserting at the end a new paragraph to read:

This section applies only to an employer against whom the employee has testified or asserted a claim under this Act. Discrimination by an employer who is not the same employer against whom the employee has testified or asserted a claim under this Act is governed by Title 5, section 4572, subsection 1, paragraph A.

See title page for effective date.

## CHAPTER 252

H.P. 918 - L.D. 1284

### An Act to Increase the Penalties for Selling Wild Birds or Animals and Make Them Uniform

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

**Sec. 1. 12 MRSA §7456, sub-§5,** as amended by PL 1981, c. 414, §30, is repealed and the following enacted in its place:

**5. Selling wild birds. A person is guilty of selling wild birds if that person sells or possesses for sale any wild bird, except as provided in chapters 701 to 721. A person may sell the plumage of lawfully taken wild birds if that sale does not violate regulations of the United States Federal Migratory Bird Treaty Act.**

**Sec. 2. 12 MRSA §7901, sub-§2,** as amended by PL 1987, c. 89, §1, is further amended to read:

**2. Class D crimes.** A violation of section 7406, subsection 1, as it applies to deer; of section 7406, subsection