

# 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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4. Burden of proof. In any dispute as to whether a supplier has denied consent in violation of this section, the supplier shall have the burden of proving a substantial and reasonable justification for the denial of consent.

#### §488. Uniform commercial practice

1. Security interest. Nothing contained in this subchapter may be construed to release or terminate a perfected security interest of the supplier in the inventory of the dealer.

2. Repurchase of inventory. A repurchase of inventory under this subchapter shall not be subject to the bulk sales provisions of Title 11, section 6-101, et seq.

#### §489. Warranty obligations

1. Payment of warranty claim. Whenever a supplier and a dealer enter into an agreement providing consumer warranties, the supplier shall pay any warranty claim made by the dealer for warranty parts or service within 30 days after its receipt and approval. The supplier shall approve or disapprove a warranty claim within 30 days after its receipt. If a claim is not specifically disapproved in writing within 30 days after its receipt, it shall be deemed to be approved and payment shall be made by the supplier within 30 days.

2. Indemnity. Whenever a supplier and a dealer enter into a dealer agreement, the supplier shall indemnify and hold harmless the dealer against any judgment for damages arising from breach of warranty or rescission of the sale by the supplier.

#### §490. Remedies

1. Jurisdiction. Concurrent jurisdiction under this subchapter shall be in the District Court or Superior Court of the city or county where the dealer has its principal place of business. The court may grant equitable relief as is necessary to remedy the effects of conduct which it finds to exist and which is prohibited under this subchapter, including, but not limited to, declaratory judgment and injunctive relief.

2. Recovery. In addition to any other remedies available at law or in equity, if a supplier has attempted or accomplished an annulment, cancellation or termination, or refused to continue or renew an agreement without good cause or withheld or delayed consent in violation of section 483 or 487, then the dealer shall be entitled to recover losses and damages, together with the cost of the action and reasonable legal fees. These damages shall include compensation for the value of the agreement and the good will of the dealer's business.

3. Arbitration. Nothing contained in this section may bar the right of an agreement to provide for binding arbitration of disputes. Any arbitration shall be consistent with the provisions of this subchapter and Title 14, chapter 706, and the place of any arbitration shall be in the city or county in which the dealer maintains the dealer's principal place of business in the State.

4. Renewal of agreement. No supplier may cancel, terminate or refuse to continue to renew an agreement during the 90-day period set forth in section 483 or during the pendency of litigation or arbitration, except under the conditions set forth in section 483, subsection 1.

#### §491. Management

No supplier may require or prohibit any change in management or personnel of any dealer unless the current or potential management or personnel fails to meet reasonable qualifications and standards required by the supplier for its dealers.

#### §492. Waiver of subchapter void

The provisions of this subchapter shall be deemed to be incorporated in every agreement and shall supersede and control all other provisions of the agreement. No supplier may require any dealer to waive compliance with any provision of this subchapter. Any contract or agreement purporting to do so is void and unenforceable to the extent of the waiver or variance. Nothing in this subchapter may be construed to limit or prohibit good faith settlements of disputes voluntarily entered into between the parties.

#### §493. Applicability

This subchapter shall apply to agreements in effect as of October 1, 1989. In addition, the subchapter shall apply to any agreements entered into after October 1, 1989. The provisions of this subchapter are also applicable to any renewal or amendment of the agreements.

#### §494. Reasonableness and good faith

1. Good faith. Every agreement entered into under this subchapter shall impose on the parties the obligation to act in good faith.

2. Reasonableness. This subchapter shall impose on every term and provision of any agreement a requirement of reasonableness. Every term or provision of any agreement shall be interpreted so that the requirements or obligations imposed are reasonable.

See title page for effective date.

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## CHAPTER 388

S.P. 339 - L.D. 900

### An Act Relating to Reemployment of Injured Workers Under the Workers' Compensation Act

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

39 MRSA §66-A, sub-§3, as enacted by PL 1987, c. 559, Pt. B, §35, is amended to read:

**3. Time period; discrimination prohibited.** The employer's obligation to reinstate the employee continues until one year, or 2 years if the employer has over 250 employees, after the employee has reached the stage of maximum medical improvement in the judgement of the commission. An employer who reinstates an employee under this section may not subsequently discriminate against that employee in any employment decision, including decisions related to tenure, promotion, transfer or reemployment following a layoff, because of the employee's assertion of a claim or right under this Act. Nothing in this subsection may be construed to limit any protection offered to an employee by section 111.

See title page for effective date.

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## CHAPTER 389

S.P. 274 - L.D. 720

### An Act to Clarify the Immunity Provisions for Nonprofit Corporations

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

**14 MRSA §158-A, sub-§1, ¶A**, as enacted by PL 1987, c. 646, §2, is amended to read:

A. "Charitable organization" means any nonprofit organization organized or incorporated in this State or having a principal place of business in this State:

(1) That is exempt from federal income taxation under the United States Internal Revenue Code, Section 501(a), because it is described in Section 501(c)(3), (4), (6) as it pertains to chambers of commerce only, (10), (13) or (14)(A), including all subsequent amendments to those paragraphs. An organization is included in this subparagraph if it would be exempt from taxation under Section 501(c)(3) but for its engaging in attempting to influence legislation to the extent that it is disqualified from tax exemption under Section 501(c)(3); or

(2) That is:

(a) Organized under the Maine Nonprofit Corporation Act for any of the purposes listed in Title 13-B, section 201, subsection 1, paragraph A;

(b) Organized under the provisions set forth in Title 13-B, section 201, subsection 2, paragraph A; or

(c) Organized under the provisions of Title 13-B, section 201, subsection 3, paragraph D or E; or

(d) Organized in Maine as a non-profit corporation before January 1, 1978, for any of the purposes listed in Title 13-B, section 201, subsection 1, paragraph A, and to which the Maine Nonprofit Corporation Act applies.

This subparagraph applies to all subsequent amendments to the statutes covered by divisions (a), (b) and (c) and (d).

See title page for effective date.

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## CHAPTER 390

S.P. 267 - L.D. 695

### An Act Regarding the Exclusion of Family Members under a Motor Vehicle Liability Insurance Policy

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

**Sec. 1. 24-A MRSA §2902-A, sub-§3** is enacted to read:

3. Disclosure of exclusion provision. Every insurance policy providing motor vehicle liability insurance shall clearly state on the face of the policy whether the policy excludes coverage for liability for injuries sustained by the insured's family members. The requirements of this subsection may be satisfied by language on the cover sheet of the policy or which is securely affixed to the front of the policy in a manner not to obscure other policy provisions. The bureau shall, by rule, specify the specific clear and concise language to be required to satisfy this requirement.

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

Effective January 1, 1990.

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## CHAPTER 391

H.P. 434 - L.D. 599

### An Act Regulating the Sale of Grave Markers by Funeral Establishments

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

**32 MRSA §1406** is enacted to read:

**§1406. Grave markers**

Any funeral establishment or person licensed under this chapter, when selling a grave marker to a consumer before the completion of the funeral of the person whose grave is to be marked, shall adhere to the sale requirements