

# 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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applicable, may approve payment of recruitment and retention adjustments for occupations in State Government when the payment of a labor market adjustment is required to recruit and retain an adequate work force. Payment of a recruitment and retention adjustment may be authorized only when justified by the following conditions:

A. High turnover exists or long-term vacancies exist within State Government in the relevant occupational classifications or job series;

B. The relevant occupational classification or job series has a clear, geographically definable labor market within which the State must compete;

C. All appropriate recruitment and retention efforts have been attempted and have proven ineffective at the current levels of compensation; and

D. Comprehensive, verifiable documentation of labor market compensation levels for the relevant occupation has been compiled to determine competitive pay levels within the defined labor market. This documentation must demonstrate that a labor market disparity exists and that the disparity represents a long-term, not transitory or seasonal, problem.

This subsection is repealed on July 1, 1991.

2-B. Limitations on recruitment and retention adjustment. The payment of recruitment and retention adjustments authorized under this section is subject to this subsection.

A. The labor market adjustment shall be reviewed at least every 2 years and shall be adjusted to changes in the labor market or the overall relation of the standard pay policy to the specialized labor market.

B. If the subsequent review provided in paragraph A results in the adjustment being decreased or discontinued, no employee receiving the recruitment and retention adjustment may be subject to a reduction in pay.

This subsection is repealed on July 1, 1991.

**Sec. 3. 5 MRSA §7065, sub-§2-C is enacted to read:**

**2-C. Recruitment and retention adjustment process.** To assist the director in making a determination under subsections 2-A and 2-B, a committee shall be formed to evaluate each request from an agency or bargaining agent for a recruitment or retention adjustment. The committee shall be composed of 3 members: a representative of the Bureau of Human Resources, a representative of the employing agency or agencies and a representative of the bargaining agent, if applicable. The committee shall evaluate the request against the criteria specified in subsections 2-A and 2-B, and shall conduct studies as the committee considers necessary to evaluate the request. The committee

shall, by majority vote, provide the director and the appropriate bargaining agent with a report recommending and documenting adjustments authorized under this section. The director and the bargaining agent shall act on this report. If a funding request is necessary to implement an approved adjustment, the director shall submit the cost items for inclusion in the Governor's next operating budget within 10 days after action on the report.

This subsection is repealed on July 1, 1991.

**Sec. 4. PL 1987, c. 431, §3 is repealed.**

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

Effective June 22, 1989.

## CHAPTER 419

### H.P. 1231 - L.D. 1716

#### An Act Relating to Transportation of Hazardous Materials by Railroad

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

**38 MRSA §1319-I, sub-§4-B,** as enacted by PL 1987, c. 750, §5, is repealed and the following enacted in its place:

**4-B. Fee on hazardous materials transported by railroad.** Any person who transports more than 25 tons of certain hazardous materials as specified in this subsection at any one time by rail shall register annually with the department. Fees for the transportation of hazardous materials by rail shall be imposed on the registrant who first transports the materials in Maine by rail. Fees for the transportation of hazardous materials shall be determined by one of the following methods:

A. Fifteen cents per ton of hazardous materials transported by the registrant during the period of registration and shall be paid quarterly by the registrant on the basis of records certified to the department; or

B. Twenty-five thousand dollars to be paid at the time of registration.

The registrant shall select the method of payment at the time of registration. Fees shall be paid to the department and upon receipt credited to the Maine Hazardous Waste Fund. Any registrant selecting quarterly payments shall be automatically subject to the \$25,000 annual registration fee if the fee for any one quarter has not been paid to the Maine Hazardous Waste Fund within 60 days after the fee becomes due. Hazardous materials subject to the requirements of this subsection shall mean those substances identified pursuant to the federal Hazardous Materials Transportation

Act, Public Law 93-633, except that, for purposes of this subsection, hazardous materials shall not include oil as defined in Title 38, section 542, subsection 6. The registrant shall make available to the department and its authorized representatives all documents relating to the hazardous materials transported by the registrant during the period of registration.

See title page for effective date.

## CHAPTER 420

H.P. 979 - L.D. 1357

### An Act to Increase the Penalty for Illegal Netting of Atlantic Salmon

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

12 MRSA §7901, sub-§3, as enacted by PL 1979, c. 420, §1, is amended to read:

3. A violation of any of the acts prohibited in chapter 711, subchapter III, fishing violations, is a Class E crime, except that in addition to any penalty which the court might impose, a convicted person shall be fined \$5 for each fish illegally possessed, this fine not to be suspended. Notwithstanding Title 17-A, section 1301, an individual convicted of illegal fishing of Atlantic salmon, in violation of section 7603, shall be fined \$500 per fish, not to be suspended, and up to \$1,000 per violation.

See title page for effective date.

## CHAPTER 421

S.P. 1158 - L.D. 1612

### An Act to Protect the Identity of Juveniles Prior to Filing of Petition

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

15 MRSA §3307, sub-§1-A is enacted to read:

1-A. Release of identity. No law enforcement officer, officer of the court or juvenile caseworker may release the identity of any juvenile until a petition is filed charging the juvenile with a juvenile crime described in subsection 2.

See title page for effective date.

## CHAPTER 422

S.P. 611 - L.D. 1705

### An Act to Prohibit Unfair Rating Practices in Small Group Health Insurance

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

Sec. 1. 24 MRSA §2327-A is enacted to read:

#### §2327-A. Rating practices in group health insurance

Title 24-A, section 2808-A, shall apply to nonprofit hospital corporations, nonprofit medical service corporations and nonprofit health care plans to the extent not inconsistent with this chapter.

Sec. 2. 24-A MRSA §2808-A is enacted to read:

#### §2808-A. Rating practices in group health insurance

1. Groups with fewer than 25 members. Except as provided in subsection 3, no insurer may increase group health insurance premium rates for a group with fewer than 25 insured members, excluding dependents, on the basis of the claims experience of that group.

2. Subgroups; rate differentiation. Except as provided in subsection 3, no insurer may increase group health insurance premium rates on a basis which discriminates between different subgroups of a group according to the claims experience of the subgroup. The term "subgroup," as used in this section, refers to an employer with fewer than 25 insured employees within a multiple employer trust, or to any similar subdivision of a larger group covered by a single group health insurance policy or contract.

3. Tiers of rates allowed. Groups or subgroups subject to subsection 1 or 2 may be divided into 2 or more tiers for rating purposes based on the experience of the group or subgroup provided that the following conditions are satisfied.

A. The rates for the highest tier may not exceed the average rate for all tiers by more than 20%.

B. At the time of application, the insurer must provide to the prospective policyholder a prominent disclosure indicating that premium rates may change based on the claims experience of the group or subgroup. If the policyholder is a multiple employer trust, the policyholder must provide this disclosure to each employer at the time of application to the trust. For multiple employer trusts in existence on January 1, 1990, this disclosure procedure must be completed prior to the first subsequent renewal.

4. Applicability. This section applies to all policies executed, delivered, issued for delivery, continued or renewed in this State on or after January 1, 1990. It applies to any certificates delivered to residents of this State under a