

# 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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(5) Prior to the operation of any group or pool plan for more than one school administrative unit, the governing authority shall adopt underwriting guidelines which embody rate charges to prospective members at a level adequate to its financial needs and shall provide for the fixed costs of operations for the first prospective fund year. An amount sufficient to reasonably meet immediate claims costs shall be held in a segregated account to be used solely for this purpose. Funds determined to be necessary to fund the program on an ongoing basis shall also be held in a segregated account;

(6) Each group plan or pool established for more than one school administrative unit shall file with its members, by the last day of the 6th month following the end of the fiscal year, audited financial statements certified by an independent certified public accountant. The financial statement shall include, but is not limited to:

(a) Appropriate reserves for known claims and expenses associated with those claims;

(b) Claims incurred but not reported and expenses associated with those claims;

(c) Unearned contributions; and

(d) Reserve for bad debts.

The audited financial statement shall include information concerning the adequacy of the plan. This report shall result from a charge by the directors to the plan's actuary and auditor and shall address excess insurance charges for coverage to members, service agents' costs and costs of administration of the program.

Two additional copies of the audited financial statements shall be filed with the Superintendent of Insurance.

If a group plan or pool established for more than one school administrative unit fails to provide for the audited financial statements required, the Superintendent of Insurance shall perform or cause to be performed the audit. The group plan or pool shall reimburse the Superintendent of Insurance for the cost of the audit; and

(7) Any reimbursement plan or program for the provision of the employee benefits established and operated pursuant to this paragraph is not an insurance company, reciprocal insurer or insurer under the laws of this

State and the development, administration and provision of such plans and programs does not constitute doing an insurance business;

C. Pay premiums on liability insurance for employees and school officials; and

D. Provide such other employee benefits, directly or indirectly, to their employees as any school board determines from time to time, upon such terms and conditions and in such manner as the school board determines, subject to the requirements of all applicable laws.

**Sec. 2. 20-A MRSA §1001, sub-§5-B is enacted to read:**

**5-B. Workers' compensation self-insurance.** Notwithstanding any other provision of this section, they may participate in or cause their school administrative unit to participate in a self-insurance program or plan for workers' compensation established under and operated in accordance with the Workers' Compensation Act, Title 39, chapter 1, as amended.

**Sec. 3. 20-A MRSA §15004, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:**

**§15004. Unexpended balances**

The unexpended balance of all ~~moneys~~ money raised by a school administrative unit, received ~~From~~ from the State for general-purpose aid or for other educational programs; from the Federal Government directly or from the Federal Government through the State; from tuition payments made by other units, the State, or by individuals; and other receipts for school purposes shall be carried forward and credited to the unit for educational programs for the ensuing year.

Funds which are set aside for direct reimbursement programs or for workers' compensation self-insurance programs, established pursuant to section 1001, shall not be considered unexpended balances. These funds shall be carried forward to be used only for the reimbursement or self-insurance program for which they were originally dedicated.

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

Effective June 22, 1989.

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## CHAPTER 426

S.P. 498 - L.D. 1372

An Act Relating to Returned Check Charges

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

**9-B MRSA §241, sub-§6** is enacted to read:

6. Returned check charges. No financial institution authorized to do business in this State may assess a returned check charge or similar charge against a depositor for the cost of processing a check deposited in that financial institution after receipt by that depositor from another party and returned for insufficient funds by the institution on which it was drawn, except in accordance with this subsection. The charge shall not exceed \$2 per returned check, but if the check is deposited in the same institution on which it is drawn, there shall be no charge assessed against the depositor. This subsection is repealed July 1, 1991.

See title page for effective date.

## CHAPTER 427

S.P. 610 - L.D. 1704

### An Act to Amend the Definition of Labels in the Beverage Container Deposit Law

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

**Sec. 1. 32 MRSA §1865, sub-§1**, as enacted by PL 1975, c. 739, §16, is amended to read:

**1. Labels.** Except as provided under subsection 2, the refund value and the word "Maine" or the abbreviation "ME" shall be clearly indicated on every refundable beverage container sold or offered for sale by a dealer in this State, by embossing, stamping, labeling or other method of secure attachment to the beverage container. The refund value shall not be indicated on the bottom of the container. Metal beverage containers shall be embossed or stamped on the top of the container.

**Sec. 2. 32 MRSA §1865, sub-§2**, as enacted by PL 1975, c. 739, §16, is amended to read:

**2. Brand name.** Glass beverage containers having a refund value of not less than 5¢ ~~prior to the effective date of this chapter~~ and having a brand name permanently marked thereon, shall not be required to ~~indicate the refund value under~~ comply with the provisions of subsection 1.

See title page for effective date.

## CHAPTER 428

S.P. 419 - L.D. 1130

### An Act Dealing with Removal of Dislodged Lobster Gear

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

**12 MRSA §6434**, as enacted by PL 1977, c. 661, §5, is repealed and the following enacted in its place:

#### §6434. Molesting lobster gear

No person may raise, lift, transfer, possess or in any manner molest any lobster trap, warp, buoy or car except as provided in this section.

**1. Permitted activities.** Lobster traps, warps, buoys and cars may be raised, lifted, transferred, possessed or otherwise molested by the following:

A. A marine patrol officer;

B. The licensed owner;

C. Any person having written permission from the licensed owner; and

D. Any person authorized by rule pursuant to subsection 2.

**2. Promulgation of rules required.** The commissioner shall promulgate rules, no later than January 1, 1990, authorizing the removal of traps, warps, buoys or cars that are washed up above the mean low tide mark or are otherwise abandoned or lost.

**3. Prohibition.** Traps, warps, buoys or cars may not be used for fishing by any person other than the licensed owner unless with written permission from the licensed owner.

See title page for effective date.

## CHAPTER 429

H.P. 1125 - L.D. 1568

### An Act to Regulate Development Along Certain Water Bodies

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

**Sec. 1. 30-A MRSA §4404, sub-§§12 and 13**, as enacted by PL 1989, c. 104, Pt. A, §45 and Pt. C, §10, are amended to read:

**12. Ground water.** The proposed subdivision will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water; ~~and~~

**13. Flood areas.** The subdivider will determine, based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, whether the subdivision is in a flood-prone area.