

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.

J.S. McCarthy Company
Augusta, Maine
1989

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION

of the
ONE HUNDRED AND FOURTEENTH LEGISLATURE

1989

Sec. 3. 7 MRSA §1034-A is enacted to read:

§1034-A. Variety labeling

There is established a voluntary potato variety labeling program to provide consumers with accurate information on the varieties of potatoes that are available and to assist the industry in establishing markets for new varieties.

1. Rules. The commissioner shall adopt rules in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, concerning the program, including, but not limited to, program participation, identification of the varieties of potatoes eligible for inclusion in the potato variety labeling program, requirements of the inspection of potatoes in the program and appropriate methods of labeling. No rule may be adopted that requires the inspection of potatoes labeled by variety when the packer is not a participant in the potato variety labeling program.

2. Fees. The commissioner shall establish inspection fees for potatoes packed in bags labeled in accordance with the potato variety labeling program at a level 3¢ below the inspection fees established pursuant to sections 1033-A and 1034.

3. Violation. Any participant in the potato variety labeling program who packs potatoes in a bag labeled with the name of a different potato variety commits a civil violation. The first violation shall result in a forfeiture of not more than \$1,000, with each subsequent violation subject to a penalty of not more than \$2,000. For the purposes of this section, each load of potatoes constitutes a separate violation.

4. Sunset. This section is repealed on July 1, 1991.

Sec. 4. Report. The Maine Potato Quality Control Board shall submit a report by March 1, 1991, to the Joint Standing Committee on Agriculture describing the participation, results and any problems associated with the voluntary potato variety labeling program. The board shall recommend whether to continue or discontinue the program and may propose changes.

See title page for effective date.

CHAPTER 460

H.P. 1254 - L.D. 1753

An Act to Permit a 7-day Recall to Work Period

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

26 MRSA §596 is enacted to read:

§596. Recall period

An employee who is temporarily laid off by an employer for over 6 weeks and who is placed on a "recall"

or "spare" list by that employer for the purpose of being recalled to work shall have 7 days from receiving notice of a recall to work in which to respond to the notice without discrimination on subsequent recalls by the employer.

1. Effect of exercising option. No employer may remove an employee from a "recall" or "spare" list solely because the employee chooses to exercise the 7-day option under this section. No employer may discriminate against an employee in subsequent recalls to work solely because the employee chooses to exercise the 7-day option under this section.

2. Limitations. Nothing in this section may be construed to:

A. Prevent an employer from offering recall to another employee on the "recall" or "spare" list in the place of an employee who is contacted earlier but who chooses to exercise the 7-day option under this section;

B. Require an employer to hold a position or an offer of recall open for an employee who exercises the 7-day option under this section; or

C. Require an employee to wait 7 days before returning to work after receiving a recall notice.

See title page for effective date.

CHAPTER 461

H.P. 1141 - L.D. 1584

An Act to Protect the People of Maine from Exposure to Radioactive Waste

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

Sec. 1. 38 MRSA §1451, sub-§11, as enacted by PL 1983, c. 381, §9, is amended to read:

11. Low-level radioactive waste. "Low-level radioactive waste" means radioactive material that is not high-level radioactive waste, spent nuclear fuel, transuranic waste or by-product material, as defined in the United States Code, Title 42, Section 2014(e)(2), the Atomic Energy Act of 1954, Section 11(e)(2); and that the United States Nuclear Regulatory Commission, consistent with existing law, classifies as low-level radioactive waste. Low-level radioactive waste also includes any radioactive material that is generated through the production of nuclear power and that the United States Nuclear Regulatory Commission classified as low-level radioactive waste as of January 1, 1989, but which may be classified as below regulatory concern after that date.

Sec. 2. 38 MRSA §1483 is enacted to read:

§1483. Regulation of disposal or storage of low-level radioactive waste classified by the Nuclear Regulatory Commission as below regulatory concern

To the extent permitted under federal law, no low-level radioactive waste generated through the production of nuclear power that the United States Nuclear Regulatory Commission classified as low-level radioactive waste as of January 1, 1989, but which may be classified as below regulatory concern after that date, may be stored or disposed of in this State at other than a low-level radioactive waste storage or disposal facility licensed by the Nuclear Regulatory Commission, except as permitted under federal law as of January 1, 1989. Unless required under federal law, the State does not assume responsibility or ownership over these wastes by retaining jurisdiction over their storage and disposal.

Sec. 3. 38 MRSA §1503, sub-§5, as enacted by PL 1987, c. 530, §4, is amended to read:

5. Low-level radioactive waste. "Low-level radioactive waste" means radioactive material that is not high-level radioactive waste, spent nuclear fuel, transuranic waste or by-product material, as defined in the United States Code, Title 42, Section 2014(e)(2), the United States Atomic Energy Act of 1954, Section 11 (e)(2), and that the United States Nuclear Regulatory Commission, consistent with existing law, classifies as low-level radioactive waste. Low-level radioactive waste also includes any radioactive material generated through the production of nuclear power that the United States Nuclear Regulatory Commission classified as low-level radioactive waste as of January 1, 1989, but which may be classified as below regulatory concern after that date.

See title page for effective date.

CHAPTER 462

H.P. 1009 - L.D. 1407

An Act Concerning Complaints Against Health Care Practitioners

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

Sec. 1. 24 MRSA §2506, as amended by PL 1985, c. 804, §§6 and 22, is further amended to read:

§2506. Provider reports

A health care provider shall, within 60 days, report in writing to the appropriate disciplined practitioner's board or authority the name of any licensed, certified or registered employee or person privileged by the provider whose employment or privileges have been revoked, suspended, limited or terminated, together with pertinent information relating to that action. The report shall include situations in which employment or privileges have been revoked, suspended, limited or otherwise adversely affected by action of

the health care practitioner while the health care practitioner was the subject of disciplinary proceedings, and it also shall include situations where employment or privileges have been revoked, suspended, limited or otherwise adversely affected by act of the health care practitioner in return for the health care provider terminating such proceeding. Any reversal, modification or change of action reported pursuant to this section shall be reported immediately to the practitioner's board or authority, together with a brief statement of the reasons for that reversal, modification or change. The failure of any such health care provider to report as required is a civil violation for which a fine of not more than \$1,000 may be adjudged.

Sec. 2. 24 MRSA §2507, as enacted by PL 1977, c. 492, §3, is amended to read:

§2507. Society reports

Any professional society within this State which takes formal disciplinary action against a member relating to professional ethics, professional incompetence, moral turpitude, or drug or alcohol abuse shall, within 60 days of the action, report in writing to the appropriate board the name of the member, together with pertinent information relating to the action. The report shall include situations in which membership or privileges have been revoked, suspended, limited or otherwise adversely affected by action of the health care practitioner while the health care practitioner was under investigation or the subject of proceedings and it shall also include situations where membership or privileges have been revoked, suspended, limited or otherwise adversely affected by an act of the health care practitioner in return for the professional society's not conducting or for its ceasing such investigation proceeding. The report shall include situations under which an individual under societal investigation resigns during that pending investigation. The failure of any such society to report as required is a civil violation for which a fine of not more than \$1,000 may be adjudged.

Sec. 3. 24 MRSA §2608 is enacted to read:

§2608. Cancellation or nonrenewal

Any insurer required to report claims information under this subchapter shall also notify the Superintendent of Insurance of the cancellation or nonrenewal of any insured occasioned by either the number of claims against that insured or by the insured's failure to conform to appropriate standards of the medical profession. The information shall be entitled to the confidentiality protection of section 2604. A copy of the report shall be filed by the superintendent, within 30 days of its receipt, with the applicable licensing board.

Sec. 4. 32 MRSA §2561, as amended by PL 1983, c. 812, §222, is further amended to read:

§2561. Membership; qualifications; tenure; vacancies

The Board of Osteopathic Examination and Registration, as established by Title 5, section ~~42004~~ 12004-A,