

# 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-A. Small scale school construction project.** "Small scale school construction project" means a project which will not be eligible for state subsidy and is limited to:

- A. New buildings not exceeding 600 square feet in gross area to be utilized solely for storage or custodial work, or both; or
- B. On-site additions to existing school buildings not exceeding 600 square feet in gross area.

"Small scale school construction project" does not mean the purchase, lease-purchase or construction of portable temporary classroom space, as defined in section 15603, subsection 19-A.

See title page for effective date.

## CHAPTER 467

S.P. 590 - L.D. 1652

### An Act To Protect Maine Businesses against Workers' Compensation Insurer Rate Gouging

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

**Sec. 1.** 24-A MRSA §2319, as amended by PL 1973, c. 585, §12, is further amended to read:

#### §2319. Appeal by insurers and others as to filings

**1. Application for hearing.** Any person or organization in interest aggrieved with respect to any filing, rate, expense or premium level which is in effect may make written application to the superintendent for a hearing thereon, except that the insurer or rating organization that made the filing shall not be authorized to proceed under this section. ~~Such~~ Any application shall specify the grounds to be relied upon by the applicant in asserting that the filing, rate, expense or premium level is unjust or unreasonable. The Public Advocate, as appointed under Title 35-A, section 1701, may file a written application under this section only with respect to workers' compensation filings, rates, expenses or premium levels, provided that:

A. Application is made only on behalf of the general body of workers' compensation policyholders, not on behalf of individual policyholders; and

B. No filing is made by the Public Advocate earlier than 180 days from the expiration of the period for appealing a rate filing under section 236.

**2. Hearing.** If the superintendent finds that the application is made in good faith, that the applicant would be so aggrieved if ~~his~~ the applicant's grounds ~~are~~ were established, and that such grounds otherwise justify holding such a hearing, ~~he~~ the superintendent shall, ~~within 30 days after receipt of such application, hold a hearing upon not less than 10 days' written notice to the applicant and to every insurer~~

~~and rating organization which made such filing by written order, require that the insurer or rating organization prepare within 30 days a responsive filing containing information necessary, in the judgment of the superintendent, to review the application. This responsive filing may include all information required pursuant to section 2363, subsections 4 and 5 and such additional information as the superintendent may require pursuant to section 2363, subsection 6.~~

A. A copy of the superintendent's written order requiring a responsive filing and specifying its contents or determining that no further action on the application is warranted shall be provided to the Public Advocate when the application concerns workers' compensation policies or rates and to the person or organization making the application for relief under subsection 1.

B. A copy of the responsive filing shall be served on the Public Advocate when the application concerns workers' compensation policies or rates and on the applicant. Upon receipt of an order from the superintendent requiring a responsive filing concerning workers' compensation which resulted from an application by the Public Advocate, the insurer or rating organization shall pay to the superintendent a filing fee of \$50,000 which the superintendent shall immediately credit to the Public Advocate. The fee shall be segregated and expended for employing outside consultants and paying other expenses to fulfill the requirements of this section. Any portion of the fee not expended shall be returned to the filer.

C. The public hearing shall be conducted no fewer than 30 days and no more than 60 days from the date the responsive filing is determined complete by the superintendent, unless the superintendent extends these limits pursuant to section 2363, subsection 6 in workers' compensation cases.

**3. Orders.** If, after such a hearing, the superintendent finds that the filing, rate, expense or premium level does not meet the requirements of this chapter, ~~he~~ the superintendent shall issue ~~an~~ a final order specifying in what respects ~~he~~ the superintendent finds that ~~such~~ the filing fails to meet the requirements of this chapter, or is unjust and unreasonable, and stating when, within a reasonable period thereafter, ~~such~~ the filing, rate, expense or premium level shall be changed, replaced or deemed determined no longer effective. Copies of the order shall be sent to the applicant and to every ~~such~~ insurer and rating organization. The order shall not affect any contract or policy made or issued prior to the expiration of the period set forth in the order.

**Sec. 2.** 24-A MRSA §2363, sub-§7-A is enacted to read:

7-A. Fee for servicing residual market. In every rate filing in which a rating bureau requests a rate adjustment, the superintendent shall take evidence on the issue of whether the fee for servicing the residual market is reasonable. Concurrent with the decision on the rate adjustment,

the superintendent shall issue a decision on whether the fee is reasonable, taking into account the rate adjustment approved. If the superintendent determines that the fee is not reasonable, the superintendent shall order an adjustment to the fee, as necessary, to ensure that the fee is reasonable.

See title page for effective date.

## CHAPTER 468

S.P. 555 - L.D. 1558

### An Act to Clarify the Provisional Payments Provision of the Workers' Compensation Law Regarding Disability and Medical Payments

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

**39 MRSA §111-A, sub-§3** is enacted to read:

**3. Rules.** The Superintendent of Insurance shall adopt rules, subject to Title 5, chapter 375, to implement this section.

A. These rules shall impose any requirements on employers or health, disability or workers' compensation insurance carriers that the superintendent finds necessary or desirable to ease the financial burden on injured employees whose workers' compensation claims are controverted and who are awaiting commission determinations on their claims.

B. The Superintendent of Insurance shall consult with the chair of the Workers' Compensation Commission in formulating and adopting these rules.

C. The Superintendent of Insurance shall recommend for introduction to the Second Regular Session of the 114th Legislature any legislation necessary to achieve the purposes of this subsection.

See title page for effective date.

## CHAPTER 469

H.P. 59 - L.D. 80

### An Act Concerning Boating and Other Water-based Activities

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

**Sec. 1. 12 MRSA §7791, sub-§11-A** is enacted to read:

**11-A. Personal watercraft.** "Personal watercraft" means any motorized watercraft that is less than 13 feet in

hull length as manufactured, is capable of exceeding a speed of 20 miles per hour and has the capacity to carry not more than the operator and one other person while in operation. The term includes, but is not limited to, a jet ski, wet bike, surf jet, miniature speedboat and hovercraft. Personal watercraft also includes motorized watercraft whose operation is controlled by a water skier.

**Sec. 2. 12 MRSA §7800, sub-§2**, as enacted by PL 1979, c. 420, §1, is amended to read:

**2. Fines and costs collected.** Each county shall pay all fines, forfeitures and penalties collected for violations of this subchapter and all officers' costs collected for either coastal wardens or game wardens to the Treasurer of State, monthly, and all of them shall accrue to the department, except that all fines, forfeitures and penalties collected as a result of the efforts of municipal law enforcement officers or harbor masters enforcing the provisions of this subchapter in their respective jurisdictions shall be paid to that municipality for the local enforcement efforts of this subchapter.

**Sec. 3. 12 MRSA §7801, sub-§16, ¶C** is enacted to read:

C. Fails to wear a Coast-Guard approved Type I, Type II, or Type III personal flotation device while canoeing or kayaking on the Saco River between January 1st and June 1st.

**Sec. 4. 12 MRSA §7801, sub-§§30 and 31** are enacted to read:

**30. Failure to comply with additional safety requirements while operating a personal watercraft.** A person is guilty of failure to comply with additional safety requirements while operating a personal watercraft if that person:

A. Or any passenger is not wearing Coast-Guard approved Type I or Type II personal flotation devices while operating or riding on the personal watercraft;

B. Operates the personal watercraft during the hours between sunset and sunrise; or

C. Operates a personal watercraft before attaining the age of 12 years.

**31. Unlawfully permitting operation.** A person is guilty of unlawfully permitting operation of a watercraft:

A. If that person owns a watercraft and negligently permits another person to operate the watercraft in violation of any section of this subchapter; or

B. If that person is the parent or guardian responsible for the care of a minor under 18 years of age and the minor operates a personal watercraft in violation of any section of this subchapter.