

# 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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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.

Sec. 5. 12 MRSA §7802 is enacted to read:

**§7802. Operating within the water safety zone**

1. Headway speed only. No person may operate a watercraft at a speed greater than headway speed while within the water safety zone or within a marina or an approved anchorage in coastal or inland waters except while actively fishing. For the purposes of this section, "headway speed" means the minimum speed necessary to maintain steerage and control of the watercraft while the watercraft is moving.

2. Water-skiing. The prohibition in subsection 1 does not apply to watercraft picking up or dropping off one or more persons on waterskis in the water safety zone if a reasonably direct course is taken through the water safety zone between the point that the skiers are picked up or dropped off and the outer boundary of the water safety zone.

Sec. 6. 12 MRSA §7803 is enacted to read:

**§7803. Harbor masters on inland waters**

1. Appointment; compensation. The municipal officers of a town bordering an inland waterway may appoint a harbor master for a term of not less than one year and may establish the harbor master's compensation. The harbor master is subject to all the duties and liabilities of that office as prescribed by state law, municipal ordinances and rules promulgated by the municipality. The municipal officers may remove the harbor master from office for cause, declared in writing, after due notice to the harbor master and a hearing, if requested.

The municipal officers may prohibit a harbor master from making an arrest or carrying a weapon. Harbor masters who are not prohibited from making arrests may arrest and deliver to the law enforcement authorities on shore any person committing an assault upon them or another person acting under their authority.

2. Authority and responsibility. A harbor master appointed under this section shall enforce the watercraft laws of the State and the municipality on any water within the jurisdiction of the municipality.

3. Violation. Whoever neglects or refuses to obey any lawful order of a harbor master authorized pursuant to this section commits a Class E crime.

4. Jointly appointed harbor masters. The municipal officers of 2 or more municipalities that border on the same inland waters may jointly appoint a single harbor master who shall have authority over the jurisdictions of all the participating municipalities.

Sec. 7. 12 MRSA §7804 is enacted to read:

**§7804. Enforcement of watercraft laws**

Any municipal, county or state law enforcement officer or any harbor master appointed pursuant to section

7803 or Title 38, section 1 has the authority to enforce, in their respective jurisdictions, the watercraft laws in this subchapter and the rules related to those laws.

Sec. 8. 12 MRSA §7901, sub-§13 is enacted to read:

13. Unlawfully permitting operation of watercraft. A violation of section 7801, subsection 31, is a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

**Sec. 9. Report.** The Department of Inland Fisheries and Wildlife, in consultation with the Department of Marine Resources, shall submit a report to the Joint Standing Committee on Fisheries and Wildlife regarding the establishment of a mandatory boating safety course including, but not limited to:

1. The benefits to be obtained by requiring a mandatory boating safety course;
2. The age limit, if any, at which a mandatory boating safety course should be required;
3. A proposed phase-in period, if necessary, for a mandatory boating safety course;
4. How to deal with out-of-state boaters, including reciprocity agreements;
5. Effective date of implementing a mandatory boating safety course requirement;
6. A summary of the training currently available and who provides that training, an estimate of how many people will need to be trained if a mandatory boating safety course is implemented and a proposal regarding who should provide that training; and
7. An estimate of the cost of providing training if a mandatory boating safety course is implemented and who should pay for that training.

This report shall be submitted, together with any recommended implementing legislation, no later than February 1, 1990.

**Sec. 10. Advisory report.** The Department of Marine Resources and the Department of Inland Fisheries and Wildlife shall jointly monitor the effects of this Act. The Department of Inland Fisheries and Wildlife shall serve as the lead agency. These departments shall make a joint report to the Legislature no later than January 31, 1991, in which they document the results of their monitoring, present recommendations concerning all important issues and submit any required legislation approved by the Attorney General covering all important issues. The departments shall obtain input from the Attorney General and district attorneys, representatives of the judicial system, representatives of lake associations and representatives of state, county and municipal law enforcement agencies.

By January 31, 1990, the departments shall submit to the joint standing committee of the Legislature having jurisdiction over boating laws a plan for this report including cost deadlines for each phase and objectives against which the success of this legislation will be measured. To the extent possible, these objectives shall be statistically measurable.

See title page for effective date.

**CHAPTER 470**

**H.P. 787 - L.D. 1099**

**An Act to Require Distributor Reports on Bottle Deposits**

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

**Sec. 1. 32 MRSA §1866, sub-§6** is enacted to read:

6. Distributors reports and payments. Each distributor shall, prior to March 1st of each year, report to the commissioner the total amount of deposits paid to it by any person during the preceding calendar year, as well as the total amount of refunds paid by it to any person during that calendar year.

**Sec. 2. 32 MRSA §1869, sub-§3** is enacted to read:

3. False reports. Any individual person who knowingly makes any false report pursuant to section 1866, subsection 6, is guilty of a Class E crime.

**Sec. 3. Effective date.** This Act shall take effect January 1, 1990, except that the first report to the Commissioner of Agriculture, Food and Rural Resources is not required until March 1, 1991.

Effective January 1, 1990.

**CHAPTER 471**

**H.P. 1068 - L.D. 1490**

**An Act to Amend the Real Estate Brokerage License Laws**

**Emergency preamble.** Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the 113th Legislature passed legislation prohibiting owners and lessors of real estate that do not conduct real estate transactions as part of their business from selling their real estate without benefit of a real estate broker; and

Whereas, this law has created unforeseen and unintended difficulties for several businesses; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

**Sec. 1. 32 MRSA §13002, sub-§1**, as enacted by PL 1987, c. 395, Pt. A, §212, is repealed and the following enacted in its place:

1. Transactions by owner or lessor. Transactions conducted by any person who is the owner or lessor of the real estate, or to their regular employees with regard to the employer's real estate, provided that:

A. The real estate transaction services rendered by the employee are performed as an incident to the usual duties performed for the employer; or

B. The real estate transaction services are subject to the provisions of the Maine Condominium Act, Title 33, chapter 31.

**Sec. 2. 32 MRSA §13062, sub-§1**, as enacted by PL 1987, c. 395, Pt. A, §212, is amended to read:

**1. Real Estate Commission composition.** The Real Estate Commission, established by Title 5, section ~~42004~~ 12004-A, subsection ~~4~~ 37, shall be referred to in this chapter as the "commission." The commission shall consist of 4 industry members and ~~one~~ 2 public ~~member~~ members.

**Sec. 3. Allocation.** The following funds are allocated from Other Special Revenue funds to carry out the purposes of this Act.

**1989-90      1990-91**

**PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF**

**Real Estate Commission**

Personal Services	\$630	\$840
All Other	900	1,200

Provides funds for the per diem and expenses of the additional member of the Real Estate Commission.

**DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION**

<b>TOTAL</b>	<u>\$1,530</u>	<u>\$2,040</u>
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