

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND FOURTEENTH LEGISLATURE
FIRST SPECIAL SESSION

August 21, 1989 to August 22, 1989

and

SECOND REGULAR SESSION

January 3, 1990 to April 14, 1990

THE GENERAL EFFECTIVE DATE FOR
NON-EMERGENCY LAWS IS
July 14, 1990

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
1990

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
SECOND REGULAR SESSION

of the
ONE HUNDRED AND FOURTEENTH LEGISLATURE

January 3, 1990 to April 14, 1990

of the Maine sardine industry, the people it employs and the economy of the State; 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 §4157, sub-§§4 and 5, as enacted by PL 1979, c. 62, §4, are amended to read:

4. Labeling. Fish packed in accordance with this section and the regulations may be plainly and conspicuously marked "Maine Sardines." Fish Except as provided in section 4157-A, which fish that are packed in a manner inconsistent with this section and the regulations shall not be sold for consumption in the United States unless each can and case is plainly and conspicuously marked with the word "herring," and the word "sardine" does not appear.

5. Substandard grade. Sardines Except as provided in section 4157-A, sardines which that are officially designated as substandard grade, for which a certificate is issued, shall not be sold for consumption in the United States unless each can in the lot has the words "Substandard Grade, Good Food-Not High Quality" so placed as to be easily seen when the name of the product or pictorial representation thereof is viewed and appear conspicuously enough to be seen under ordinary conditions of purchase. The words "Substandard Grade, Good Food-Not High Quality" shall be printed in 2 lines across the cover of all cans in letters not less than 1/8 of an inch in height and be enclosed in lines which are not less than 1/32 of an inch in width. This wording shall be printed on all wrappers, labels, cartons or other outer coverings of the cans with a permanent type of indelible ink, or by means of other approved procedure. The words "Substandard Grade" shall appear in letters not less than one inch in height on both ends of the shipping container.

Sec. 2. 32 MRSA §4157-A, as amended by PL 1989, c. 482, §1, is further amended to read:

§4157-A. Sardines for export; exempt from quantity and quality provisions of Maine Sardine Law

Sardines that satisfy the requirements of the Maine Food Law, but not the requirements of the Maine Sardine Law, may be exported by complying with the shipping carton marking and bonding provisions of this section. For the purposes of this section, the term "exported" includes shipments of sardines to the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands and the trust territory of Palau.

The cover of each can of sardines that satisfy the requirements of the Maine Food Law, but not the requirements of the Maine Sardine Law shall be labelled

with the name of the packer. Each shipping carton shall be marked plainly and conspicuously with the words "FOR EXPORT" in letters not less than 1/2 inches high.

The commissioner shall detain or place an embargo upon such sardines by marking or tagging same; orders for detention or embargo issued under this section shall not be considered to be licensing or an adjudicatory proceeding as those terms are defined by the Maine Administrative Procedure Act. The commissioner shall not release the sardines from detention or embargo until the packer provides a bond with good and sufficient sureties in an amount not less than twice the value of the sardines, running to the commissioner and the commissioner's successors in office, conditioned that such sardines shall be exported to a foreign country the destination to be named therein and shall not be reimported into any state of the United States or the District of Columbia by any person, or in such other amount and upon such other conditions as may be established by the commissioner; or if the packer is regularly engaged in the business of exporting sardines, the packer may provide one bond in the amount of \$10,000 to cover all such exports, conditioned that such sardines shall be exported to a foreign country the destination declared and shall not be reimported to any state of the United States or the District of Columbia by any person and that the packer will inform the commissioner of the value and the foreign country of destination of each shipment in writing prior to release of the embargo and such additional documentary evidence as the commissioner may require within 45 days of the date of such shipment. A packer shall be deemed regularly engaged in the business of exporting sardines if the packer makes 2 or more shipments in any one year.

Shipments to United States military procurement agencies which that do not meet market requirements within any state of the United States, its territories and possessions or the District of Columbia as specified by the Maine Sardine Law shall not be deemed as being exported to a foreign country.

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

Effective March 7, 1990.

CHAPTER 640

S.P. 852 - L.D. 2186

An Act Relating to Seat Belts and Child Safety Seats for Children under 4 Years of Age

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

29 MRSA §1368-B, sub-§§1 and 2, as repealed and replaced by PL 1983, c. 299, are amended to read:

1. Transportation in vehicle of parent or guardian. When any child who is less than 4 years of age is being transported in a motor vehicle registered in this State and that motor vehicle is owned or operated by his the child's parent or legal guardian, and the motor vehicle is required by the United States Department of Transportation to be equipped with seat belts at the time of manufacture or assembly, the operator of the motor vehicle shall have the child properly secured, in accordance with the manufacturer's instructions, in a child safety seat that meets the standards described in Federal Motor Vehicle Safety Standards, 49 Code of Federal Regulations, Part 571, in effect on January 1, 1981. The parent or legal guardian of the child is responsible for providing and installing the child safety seat.

2. Transportation in vehicle not owned by parent or guardian. If the child is being transported in a motor vehicle registered in this State, and that motor vehicle is neither owned nor operated by his the child's parent or legal guardian, and the motor vehicle is required by the United States Department of Transportation to be equipped with seat belts at the time of manufacture or assembly, the operator of the motor vehicle shall have the child properly secured, in accordance with the manufacturer's instructions, in a child safety seat that meets the standards described in Federal Motor Vehicle Safety Standards, 49 Code of Federal Regulations, Part 571, in effect on January 1, 1981. When such a child safety seat is not available, the operator shall have the child properly secured in a seat belt, except when all seating positions equipped with seat belts are occupied. No exception may apply if the child is less than one year of age.

See title page for effective date.

CHAPTER 641

H.P. 1403 - L.D. 1939

An Act to Amend the Guaranty Association Law to Provide a More Equitable Special Assessment

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

Whereas, the Maine Insurance Guaranty Association imposes an assessment against member insurers which has a disproportionate impact on companies that have a very small number of policyholders against whom to levy the assessment; and

Whereas, the assessment will result in a premium increase of from \$115 to \$985 for medical malpractice insurance premiums; 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. 24-A MRSA §4440-A, sub-§2, as enacted by PL 1989, c. 67, §8, is repealed and the following enacted in its place:

2. Limit on assessment. Subject to the 2% limitation, an assessment made under this section may not exceed 5% of the average of a member insurer's net income of the 3 years prior to the year in which the assessment is made for any member insurer:

A. That has surplus of less than \$12,000,000 and either a ratio of total net direct written premium to total surplus greater than 2 or net income of less than \$250,000 for the year preceding the assessment. For purposes of this subsection, "net income" means the sum of underwriting income and investment income, net of dividends to policyholders and federal and foreign income taxes incurred, as reported on the insurer's annual statement filed with the superintendent. "Total surplus" means surplus as regards policyholders, as reported on the insurer's annual statement filed with the superintendent; or

B. That has a surplus of less than \$12,000,000 and has fewer than 3,000 policyholders.

Sec. 2. Application; retroactivity. This Act is applicable both retroactively and prospectively to special assessments made under the Maine Revised Statutes, Title 24-A, section 4440-A, whether those assessments were made before or after the effective date of this Act.

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

Effective March 7, 1990.

CHAPTER 642

H.P. 1322 - L.D. 1824

An Act to Amend the Zoning Laws to Extend the Time for Filing a Variance in the Registry of Deeds

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

30-A MRSA §4353, sub-§5, as enacted by PL 1989, c. 104, Pt. A, §45 and Pt. C, §10, is amended to read:

5. Variance recorded. If the board grants a variance under this section, a certificate indicating the name of the current property owner, identifying the property by reference to the last recorded deed in its chain of title and indicating the fact that a variance, including any conditions on the variance, has been granted and the date of the granting, shall be prepared in recordable form. This certificate must be recorded in the local registry of deeds