

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

CHAPTER 687

H.P. 1560 - L.D. 2166

**An Act to Ensure that Mobile Home Park
Operators are Informed of
Habitability Problems**

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

10 MRSA §9097, sub-§11 is enacted to read:

11. Breach of warranty of habitability as an affirmative defense. In an action brought by a mobile home park owner to terminate a rental agreement on the ground that the tenant is in arrears in the payment of rent, the tenant may raise, as a defense, any alleged violation of the implied warranty and covenant of habitability provided that:

A. The tenant gave the mobile home park owner, or the owner's agent has received, actual notice of the alleged violation while the tenant was current in rental payments;

B. The park owner or operator unreasonably failed under the circumstances to take prompt, effective steps to repair or remedy the condition; and

C. The condition was not caused by the tenant or another person acting under the tenant's control.

Upon finding that the leased premises is not fit for human habitation, the court shall permit the tenant either to terminate the rental agreement without prejudice or to reaffirm the rental agreement and the court shall assess against the tenant an amount equal to the reduced fair rental value of the property for the period during which rent is owed. The reduced amount of rent owed is to be paid on a pro rata basis, unless the parties agree otherwise, and payments are due at the same intervals as rent for the current rental period. The mobile home park owner may not charge the tenant for the full rental value of the property until the property is fit for human habitation.

See title page for effective date.

CHAPTER 688

H.P. 1537 - L.D. 2122

**An Act to Establish the Advisory Board on
Rights of Children in Need of Services**

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

Sec. 1. 5 MRSA §12004-I, sub-§59-A is enacted to read:

59-A.
Mental Health
and Mental
Retardation

Advisory Board
on Rights of
Children in Need
of Services

Expenses 34-B MRSA
Only §1209-B

Sec. 2. 34-B MRSA §1209-B is enacted to read:

§1209-B. Advisory Board on Rights of Children in Need of Services

1. Establishment. The Advisory Board on Rights of Children in Need of Services is established, in accordance with Title 5, section 12004-I, subsection 59-A and consists of 11 members as follows:

A. One parent of a child in need of treatment as defined by section 6201, subsection 2;

B. One parent of a child in need of mental retardation services who does not meet the definition in section 6201, subsection 2;

C. One person who has demonstrated experience as a provider of services to children in a hospital or residential care facility pursuant to section 6201, subsection 3;

D. One person who is a psychiatrist or a licensed clinical psychologist whose primary practice consists of treating children in need of services;

E. One person who is a primary consumer of mental health services;

F. One person who is a primary consumer of mental retardation services;

G. One person who is certified to teach special education;

H. Two persons who have professional experience as advocates for children;

I. One member of the public who has demonstrated interest in the rights of children with special needs; and

J. One provider of community services for children in need of services.

Members are appointed by the commissioner for staggered terms not to exceed 2 years.

2. Chair. The members of the board shall elect a chair from among its members.

3. Meetings. The board shall meet at least quarterly. A representative of the department shall act as liaison between the board and the department.

4. Duties. The board has the following duties.

A. The board shall advise the department on the implementation of the rights of children in need of services from the department.

B. The board shall monitor the implementation of rules defining the rights of children in need of services and make recommendations to the department about improving the content and implementation of the rules.

C. The board shall submit a yearly report for the commissioner and the joint standing committee of the Legislature having jurisdiction over human resource matters regarding the implementation of the rights of children in need of services.

5. Access. Board members have access to all living areas and program areas and to all records directly relevant to monitoring the implementation of the rules, provided that the access is in conformity with the laws regarding confidentiality of mental health information.

6. Expenses. The members of the board must be reimbursed for their expenses as authorized in Title 5, chapter 379.

See title page for effective date.

CHAPTER 689

H.P. 1519 - L.D. 2104

An Act Concerning Operation of All-terrain Vehicles

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

12 MRSA §7857, sub-§18, as enacted by PL 1983, c. 297, §§1 and 3, is repealed and the following enacted in its place:

18. Unlawfully operating an ATV on railroad tracks. Except as provided in subsection 24, paragraph E-2, a person is guilty of unlawfully operating an ATV on railroad tracks if that person:

A. Operates any ATV along or adjacent and parallel to the tracks of any railroad within the limits of any railroad right-of-way without written permission from the railroad owning the right-of-way; or

B. Operates any ATV across the tracks of any railroad after having been forbidden to do so by the railroad owning the railroad right-of-way, or by an agent of that railroad, either personally or by appropriate notices posted conspicuously along the railroad right-of-way.

See title page for effective date.

CHAPTER 690

H.P. 1492 - L.D. 2065

An Act Concerning Warranty Rights of Mobile Home Owners

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

Sec. 1. 10 MRSA §9009, sub-§3 is enacted to read:

3. Injunction on sales. The board shall investigate all complaints made to it of noncompliance with or violation of chapter 213. If the board finds that a manufacturer or dealer has sold, or is making available for sale, mobile homes that pose a threat to public health or safety or has intentionally failed to comply with chapter 213, the board may petition the Attorney General to initiate legal action in Superior Court to enjoin the sale of mobile homes by that manufacturer or dealer. If the court finds that the manufacturer or dealer sold, or is making available for sale, mobile homes that pose a threat to public health or safety or has intentionally failed to comply with chapter 213, the court may enjoin the sale of mobile homes by that manufacturer or dealer.

Sec. 2. Allocation. The following funds are allocated from Other Special Revenue funds to carry out the purposes of this Act.

1990-91

PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF

Manufactured Housing Board

Positions	(1)
Personal Services	\$23,375
All Other	1,650
Capital Expenditures	10,000

Provides funds for a full-time inspector to investigate complaints.

DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATIONS

TOTAL \$35,025

See title page for effective date.

CHAPTER 691

H.P. 1471 - L.D. 2056

An Act to Limit the Effect of Collateral Estoppel on Unemployment Insurance Decisions

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