

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

AS PASSED BY THE

ONE HUNDRED AND FIFTEENTH LEGISLATURE

FIRST REGULAR SESSION

December 5, 1990 to July 10, 1991

Chapters 1 - 590

THE GENERAL EFFECTIVE DATE FOR  
NON-EMERGENCY LAWS IS  
OCTOBER 9, 1991

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  
1991

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**PUBLIC LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED AT THE**  
**FIRST REGULAR SESSION**

**of the**  
**ONE HUNDRED AND FIFTEENTH LEGISLATURE**

**1991**

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of premium contributed by the group policyholder for the same period must be refunded to the employees, members or debtors in proportion to their premium contributions for that period, except as provided in subsection 2.

2. Refund amounts less than \$25 per employee, member or debtor. If the refunds required by subsection 1 would average less than \$25 per employee, member or debtor, then the group policyholder may request approval from the superintendent to apply those amounts in a different manner. The superintendent shall approve the request if, in the superintendent's opinion, the manner of application proposed would be for the sole benefit of insured employees, members or debtors.

**Sec. D-3. 24-A MRSA §2812**, as amended by PL 1969, c. 177, §52, is repealed.

**Sec. D-4. 24-A MRSA §2812-A** is enacted to read:

**§2812-A. Dividends and experience refunds**

The following requirements apply to all group health insurance with the exception of insurance in which the policyholder is subject to the fiduciary standards of the federal Employee Retirement Income Security Act of 1974, ERISA, 29 United States Code, Section 1001-1381 (1975).

1. Refunds. The amount by which any dividend, experience refund or rate reduction exceeds the amount of premium contributed by the group policyholder for the same period must be refunded to the employees, members or debtors in proportion to their premium contributions for that period, except as provided in subsection 2.

2. Refund amounts less than \$25 per employee, member or debtor. If the refunds required by subsection 1 would average less than \$25 per employee, member or debtor, then the group policyholder may request approval from the superintendent to apply those amounts in a different manner. The superintendent shall approve the request if, in the superintendent's opinion, the manner of application proposed would be for the sole benefit of insured employees, members or debtors.

See title page for effective date.

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**CHAPTER 201**

**H.P. 797 - L.D. 1143**

**An Act to Disseminate More Rapidly Information Concerning Missing Children**

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

**25 MRSA §2151**, as enacted by PL 1985, c. 275, §2, is amended to read:

**§2151. Missing children; information sent to National Crime Information Center**

**1. Definition.** As used in this section "missing child" means any individual less than 18 years of age whose whereabouts are unknown to that individual's legal custodian if:

~~A. The circumstances surrounding that individual's disappearance indicate that the individual may possibly have been removed by another from the control of the individual's legal custodian without the custodian's consent; or~~

~~B. The circumstances of the case strongly indicate that the individual is likely to be abused or sexually exploited.~~

**2. Report.** Upon receiving a report of a missing child, a law enforcement agency shall conduct a preliminary investigation to determine whether the child is missing. ~~Within 48 hours of receiving the report, if~~ If the preliminary investigation reveals that there is probable cause to believe the child is missing, the agency shall immediately enter identifying and descriptive information about the missing child into the National Crime Information Center computer and into any state computer ~~which~~ that the Commissioner of Public Safety may designate to receive that information. Law enforcement agencies having direct access to the National Crime Information Center computer shall enter and retrieve the data directly and ~~shall~~ cooperate in the entry and retrieval of data on behalf of law enforcement agencies ~~which~~ that do not have direct access to the systems.

Immediately after a missing child is located, the law enforcement agency which located or returned the missing child shall notify the law enforcement agency having jurisdiction over the investigation, and that agency shall cancel the entry from the National Crime Information Center computer.

**3. Medical and dental records.** No later than 60 days after the original entry of the record into the National Crime Information Center computer and the state computer, the entering law enforcement agency shall verify and update the record with any additional information, including, where available, medical and dental records.

See title page for effective date.

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**CHAPTER 202**

**H.P. 898 - L.D. 1295**

**An Act to Clarify the Time for Taking an Appeal from the Juvenile Court to the Superior Court**

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

15 MRSA §3402, sub-§5, as repealed and replaced by PL 1979, c. 512, §9, is amended to read:

5. **Time for appeals.** An appeal from the juvenile court to the Superior Court ~~shall~~ must be taken within 5 days of the entry of an order of disposition or other appealed order or such further time as the Supreme Judicial Court may provide pursuant to a rule of court.

See title page for effective date.

## CHAPTER 203

### H.P. 440 - L.D. 623

#### An Act to Improve the Regulatory Operations of the Board of Licensing of Auctioneers

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

**Whereas,** it is vital that the funds provided for in this legislation are available for the beginning of the fiscal year 1991-92; and

**Whereas,** the fiscal year 1991-92 begins before the expiration of the 90-day period; 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 §271, first ¶,** as amended by PL 1989, c. 503, Pt. B, §122, is further amended to read:

The Board of Licensing of Auctioneers, as established by Title 5, section 12004-A, subsection 5, ~~shall be~~ is composed of ~~3~~ 5 members, ~~2~~ 3 of whom ~~shall~~ must be auctioneers and ~~one~~ 2 of whom ~~shall~~ must be a public ~~member~~ members. ~~Members shall be compensated~~ are entitled to compensation according to Title 5, chapter 379.

**Sec. 2. 32 MRSA §272,** as amended by PL 1983, c. 413, §14, is repealed and the following enacted in its place:

#### §272. Prohibition

A person in this State who engages in the business of auctioneering, professes to be an auctioneer or advertises the sale of real, personal or mixed property by auction must hold a valid auctioneer's license. A person does

not require a license in order to auction personal or real property that the person has maintained for that person's use or personal property that the person's parents, spouse or children have maintained for their use.

**Sec. 3. 32 MRSA §273,** as amended by PL 1985, c. 748, §32, is further amended to read:

#### §273. Resident application; fee

Every resident person in this State desiring to do business as an auctioneer, who satisfies the board that ~~he~~ that person has knowledge of the laws of this State pertaining to auctions and sales, the ethics and practices of auctioneers, the laws relating to the record of sales of used merchandise and such other related subjects as the board may select, upon application in form designated by the board, ~~shall~~ must receive a license to conduct auctions. The original application ~~shall~~ must be accompanied by 2 letters of recommendation as evidence of ethical business practice.

The board may establish an application fee and an examination fee in amounts which are reasonable and necessary for their respective purposes.

~~The applicant shall furnish evidence of a surety bond payable to the Treasurer of State in the amount of \$10,000 issued by a surety company approved by the Bureau of Insurance and licensed to do business in the State of Maine.~~

The board may establish by rule the requirements and amount of a surety bond as the board determines necessary.

The application and supporting information ~~shall~~ must be kept on file together with a record of all licenses issued. The license fee ~~shall be \$50~~ may not exceed \$100 for a biennium and the original license ~~shall be~~ is effective from date of issue until March 31st of the biennial expiration or ~~at any date which the board when the Commissioner of Professional and Financial Regulation designates. Original licenses effective for less than one year for the biennial licensing period shall be \$25.~~

**Sec. 4. 32 MRSA §274, first ¶,** as enacted by PL 1979, c. 478, §2, is amended to read:

Notice of expiration ~~shall~~ must be mailed to each licensee's last known address at least 30 days in advance of the expiration of ~~his~~ the license. The renewal notice ~~shall~~ must include any requests for information necessary to update the individual's records. The biennial license fee ~~shall be \$50~~ may not exceed \$100.

**Sec. 5. 32 MRSA §277,** as enacted by PL 1979, c. 478, §2, is amended to read:

#### §277. Nonresident fee; renewal