

# 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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A. Government vehicles as identified in section 256;

B. Vehicles owned or controlled by a dealer as defined by subchapter III-A; or

C. Vehicles registered as vehicles for hire.

**Sec. 2. 29 MRSA §780, sub-§8**, as amended by PL 1989, c. 824, §4, is repealed.

**Sec. 3. Effective date.** This Act takes effect on January 1, 1992.

Effective January 1, 1992.

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## CHAPTER 217

H.P. 60 - L.D. 88

### An Act Concerning Consent to Dental Care

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

**24 MRSA §2905, sub-§1**, as amended by PL 1989, c. 74, §2, is further amended to read:

**1. Disallowance of recovery on grounds of lack of informed consent.** No recovery may be allowed against any physician, podiatrist, dentist or any health care provider upon the grounds that the health care treatment was rendered without the informed consent of the patient or the patient's spouse, parent, guardian, nearest relative or other person authorized to give consent for the patient when:

A. The action of the physician, podiatrist or dentist in obtaining the consent of the patient or other person authorized to give consent for the patient was in accordance with the standards of practice among members of the same health care profession with similar training and experience situated in the same or similar communities; ~~and~~

B. A reasonable person, from the information provided by the physician, podiatrist or dentist under the circumstances, would have a general understanding of the procedures or treatments and of the usual and most frequent risks and hazards inherent in the proposed procedures or treatments which are recognized and followed by other physicians, podiatrists or dentists engaged in the same field of practice in the same or similar communities; or

C. A reasonable person, under all surrounding circumstances, would have undergone such treatment or procedure had that person been advised by the physician, podiatrist or dentist in accordance with paragraphs A and B or this paragraph.

For purposes of this subsection, the physician, podiatrist, dentist or health care provider may rely upon a reasonable representation that the person giving consent for the patient is authorized to give consent unless the physician, podiatrist, dentist or health care provider has notice to the contrary.

See title page for effective date.

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## CHAPTER 218

H.P. 291 - L.D. 412

### An Act to Make the Wild Blueberry the Official State Berry

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

**1 MRSA §219** is enacted to read:

#### §219. State berry

The wild blueberry (*vaccinium angustifolium*, aiton) is the official state berry.

See title page for effective date.

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## CHAPTER 219

S.P. 299 - L.D. 797

### An Act to Regulate Conflict of Interest within the Maine Science and Technology Commission

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

**Whereas**, existing law, the Maine Revised Statutes, Title 17, section 3104, provides that persons holding positions of trust in any state office or public institution may not have any direct or indirect interest in any contract made on behalf of the State or of the institution in which they hold a place of trust; and

**Whereas**, the effectiveness of the Maine Science and Technology Commission depends upon the active involvement of individuals from educational institutions, nonprofit organizations, business enterprises and government serving on the commission and the advisory bodies to the commission; and

**Whereas**, the commission and advisory body members who have the skills and interest to serve will represent institutions having a direct or indirect interest; and

**Whereas**, in the judgment of the Legislature, these facts create an emergency within the meaning of the Consti-

tution 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:**

**5 MRSA §13124-A** is enacted to read:

**§13124-A. Conflict of interest**

In making recommendations or decisions on research and development contracts, agreements or grants with educational institutions, nonprofit institutions and organizations, business enterprises and other persons concerned with scientific and technological research and development in the State, including any state or federal agency, members of the commission and advisory boards to the commission and to the centers for innovation are not bound by the provisions of Title 17, section 3104, but continue to be bound by the provisions of Title 5, section 18.

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

Effective May 31, 1991.

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**CHAPTER 220**

**H.P. 439 - L.D. 622**

**An Act Relating to the Use of Material-separated, Refuse-derived Fuel**

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

**Whereas,** the problem of solid waste management is increasing in the State; and

**Whereas,** the Legislature has set recycling goals for the State; and

**Whereas,** source reduction, reuse and recycling are the primary methods for achieving these goals; and

**Whereas,** municipalities are struggling to develop the means of achieving these goals; and

**Whereas,** alternative methods for meeting these goals are encouraged, provided they are compatible with and do not diminish the implementation of source reduction, reuse and recycling programs; and

**Whereas,** some alternative methods for meeting the State's recycling goals will be economically feasible only if appropriate changes in present law are made; and

**Whereas,** some municipalities are under court order to develop alternatives to their present landfills by mid-year 1991; 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. 38 MRSA §582, sub-§7-E,** as amended by PL 1989, c. 546, §11, is further amended to read:

**7-E. Incinerator.** "Incinerator" means any device, apparatus or equipment used for destroying, reducing or salvaging by fire any material or substance, but does not include any device, apparatus or equipment used to burn material-separated, refuse-derived fuel.

**Sec. 2. 38 MRSA §582, sub-§7-I** is enacted to read:

**7-I. Material-separated, refuse-derived fuel.** "Material-separated, refuse-derived fuel" means a binder-enhanced, pelletized, solid fuel product made from the combustible fraction of a municipal solid waste stream that has been processed to remove the recyclable material before combustion. The product may not contain more than 6% by weight of plastic, metal, glass or food waste. In addition, the production of material-separated, refuse-derived fuel may not exceed 40% by weight of the total municipal solid waste stream from which it was derived.

**Sec. 3. 38 MRSA §582, sub-§10-A** is enacted to read:

**10-A. Resource recovery facility.** "Resource recovery facility" has the same meaning as an incineration facility defined in section 1303-C, subsection 16 except that, for the purposes of this chapter, a facility that burns material-separated, refuse-derived fuel but does not burn municipal solid waste or refuse-derived fuel as defined in section 1303-C is not a resource recovery facility.

**Sec. 4. 38 MRSA §582, sub-§11-B,** as amended by PL 1989, c. 546, §11, is further amended to read:

**11-B. Solid waste fuel-burning equipment.** "Solid waste fuel-burning equipment" means any furnace, boiler or apparatus, and all appurtenances thereto, capable of burning solid waste fuel for the primary purpose of producing thermal energy. Equipment used to burn material-separated, refuse-derived fuel either alone or with another fuel other than solid waste fuel or refuse-derived fuel as defined in section 1303-C is not solid waste fuel-burning equipment.

**Sec. 5. 38 MRSA §590-E** is enacted to read: