

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.

J.S. McCarthy Company
Augusta, Maine
1991

PUBLIC LAWS

OF THE

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the winner's liability. The decision of the agency as to the existence of a liquidated debt constitutes final agency action. If, within 90 days of the notice of intended setoff to the winner, the creditor agency of the party state requesting setoff certifies to the commission that the winner did not make a timely request for hearing or that a hearing was held and the debt was upheld, the commission shall offset the liquidated debt against the winnings due to the winner. Any remaining winnings are paid to the winner. If the commission does not hear from the creditor agency of the party state within 90 days of the notice of intended setoff to the winner, the commission shall release all winnings to the winner.

Sec. 3. 19 MRSA §504-B is enacted to read:

§504-B. Setoff of debts against lottery winnings

1. Notice to Bureau of Lottery. The department shall periodically notify the Department of Finance, Bureau of Lottery of all persons who owe the department a child support debt that has been liquidated by judicial or administrative action. Prior to paying any state lottery winnings that must be paid directly by the bureau, the bureau shall determine whether the lottery winner is on the list of persons who owe a child support debt to that state that has been liquidated by judicial or administrative action. If the winner is on a list of persons who owe child support debts, the bureau shall suspend payment of winnings and notify the winner of its intention to offset the winner's child support debt against the winnings. The bureau shall notify the winner of the winner's right to request a hearing before the department within 15 days of the winner's receipt of that notice. The hearing is limited to the questions of whether the debt is liquidated and whether post-liquidation events have affected the winner's liability. The decision of the department as to the existence of a liquidated debt constitutes final agency action. If, within 90 days of the notice of intended setoff to the winner, the department certifies to the bureau that the winner did not make a timely request for hearing or that a hearing was held and the debt was upheld, the bureau shall offset the liquidated debt against the winnings due to the winner. Any remaining winnings are paid to the winner. If the bureau does not hear from the department within 90 days of the notice of intended setoff to the winner, the bureau shall release all winnings to the winner.

2. Notice to Tri-state Lotto Commission. The department shall periodically notify the Tri-state Lotto Commission of all persons who owe the department a child support debt that has been liquidated by judicial or administrative action.

Sec. 4. Effective date. Section 2 of this Act and that part of this Act that enacts the Maine Revised Statutes, Title 19, section 504-B, subsection 2 take effect upon enactment of legislation by the other party states to the Tri-state Lotto Compact that is concurrent with section 2 of this Act. The State's representative to the Tri-state Lotto Commission shall encourage the other

party states to enact the necessary concurrent legislation.

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

Effective June 17, 1991, unless otherwise indicated.

CHAPTER 296

H.P. 764 - L.D. 1098

An Act to Protect the Rights of Independent Sales Representatives after Termination of Their Contracts

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

10 MRSA c. 210-A is enacted to read:

CHAPTER 210-A

SALES REPRESENTATIVE COMMISSION CONTRACTS

§1341. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Commissions. "Commissions" means compensation accruing to a sales representative for payment by a principal, the rate of which is expressed as a percentage of the amount of orders or sales.

2. Principal. "Principal" means a person, partnership, corporation or other business entity that does not have a permanent or fixed place of business in this State and that:

A. Manufactures, produces, imports or distributes a product for wholesale;

B. Contracts with sales representatives to solicit orders for the product; and

C. Compensates the sales representative, in whole or in part, by commission.

3. Sales representative. "Sales representative" means a person who:

A. Contracts with a principal to solicit orders for the purchase at wholesale of the principal's product;

B. Is compensated, in whole or in part, by commission; and

C. Does not place orders or purchase for that person's own account or for resale.

§1342. Notice of termination

Unless a contract between a sales representative and a principal provides otherwise, a party terminating the contract must give the other party 14 days' written notice of the termination.

§1343. Contract

If a contract between a sales representative and a principal is terminated, the principal shall pay to the sales representative all commissions accrued under the contract within 30 days after the effective date of that termination. Any provision of any contract between a sales representative and a principal that purports to waive any provision of this chapter is void.

§1344. Civil liability

1. Principal liability. A principal who fails to comply with the provisions of section 1343 is liable to the sales representative in a civil action for exemplary damages in an amount that does not exceed 3 times the amount of commissions due the sales representative, plus reasonable attorney's fees and costs.

2. Frivolous action. When the court determines that an action brought by a sales representative against a principal under this chapter is frivolous, the sales representative is liable to the principal for attorney's fees actually and reasonably incurred by the principal in defending the action and court costs.

3. Other remedies. Nothing in this chapter invalidates or restricts any other right or remedy available to a sales representative, or precludes a sales representative from seeking to recover in one action on all claims against a principal.

4. Jurisdiction. A principal who is not a resident of this State that contracts with a sales representative to solicit orders in this State is declared to be transacting business in this State for purposes of the exercise of personal jurisdiction over nonresidents under chapter 14, section 704-A.

See title page for effective date.

CHAPTER 297

S.P. 15 - L.D. 3

An Act to Allow Relicensing of an Existing Biomedical Waste Facility

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

Whereas, the sole constructed and operating commercial biomedical waste disposal facility in the State was licensed on October 5, 1989, under the laws in force at that time by the Bureau of Oil and Hazardous Materials Control of the Department of Environmental Protection; and

Whereas, a subsequent controversy arose, unrelated to this existing facility, over the definition of the term "solid waste," specifically, whether this term included biomedical waste or not; and

Whereas, the Legislature, in resolving this subsequent controversy, created a cloud on the relicensing of the only licensed, constructed and operating commercial facility for the disposal of biomedical waste in the State; and

Whereas, it was not the intent of the Legislature to impair the operation and relicensing of the facility; and

Whereas, this facility is critical to the operation of the Southern Maine Medical Center, the University of New England Medical School, and numerous medical doctors, dentists and funeral homes; and

Whereas, this inadvertent error can be corrected without affecting the overall intent of the Legislature's previous action; 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 §1310-X, as repealed and replaced by PL 1989, c. 869, Pt. A, §9 and c. 878, Pt. H, §8, is repealed and the following enacted in its place:

§1310-X. Future commercial waste disposal facilities

1. New facilities. Notwithstanding Title 1, section 302, the department may not approve an application for a new commercial solid waste or biomedical waste disposal facility after September 30, 1989, including any applications pending before the department on or after September 30, 1989.

2. Relicense or transfer of license. The department may relicense or approve a transfer of license for a commercial solid waste or biomedical waste disposal facility after September 30, 1989, if the facility had been previously licensed by the department prior to October 6, 1989, and all other provisions of law have been satisfied.