

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
STATE OF MAINE

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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.

3. Expansion of facilities. The department may license an expansion of a commercial solid waste or bio-medical waste disposal facility after September 30, 1989 if:

A. The department has previously licensed the facility prior to October 6, 1989;

B. The department determines that the proposed expansion is contiguous with the existing facility and is located on property owned by the licensee on September 30, 1989; and

C. For a commercial solid waste disposal facility and prior to the adoption of the state plan and siting criteria under chapter 24, the department determines that the proposed expansion is consistent with the provisions of section 1310-R, subsection 3, paragraph A-1 or, after the adoption of the state plan and siting criteria under chapter 24, the agency determines that the provisions of section 2157 are met.

Sec. 2. Application. A commercial biomedical waste disposal facility with a valid air emissions license issued prior to October 6, 1989, by the Department of Environmental Protection for the incineration of wastes categorized by the department as pathogenic or infectious is eligible for relicensing or expansion under this Act.

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

Effective June 17, 1991.

CHAPTER 298

H.P. 867 - L.D. 1247

An Act to Amend Certain Provisions of the Insurance Code Involving the Powers of the Superintendent

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

Sec. 1. 24-A MRSA §12-A, sub-§2, ¶A, as enacted by PL 1989, c. 269, §3, is amended to read:

A. A cease and desist order shall be is effective upon expiration of the time allowed for appeals from the superintendent's orders, regardless of whether an appeal is taken when issued, unless the order specifies a later effective date or is stayed pursuant to Title 5, section 11004.

Sec. 2. 24-A MRSA §12-A, sub-§2-A is enacted to read:

2-A. Emergency cease and desist. The superintendent may issue an emergency cease and desist order, without prior notice and hearing, if the complaint shows that a person is engaging in unlicensed insurance activities or is engaging in conduct that creates an immediate danger to the public safety or is causing or is reasonably expected to cause significant, imminent and irreparable public injury.

A. A request for an emergency cease and desist order must be in writing in the form of a verified complaint.

B. An emergency cease and desist order is effective immediately and will continue in force and effect until further order by the superintendent or unless stayed by the superintendent or by a court of competent jurisdiction.

C. Upon issuance of an emergency cease and desist order, the superintendent shall serve on the person affected by the order, by registered or certified mail to the person's last known address, an order that contains a statement of the charges and a notice of hearing. The hearing, held in conformance with Title 5, chapter 375, subchapter IV, must be held within 10 days of the effective date of the emergency order, unless a later time is agreed upon by all parties.

D. At the hearing, the superintendent shall affirm, modify or set aside, in whole or in part, the emergency cease and desist order and may combine and employ any other enforcement or penalty provisions available to the superintendent to arrive at a final order.

E. The superintendent's order after hearing is a final order in all respects and is subject to subsection 2, paragraph A and section 236.

Sec. 3. 24-A MRSA §1540, as repealed and replaced by PL 1977, c. 694, §409, is repealed.

Sec. 4. 24-A MRSA §2013, sub-§1, as amended by PL 1985, c. 564, §3, is further amended to read:

1. ~~The Notwithstanding Title 5, chapter 375, subchapter VI, the superintendent may file a complaint with the Administrative Court seeking suspension or revocation of~~, after notice and opportunity for hearing, deny, revoke, suspend or limit the permissible activities under any surplus lines broker's license:

A. If the broker fails to file the annual statement or to remit the tax as required by section 2017;

B. If the broker fails to maintain an office in this State, or to keep the records, or to allow the superintendent to examine his those records as required by this law, or if he the broker removes his those records from the State;