

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
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B. Supplying to the board a certified copy of its action together with a statement of agreement to pay costs of the adjustments.

11. Special options. Instead of accepting the payment provided in subsection 1, 2, 5-A or 5-B, a beneficiary may elect to receive benefits under article 5.

A. To elect these benefits, both the qualifying member and the beneficiary must comply with each requirement of those provisions.

B. If an election is not made under this subsection, benefits payable under this section are in lieu of any benefits payable under article 5.

Sec. 6. 5 MRSA §18554, sub-§3 is enacted to read:

3. Repeal. This section is repealed July 1, 1993.

Sec. 7. 5 MRSA §18556, sub-§1, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

1. **Manner of adoption.** A participating local district may adopt the special survivor benefit option under this section in addition to the benefits provided under ~~sections section 18553 and 18554~~ in the manner set forth in section 18202.

See title page for effective date.

CHAPTER 470

S.P. 381 - L.D. 1058

An Act to Mandate the Use of Seat Belts

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

29 MRSA §1368-C, as amended by PL 1989, c. 350, is further amended to read:

§1368-C. Use of seat belts; persons at least 4 but under 19 years of age

1. **Persons at least 4 but under 19 years of age.** When a ~~child~~ person 4 years of age or older, but less than ~~16~~ 19 years of age, is a passenger in a motor vehicle, ~~which that~~ is required by the United States Department of Transportation to be equipped with seat belts, the operator of the motor vehicle shall have the ~~child~~ person properly secured in a seat belt or in a child safety seat that meets the requirements set out in 49 Code of Federal Regulations, Part 571.

2. **Exception.** Subsection 1 does not apply when the number of passengers exceeds the seating capacity of the vehicle.

3. **Warnings.** Any person stopped for a violation of this section; during the initial 6 months after this section takes effect, ~~shall~~ must be issued a warning that a violation of this section has occurred.

4. **Penalty.** Following the initial 6-month warning period, violation of this section is a civil violation for which a forfeiture of \$25 for the first violation and \$50 for each subsequent violation may be adjudged.

5. **Failure to secure passenger; use as evidence.** Failure to secure a ~~child~~, passenger in accordance with this section; may not be considered negligence imputable to the ~~child~~ passenger, nor may that failure be admissible as evidence in any civil or criminal action.

See title page for effective date.

CHAPTER 471

S.P. 481 - L.D. 1283

An Act to Facilitate Review of Applications Submitted to The Department of Environmental Protection

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

38 MRSA §344-A is enacted to read:

§344-A. Outside review of applications

The commissioner may enter into agreements with individuals, partnerships, firms and corporations outside the department, referred throughout this section as "outside reviewers," to review applications or portions of applications submitted to the department. The commissioner has sole authority to determine the applications or portions of applications to be reviewed by outside reviewers and to determine which outside reviewer is to perform the review. When selecting an outside reviewer, all other factors being equal, the commissioner shall give preference to an outside reviewer who is a public or quasi-public entity, such as the University of Maine System or the soil and water conservation districts. The commissioner may enter into an agreement with an outside reviewer only with the consent of the applicant and only if the applicant agrees in writing to pay all costs associated with the outside review.

1. Standards for outside review. Prior to entering into an agreement with an outside reviewer, the commissioner must determine that:

A. The agreement protects the public interest and the interest of the applicant;

B. The agreement ensures a fair, consistent and adequate review of the application;

C. The agreement provides the public with the same opportunity to comment on the application as would be provided if the application were reviewed by the department;

D. The outside reviewer meets the minimum qualification standards established by the commissioner; and

E. The application can not be reviewed by existing departmental personnel in a reasonable period of time.

2. Qualifications. The commissioner shall establish qualification standards for outside reviewers and shall develop a list of qualified outside reviewers. Standards established by the commissioner must include initial qualification standards and standards ensuring that outside reviewers continue to maintain a high level of scientific and regulatory expertise in one or more relevant areas of knowledge.

3. Conflict of interest. An outside reviewer may not review any portion of an application submitted by an applicant who directly or indirectly employed the reviewer in any capacity at any time during the 12-month period immediately preceding the submission of the application. An outside reviewer must sign a written agreement with the commissioner not to be employed, directly or indirectly, by any applicant whose application was reviewed by that reviewer for at least 12 months from the date the review of the application is complete.

4. Penalty. Notwithstanding section 349, any person who knowingly violates subsection 3 is guilty of a Class D crime. Notwithstanding Title 17-A, sections 4-A and 1301, the fine for each violation may not be less than \$5,000 nor more than \$25,000.

5. Repeal. This section is repealed on July 1, 1993.

See title page for effective date.

CHAPTER 472

S.P. 366 - L.D. 968

An Act to Continue the Dislocated Worker Benefit Program

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

Sec. 1. 26 MRSA §1196, sub-§3, as amended by PL 1987, c. 570, §4, is further amended to read:

3. Repeal. This section; section 1043, subsection 5, paragraph B; and section 1191, subsection 4, paragraph A; are repealed: on February 1, 1994.

A. February 1, 1992; or

B. If the reserve multiple determined under section 1221, subsection 4, paragraph C, is .245 or below.

Any person who has qualified to receive benefits under section 1043, subsection 5, paragraph B; or section 1191, subsection 4, paragraph A; at the time of repeal under this subsection ~~shall continue~~ or when the sections were determined to be not in effect due to the reserve multiple under subsection 4 continues to be governed by the ~~repeated~~ repealed provision repealed or not in effect.

Sec. 2. 26 MRSA §1196, sub-§4 is enacted to read:

4. Suspension of provisions due to the reserve multiple. This section; section 1043, subsection 5, paragraph B; and section 1191, subsection 4, paragraph A are not in effect if the reserve multiple determined under section 1221, subsection 4, paragraph C is .245 or below, and remain ineffective until the reserve multiple is determined to be above .245.

See title page for effective date.

CHAPTER 473

H.P. 937 - L.D. 1357

An Act to Amend the Laws Pertaining to Asbestos Removal

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

Sec. 1. 38 MRSA §1271, last ¶, as enacted by PL 1987, c. 448, §1-C, is amended to read:

The purpose of this chapter is to provide a flexible means by which the State, acting through the Department of Environmental Protection, may ensure that those engaged in the management and abatement of friable asbestos-containing materials are properly trained, supervised and directed to protect the public health.

Sec. 2. 38 MRSA §1272, sub-§2, as amended by PL 1989, c. 325, §1, is further amended to read:

2. Asbestos abatement activity. "Asbestos abatement activity" means activity involving the removal, ~~renewation~~ demolition, enclosure, repair, encapsulation, handling, transportation or disposal of friable asbestos-containing materials in an amount greater than 3 square feet or 3 linear feet. "Asbestos abatement activity" includes the design, monitoring and inspection of any asbestos-containing material in an amount greater than 3 square feet or 3 linear feet.

Sec. 3. 38 MRSA §1272, sub-§3, as enacted by PL 1987, c. 448, §1-C, is amended to read: