

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
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PUBLISHED BY THE REVISOR OF STATUTES
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J.S. McCarthy Company
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PUBLIC LAWS
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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 This section is repealed on July 1, 1993.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 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, ~~renovation~~ 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:

3. Asbestos abatement contractor. "Asbestos abatement contractor" means a business entity that engages in, or intends to engage in, asbestos abatement activities as a business service on property ~~which~~ that it does not own and that employs or involves one or more asbestos abatement project supervisors, asbestos abatement design consultants or evaluation specialists, asbestos air monitors or asbestos inspectors for asbestos abatement activities.

Sec. 4. 38 MRSA §1272, sub-§§6-A and 6-B are enacted to read:

6-A. Asbestos air monitor. "Asbestos air monitor" means a person responsible for applying applicable rules and standards at a specific location by monitoring procedures during asbestos abatement activities in order to protect the public health from the hazards associated with exposure to asbestos.

6-B. Asbestos analytical laboratory. "Asbestos analytical laboratory" means a public or private entity that scientifically analyzes samples of solids, liquids or gases to determine the presence and concentration of asbestos fibers.

Sec. 5. 38 MRSA §1272, sub-§7, as enacted by PL 1987, c. 448, §1-C, is amended to read:

7. Asbestos-containing material. "Asbestos-containing material" means any material containing asbestos in quantities equal to or greater than 1% by weight volume.

Sec. 6. 38 MRSA §1272, sub-§8, as enacted by PL 1987, c. 448, §1-C, is repealed.

Sec. 7. 38 MRSA §1272, sub-§§8-A, 8-B and 8-C are enacted to read:

8-A. Asbestos consultant. "Asbestos consultant" means a business entity that engages in, or intends to engage in, the design or monitoring of asbestos abatement activities.

8-B. Asbestos inspector. "Asbestos inspector" means a person whose activities include, but are not limited to, collecting bulk samples and assessing the potential for exposure associated with the presence of asbestos-containing material.

8-C. Asbestos professional. "Asbestos professional" means a person licensed and certified by the commissioner to work in the asbestos abatement field, including, but not limited to, an asbestos abatement worker, asbestos abatement project supervisor, an asbestos air monitor, an asbestos inspector and an asbestos consultant.

Sec. 8. 38 MRSA §1272, sub-§10, as affected by PL 1989, c. 890, Pt. A, §40 and amended by Pt. B, §216, is further amended to read:

10. Certificate. "Certificate" means a document issued by the commissioner affirming that an individual has successfully completed the training and other requirements set forth in this chapter to qualify as an asbestos ~~project manager, abatement design consultant, an asbestos abatement project supervisor, an asbestos abatement worker, an asbestos air monitor or an asbestos evaluation specialist or asbestos abatement specialist inspector,~~ whether held by an individual, business or public entity.

Sec. 9. 38 MRSA §1272, sub-§13, as enacted by PL 1987, c. 448, §1-C, is repealed and the following enacted in its place:

13. Friable. "Friable" means materials that, when dry, have the potential to readily release asbestos fibers when crumbled, pulverized, handled, deteriorated or subjected to mechanical, physical or chemical processes. It also means previously nonfriable material that has deteriorated or has been processed to the extent that, when dry, it may readily release asbestos fibers.

Sec. 10. 38 MRSA §1272, sub-§15-A is enacted to read:

15-A. Owner. "Owner" means any person who owns, leases, operates, controls or supervises any building, structure or facility having asbestos-containing materials.

Sec. 11. 38 MRSA §1273, sub-§2, as enacted by PL 1987, c. 448, §1-C, is amended to read:

2. Notification required. ~~No~~ A person or owner may not engage in any planned asbestos abatement project that involves more than 100 over 3 linear feet of pipe covered or coated with asbestos-containing material or more than 100 or 3 square feet of friable asbestos-containing material unless ~~notification is given that person or owner notifies~~ the commissioner in writing at least 10 working calendar days before beginning any on-site work, including on-site preparation work, that has the potential to release asbestos fibers.

Sec. 12. 38 MRSA §1273, sub-§4, as amended by PL 1989, c. 325, §5, is further amended to read:

4. Exemption. ~~Asbestos~~ Persons undertaking asbestos abatement activities ~~undertaken~~ in single-unit residential buildings ~~shall be~~ are exempt from the licensing and certification requirements of this section if the activities are limited to heating equipment and performed by persons licensed by the Oil and Solid Fuel Board under Title 32, chapter 33, to install, repair, remove or service heating equipment. Asbestos abatement activities related to disposal undertaken at licensed asbestos disposal sites are exempt from the requirements of this section.

Sec. 13. 38 MRSA §1274, as affected by PL 1989, c. 890, Pt. A, §40 and amended by Pt. B, §219, is repealed.

Sec. 14. 38 MRSA §1274-A is enacted to read:

§1274-A. Certification and licensing requirements

The board may adopt and amend rules necessary to govern the certification and licensing of asbestos abatement contractors, asbestos abatement design consultants, asbestos inspectors, asbestos air monitors, asbestos abatement project supervisors, asbestos abatement workers, asbestos consultants, asbestos analytical laboratories and other persons undertaking asbestos abatement activities.

Sec. 15. 38 MRSA §1275, sub-§3, as enacted by PL 1989, c. 630, §7, is amended to read:

3. Transition. Training courses conducted by, and instructors employed by, ~~firms~~ a firm with in-house asbestos abatement units contracting for asbestos removal with the Federal Government are considered certified under this section pending review for certification if the firm has submitted to the commissioner by March 1, 1990, a training course that meets training requirements set forth in this chapter.

Sec. 16. 38 MRSA §1277, sub-§§2 and 3, as enacted by PL 1987, c. 448, §1-C, are amended to read:

2. Evaluation of applications. Assistance in the evaluation of applications for licensing or certification for compliance with this chapter and subsequent rules, upon request of the commissioner; and

3. Evaluation of training programs. Evaluation, development and management of training programs which are appropriate for applicants attempting to comply with the provisions of this chapter and subsequent rules; ~~and~~.

Sec. 17. 38 MRSA §1277, sub-§4, as enacted by PL 1987, c. 448, §1-C, is repealed.

Sec. 18. 38 MRSA §1278, sub-§1, as amended by PL 1989, c. 630, §8, is further amended to read:

1. Fees established. The following fees are established for each license and certification category to be paid annually. The fees ~~shall~~ must be paid upon application to the commissioner and deposited in the Maine Environmental Protection Fund.

A. The fees are:

- (1) Asbestos abatement contractor: \$250;
- (1-A) In-house asbestos abatement unit: \$250;
- (2) Asbestos abatement design consultant: \$50;

(2-A) Asbestos inspector: \$50;

(3) Asbestos ~~evaluation specialist~~ air monitor: \$50;

(4) Asbestos abatement project supervisor: \$50; ~~and~~

(5) Asbestos abatement worker: \$25-;

(6) Asbestos consultant: \$250;

(7) Asbestos analytical laboratory: \$250;

(8) Asbestos abatement training provider: \$500 or the equivalent value of training of department personnel; ~~and~~

(9) Other categories of asbestos abatement professionals: \$50.

B. A business, in-house asbestos abatement unit or public entity may pay the certification fee and receive certificates for one or more positions in each category on an annual basis. Employees filling the certified positions at any time during the one-year period must be qualified under terms of this chapter and, if qualified, must receive written evidence of certification. The business, in-house asbestos abatement unit or public entity shall notify the commissioner within 5 working days of any changes of the persons holding its certified positions and provide all information requested by the commissioner to show that new employees meet the requirements for certification pursuant to this chapter.

C. A person applying for certification under more than one category shall pay ~~only~~ the fee for the highest category and \$25 for each additional category.

Sec. 19. 38 MRSA §1280, first ¶, as affected by PL 1989, c. 890, Pt. A, §40 and amended by Pt. B, §223, is further amended to read:

The board shall ~~promulgate~~ adopt rules ~~which that~~ establish criteria and procedures of acceptable work practices for licensees and certificate holders and persons exempt from licensing and certification requirements under section 1273, subsection 4 engaged in the following asbestos hazard abatement activities.

Sec. 20. 38 MRSA §1280, sub-§1, as affected by PL 1989, c. 890, Pt. A, §40 and amended by Pt. B, §224, is further amended to read:

1. Removal; demolition; encapsulation; enclosure; repair; handling; or transportation. For any asbestos project activity that involves more than ~~100~~ 3 linear feet of ~~pipe covered or coated with asbestos-containing material~~ or ~~100~~ 3 square feet of friable asbestos-containing material ~~used to cover or coat any duct, boiler, tank,~~

~~reactor, turbine, structure, structural member or structural component~~; the board shall consider the following:

- A. Proper work practices for the removal of asbestos-containing materials;
- B. Proper work practices for the encapsulation of asbestos-containing materials;
- C. Proper work practices for enclosure of asbestos-containing materials;
- D. Proper work practices for the demolition of a structure or position of a structure which contains structural members or components of or covered by asbestos-containing materials;
- E. Proper work practices for the storage, transport and disposal of asbestos-containing materials; ~~and~~
- F. Administrative penalties and cessation of operations to ensure compliance with this subsection;
- G. Air monitoring, bulk and air sample analysis and criteria governing public access to sites where asbestos abatement activity has occurred; and
- H. Asbestos abatement, monitoring, inspection, design and analysis activities.

In adopting these rules, the board shall consider cost-effective methods and alternatives that do not sacrifice public or worker health or safety.

See title page for effective date.

CHAPTER 474

H.P. 279 - L.D. 399

An Act to Effect Cost Savings and Ensure Worker Safety by Implementing Sexual Harassment Education and Training in the Workplace

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

Sec. 1. 5 MRSA §4613, sub-§2, ¶B, as amended by PL 1989, c. 99, is further amended to read:

B. If the court finds that unlawful discrimination occurred, its judgment ~~shall~~ must specify an appropriate remedy or remedies ~~therefor~~ for that discrimination. The remedies may include, but are not limited to:

- (1) An order to cease and desist from the unlawful practices specified in the order;

- (2) An order to employ or reinstate a victim of unlawful employment discrimination, with or without back pay;

- (3) An order to accept or reinstate such a person in a union;

- (4) An order to rent or sell a specified housing accommodation, or one substantially identical ~~thereto~~ to that accommodation if controlled by the respondent, to a victim of unlawful housing discrimination;

- (5) An order requiring the disclosure of the locations and descriptions of all housing accommodations ~~which~~ that the violator has the right to sell, rent, lease or manage; and ~~for~~ there, forbidding the sale, rental or lease of ~~any such~~ that housing accommodations until the violator has given security to assure compliance with any order entered against the violator and with all provisions of this Act. ~~Such an~~ An order may continue the court's jurisdiction until the violator has demonstrated compliance, and may defer decision on some or all relief until after a probationary period and a further hearing on the violator's conduct during that period;

- (6) An order to pay the victim, in cases of unlawful price discrimination ~~the victim thereof~~, 3 times the amount of any excessive price demanded and paid by reason of ~~such~~ that unlawful discrimination; and

- (7) An order to pay to the ~~complainant~~ victim of unlawful discrimination or, including if the commission when brings action on behalf of the victim, an order to pay to the victim, the commission is the complainant or both, civil penal damages not in excess of ~~\$5,000~~ \$10,000 in the case of the first order under this Act against the respondent, not in excess of ~~\$7,500~~ \$25,000 in the case of a 2nd ~~such~~ order against the respondent; arising under the same subchapter of this Act and not in excess of ~~\$10,000~~ \$50,000 in the case of a 3rd or subsequent ~~such~~ order against the respondent arising under the same subchapter of this Act, except that the total amount of civil penal damages awarded in any action filed under this Act may not exceed the limits contained in this subparagraph; and

Sec. 2. 26 MRSA c. 7, sub-c. IV-B is enacted to read:

SUBCHAPTER IV-B

SEXUAL HARASSMENT POLICIES