

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

AS PASSED AT THE
FIRST REGULAR SESSION

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ONE HUNDRED AND FIFTEENTH LEGISLATURE

1991

A-1. If the defendant is a participant in the medical liability demonstration project established under subchapter IX and has raised as an affirmative defense compliance with the practice parameters or risk management protocols adopted under section 2973, whether the defendant complied with an applicable parameter or protocol establishing the applicable standard of care;

Sec. 6. 24 MRSA §2903, sub-§1, ¶A, as amended by PL 1989, c. 827, §5, is further amended to read:

~~A. Served and filed written notice of claim setting forth, under oath, the professional negligence alleged and the nature and circumstances of the injuries and damages alleged, personally or by registered or certified mail on the person accused of professional negligence. Personal service or service by registered or certified mail shall be completed on the person accused within 30 days of filing. In the event service cannot be obtained within 30 days, the plaintiff may file a motion in Superior Court for an extension on a showing of good cause, including the efforts that have been made for service. In addition to granting the extension, the court may provide for alternate service in accordance with the Maine Rules of Civil Procedure, Rule 4 in accordance with section 2853;~~

See title page for effective date.

CHAPTER 506

S.P. 606 - L.D. 1610

An Act to Remove Sunset Provisions on Laws Relating to the Labeling of Produce, Potato Variety Labeling and Blueberry Theft

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

Whereas, current laws that require country of origin labeling on fresh produce and labeling of produce treated with post-harvest treatments are due to be repealed on July 1, 1991; and

Whereas, current law that provides for a potato variety labeling program is due to be repealed on July 1, 1991; and

Whereas, continuance of these laws is essential to consumer knowledge and consumer choice; and

Whereas, current law that provides appropriate penalties for theft of blueberries is due to be repealed on July 1, 1991; and

Whereas, this law is essential to deter blueberry theft this summer; 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. 7 MRSA §530, sub-§4, as enacted by PL 1989, c. 527, §1, is amended to read:

4. Educational program. ~~The~~ Subject to available funding, the department shall institute an educational program designed to inform the general public about this section. This program shall must include, but not be limited to, dissemination of information about the countries and produce affected and the pesticides, residues and known and potential adverse health effects of those pesticides. This dissemination shall must be made by at least the following:

A. Brochures to be made available to consumers through retail outlets; and

B. Media coverage, such as public service announcements, press releases and press conferences.

Sec. 2. 7 MRSA §530, sub-§7, as enacted by PL 1989, c. 527, §1, is repealed.

Sec. 3. 7 MRSA §1033, sub-§2, ¶I, as enacted by PL 1989, c. 459, §2, is amended to read:

I. To promote, in cooperation with the commissioner, a voluntary program of variety labeling for Maine bags and other consumer packs of potatoes. ~~This paragraph is repealed July 1, 1991.~~

Sec. 4. 7 MRSA §1034-A, sub-§4, as enacted by PL 1989, c. 459, §3, is repealed.

Sec. 5. 22 MRSA §2157, sub-§14, as enacted by PL 1989, c. 339, §§1 and 2, is amended to read:

14. Post-harvest treatments. If it is fresh produce that is sold or offered for sale at a retail outlet, whether or not it is packaged or in a container, and has been treated with a post-harvest treatment, without meeting the requirements in paragraphs ~~A, B and~~ to C.

For purposes of this section, "post-harvest treatment" means a treatment added or applied to fresh produce after harvest and identified by rule as a post-harvest treatment and waxes that contain one or more post-harvest treatments.

A. The owner or manager of a retail outlet shall ensure that one conspicuous sign is displayed that ~~shall read~~ reads: "Produce in this store may have been treated after harvest with one or more post-harvest treatments.";

B. The owner or manager of a retail outlet shall ensure that information identifying the specific post-harvest treatments used, and the specific items of produce that were treated, is available to the public within 48 hours of a request.

C. The owner or manager of a retail outlet shall ensure that produce without post-harvest treatment, as determined by the commissioner, ~~shall be~~ is identified by a sign contiguous to the specific produce.

~~This subsection is repealed effective July 1, 1991.~~

Sec. 6. 36 MRSA §4318, as enacted by PL 1989, c. 214, §2, is repealed.

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

Effective June 24, 1991.

CHAPTER 507

S.P. 491 - L.D. 1329

An Act Concerning Salary Provisions for Automotive Industry Personnel

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

Sec. 1. 26 MRSA §663, sub-§13 is enacted to read:

13. Automobile parts clerk. "Automobile parts clerk" means a person employed for the purpose of and primarily engaged in requisitioning, stocking and dispensing automobile parts as an employee of an establishment primarily engaged in the business of selling automobiles or trucks to the ultimate purchaser, except when the employee is paid by the employer on an hourly basis.

Sec. 2. 26 MRSA §664, first ¶, as amended by PL 1987, c. 738, §1, is further amended to read:

By reason of the declaration of policy set forth in section 661 and in the protection of the industry or business and in the enhancement of public interest, health, safety and welfare, it is declared unlawful for any employer to employ any employee, except as otherwise provided in this subchapter, at the rate of less than \$3.65 per hour in 1987 and \$3.75 per hour starting January 1, 1989 and \$3.85 per hour starting January 1, 1990, but in no case may the minimum hourly wage exceed the average minimum hourly wage of the 5 other New England states; or to require any employee to work more than 40 hours in one week, unless 1 1/2 times the regular hourly rate is paid for all work done over 40 hours in any one week; and whenever the highest federal minimum wage is increased in excess of the minimum wage established under this section, the minimum

wage ~~shall~~ must be increased to the same amount, effective on the same date as the increase in the highest federal minimum wage, but in no case ~~shall~~ may the minimum wage exceed \$5 per hour. The overtime provision of this section ~~shall~~ does not apply to ~~seamen; mariners;~~ the canning, processing, preserving, freezing, drying, marketing, storing, packing for shipment or distribution of herring as sardines, of perishable foods, of agricultural produce and meat and fish products, nor to the canning of perishable goods; nor to hotels, motels, restaurants and other eating establishments; public employees; nor to automobile mechanics, automobile parts clerks or automobile sales representatives.

See title page for effective date.

CHAPTER 508

H.P. 1273 - L.D. 1844

An Act to Amend the Tree Growth and Open Space Laws

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

Sec. 1. 36 MRSA §1106, as amended by PL 1989, c. 748, §3, is further amended by adding at the end a new paragraph to read:

The valuation guidelines required by this section must be completed and reported to the joint standing committee of the Legislature having jurisdiction over taxation matters by February 1, 1992. The report must also contain information and recommendations, if any, on the impact of public access requirements when determining eligibility for farm, open space and tree growth classifications.

Sec. 2. 36 MRSA §1119, as enacted by PL 1987, c. 728, §10, is amended to read:

§1119. Valuation guidelines

By ~~January 1, 1989~~ February 1, 1992, the Department of Agriculture, Food and Rural Resources working with the Bureau of Taxation, representatives of municipal assessors and farmers shall prepare and report to the joint standing committee of the Legislature having jurisdiction over taxation matters guidelines to assist local assessors in the valuation of farmland. The department shall also deliver these guidelines in training sessions for local assessors throughout the State. These guidelines ~~shall~~ must include suggested values for cropland, orchard land, pastureland and horticultural land.

Sec. 3. 36 MRSA §1121, as enacted by PL 1987, c. 728, §10, is amended by adding at the end a new paragraph to read: