

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND FIFTEENTH LEGISLATURE

THIRD SPECIAL SESSION

October 1, 1992 to October 6, 1992

FOURTH SPECIAL SESSION

October 16, 1992

ONE HUNDRED AND SIXTEENTH LEGISLATURE

FIRST REGULAR SESSION

December 2, 1992 to July 14, 1993

THE GENERAL EFFECTIVE DATE FOR

FIRST REGULAR SESSION

NON-EMERGENCY LAWS IS

OCTOBER 13, 1993

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
1993

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION

of the
ONE HUNDRED AND SIXTEENTH LEGISLATURE

1993

CHAPTER 61**S.P. 117 - L.D. 318****An Act to Protect Reproductive Privacy in Maine****Be it enacted by the People of the State of Maine as follows:**

Sec. 1. 22 MRSA §1597, as enacted by PL 1979, c. 413, is repealed.

Sec. 2. 22 MRSA §1598, sub-§1, as enacted by PL 1979, c. 405, §2, is amended to read:

1. Policy. It is the public policy of the State that an abortion after the State not restrict a woman's exercise of her private decision to terminate a pregnancy before viability is to be except as provided in section 1597-A. After viability an abortion may be performed only when it is necessary to preserve the life or health of the mother. It is also the public policy of the State that all abortions may only be performed only by a physician.

Sec. 3. 22 MRSA §1599, as reallocated by PL 1979, c. 663, §133, is repealed.

Sec. 4. 22 MRSA §1599-A is enacted to read:

§1599-A. Informed consent to abortion

1. Consent by the woman. A physician may not perform an abortion unless, prior to the performance, the attending physician certifies in writing that the woman gave her informed written consent, freely and without coercion.

2. Informed consent. To ensure that the consent for an abortion is truly informed consent, the attending physician shall inform the woman, in a manner that in the physician's professional judgment is not misleading and that will be understood by the patient, of at least the following:

A. According to the physician's best judgment she is pregnant;

B. The number of weeks elapsed from the probable time of the conception;

C. The particular risks associated with her own pregnancy and the abortion technique to be performed; and

D. At the woman's request, alternatives to abortion such as childbirth and adoption and information concerning public and private agencies that will provide the woman with economic and other assistance to carry the fetus to term, including, if

the woman so requests, a list of these agencies and the services available from each.

See title page for effective date.

CHAPTER 62**H.P. 248 - L.D. 327****An Act to Repeal the Mandatory First-Aid Requirement for Licensed Maine Guides****Be it enacted by the People of the State of Maine as follows:**

Sec. 1. 12 MRSA §7311, sub-§2; ¶C, as repealed and replaced by PL 1989, c. 913, Pt. B, §4, is amended to read:

C. Be If a first-time applicant for a guide license, be currently certified in first aid through completion of any standard first aid course that meets the criteria established by rule of the commissioner. For purposes of this paragraph, "first-time applicant" means any applicant who has not previously been issued a guide license in this State. Any person, other than a first-time applicant, who applies for a guide license shall submit satisfactory evidence, as determined by the commissioner, of having held a guide license in this State; and

See title page for effective date.

CHAPTER 63**H.P. 286 - L.D. 373****An Act Regarding Reimbursement for Sand and Salt Storage Facility Construction****Be it enacted by the People of the State of Maine as follows:**

Sec. 1. 23 MRSA §1852, as enacted by PL 1987, c. 793, Pt. A, §5, is amended by adding at the end 2 new paragraphs to read:

If an owner or operator of a Priority 1 or 2 project under Title 38, section 451-A, subsection 1-A has not completed construction by June 30, 1993, the department shall make any funds committed or otherwise obligated to that project under this section and section 1851 available to any constructed Priority 3 project that is eligible for reimbursement. A project that loses its funding under this paragraph remains eligible for reimbursement at a later date subject to the subsequent availability of funds.

The department may not reimburse a municipality or county under this section or section 1851 for that por-

tion of construction expenses paid for with a grant awarded in accordance with Public Law 1991, chapter 849, section 3 or under the Community Development Block Grant Program.

See title page for effective date.

CHAPTER 64

H.P. 312 - L.D. 400

An Act to Improve Compliance with the Laws Governing Financial Responsibility

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

Sec. 1. 29 MRSA §780, sub-§5, as enacted by PL 1987, c. 341, §§3 and 7, is amended to read:

5. Penalty. Violation of this section is a traffic infraction, for which a forfeiture of not ~~more~~ less than \$100 and not more than \$500 may be assessed.

See title page for effective date.

CHAPTER 65

H.P. 385 - L.D. 498

An Act to Transfer the Predetermination of Independent Contractor Status Responsibility in the Workers' Compensation Laws

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

Sec. 1. 39-A MRSA §105, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

§105. Predetermination of independent contractor status

1. Predetermination permitted. A worker, an employer or a workers' compensation insurance carrier, or any together, may apply to the ~~Department of Labor board~~ for a predetermination of whether the status of an individual worker, group of workers or a job classification associated with the employer is that of an employee or an independent contractor.

A. The predetermination by the ~~Department of Labor board~~ creates a rebuttable presumption that the determination is correct in any later claim for benefits under this Act.

B. Nothing in this section requires a worker, an employer or a workers' compensation insurance carrier to request predetermination.

2. Premium adjustment. If it is determined that a predetermination does not withstand board or judicial scrutiny when raised in a subsequent workers' compensation claim, then, depending on the final outcome of that subsequent proceeding, either the workers' compensation insurance carrier shall return excess premium collected or the employer shall remit premium subsequently due in order to put the parties in the same position as if the final outcome under the contested claim were predetermined correctly.

3. Predetermination submission. A party may submit, on forms approved by the ~~Department of Labor board~~, a request for predetermination regarding the status of a person or job description as an employee or independent contractor. The status requested by a party is deemed to have been approved if the ~~Department of Labor board~~ does not deny or take other appropriate action on the submission within 14 days.

4. Hearing. A hearing, if requested by a party within 10 days of the ~~Department of Labor's board's~~ decision on a petition, must be conducted under the Maine Administrative Procedure Act.

5. Certificate. The ~~Department of Labor board~~ shall provide the petitioning party a certified copy of the decision regarding predetermination that is to be used as evidence at a later hearing on benefits.

6. Rulemaking. The ~~Commissioner of Labor board~~ is authorized to adopt reasonable rules pursuant to the Maine Administrative Procedure Act to implement the intent of this section, which is to afford speedy and equitable predetermination of employee and independent contractor status.

Sec. 2. Allocation. The following funds are allocated from Other Special Revenue to carry out the purposes of this Act.

	1993-94	1994-95
WORKERS' COMPENSATION BOARD		
Workers' Compensation Board		
Positions	(1.0)	(1.0)
Personal Services	\$36,284	\$52,830
All Other	4,775	5,700
Provides funds for one staff attorney position to review and assess predetermination requests.		
WORKERS' COMPENSATION BOARD		
TOTAL	\$41,059	\$58,530

See title page for effective date.