

# 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.

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J.S. McCarthy Company  
Augusta, Maine  
1993

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**PUBLIC LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED AT THE**  
**FIRST REGULAR SESSION**

**of the**  
**ONE HUNDRED AND SIXTEENTH LEGISLATURE**

**1993**

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**CHAPTER 171****S.P. 342 - L.D. 1039****An Act to Reform the Insurance Code Laws**

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

**PART A**

**Sec. A-1. 24-A MRSA §1904, sub-§1, ¶C**, as enacted by PL 1989, c. 846, Pt. D, §2 and affected by Pt. E, §4, is amended to read:

C. For an administrator that maintains an ATF and a CASA, the greater of ~~the amounts determined under paragraph A or B~~ \$50,000 or 5% of contributions and premiums projected to be received or collected in the ATF for the following plan year from residents of the State plus 5% of the claims and claim expenses projected to be held in the CASA accounts for the following year to pay claims and claim expenses for residents of the State, but not to exceed \$1,000,000.

**PART B**

**Sec. B-1. 24-A MRSA §2771, sub-§3, ¶A**, as enacted by PL 1989, c. 556, Pt. C, §2, is amended to read:

A. The process by which the entity carries out its utilization review services, ~~including. The information provided to the bureau must include~~ the categories of health care personnel that perform any activities coming under the definition of utilization review and whether or not these individuals are licensed in the State ~~and all medical utilization review criteria employed in the review process by these individuals. Updated medical utilization review criteria must be filed with an application for renewal of a license;~~

**PART C**

**Sec. C-1. 24-A MRSA §2401, sub-§2**, as enacted by PL 1969, c. 132, §1, is amended to read:

**2. Policies** ~~Unless otherwise specifically indicated, policies or contracts not issued for delivery in this State nor delivered in this State; and~~

**Sec. C-2. 24-A MRSA §2803**, as repealed and replaced by PL 1981, c. 147, §1, is amended to read:

**§2803. Requirements**

~~No~~ A policy of group health insurance may not be delivered in this State, ~~nor may any certificate of group health insurance that derives from a policy issued in another state be delivered in this State unless # the group~~

~~policyholder~~ conforms to one of the descriptions set forth in sections 2804 to 2809.

See title page for effective date.

**CHAPTER 172****H.P. 596 - L.D. 811****An Act Regarding Judicial Branch Publications**

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

**Sec. 1. 4 MRSA §17-A** is enacted to read:

**§17-A. Publications**

**1. Informational publications.** The State Court Administrator may establish a fee schedule to cover the cost of printing and distribution of publications and forms and the procedures for the sale of these publications and forms.

**2. Fund; fees deposited.** All fees collected from the sale of publications or forms must be deposited in a fund for use by the State Court Administrator to replace and update publications and forms and to fund new publications.

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

|   | 1993-94  | 1994-95  |
|---|----------|----------|
| <b>JUDICIAL DEPARTMENT</b>  |          |          |
| <b>Publications</b>   |          |          |
| All Other   | \$10,000 | \$10,000 |
| Provides funds to replace and update publications and to fund new publications. |          |          |

See title page for effective date.

**CHAPTER 173****H.P. 255 - L.D. 334****An Act to Establish an Automobile Recycling Permit**

**Mandate preamble.** This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitu-

tion of Maine, Article IX, Section 21, two thirds of all of the members elected to each House have determined it necessary to enact this measure.

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

**Sec. 1. 30-A MRSA §3751**, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is further amended by adding at the end a new paragraph to read:

It is recognized that recycling of automobiles is a business enterprise that, when conducted in accordance with certain standards, differs from the enterprise of an automobile graveyard and that adoption of uniform state standards for this type of business enterprise would assist in development and regulation of that business.

**Sec. 2. 30-A MRSA §3752, sub-§1-A** is enacted to read:

**1-A. Automobile recycling business.** “Automobile recycling business” means the business premises of a person who purchases or acquires salvage vehicles for the purpose of reselling the vehicles or component parts of the vehicles or rebuilding or repairing salvage vehicles for the purpose of resale or for selling the basic materials in the salvage vehicles, provided that 80% of the business premises specified in the site plan in section 3755-A, subsection 1, paragraph C is used for automobile recycling operations.

**Sec. 3. 30-A MRSA §3752, sub-§6** is enacted to read:

**6. Recycling or recycling operations.** “Recycling or recycling operations” means the dismantling of motor vehicles for the purpose of reselling the component parts of the vehicles or rebuilding or repairing salvage vehicles for the purpose of resale or for selling the basic materials in the salvage vehicles.

**Sec. 4. 30-A MRSA §§3753 and 3754**, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, are further amended to read:

**§3753. Permit required**

No person may establish, operate or maintain an automobile graveyard, automobile recycling business or junkyard without first obtaining a nontransferable permit from the municipal officers of the municipality in which the automobile graveyard, automobile recycling business or junkyard is to be located, or from the county commissioners of the county of any unorganized territory in which the automobile graveyard, automobile recycling business or junkyard is to be located. Permits issued to an automobile graveyard or junkyard under this section are valid until the first day of the following year. Permits issued to an automobile recycling business

under this section are valid for 5 years from the date of issuance and are renewable provided that the permit holder furnishes a sworn statement, annually, on the anniversary date of the granting of the permit, that the facility complies with the standards of operation applicable at the time of issuance of the permit. A person operating a business that involves the recycling of automobiles may operate under a permit for an automobile graveyard or a permit for an automobile recycling business.

**§3754. Hearings**

Municipal officers or county commissioners, as provided for in section 3753, shall hold a public hearing before granting a permit to establish, operate or maintain an automobile graveyard, automobile recycling business or junkyard. They shall post a notice of the hearing at least 7 and not more than 14 days before the hearing in at least 2 public places in the municipality or unorganized territory and publish a notice in one newspaper having general circulation in the municipality or unorganized territory in which the automobile graveyard, automobile recycling business or junkyard is to be located. The municipal officers or county commissioners shall give written notice of the application to the Department of Transportation by mailing a copy of the application at least 7 and not more than 14 days before the hearing.

**Sec. 5. 30-A MRSA §3755**, as amended by PL 1991, c. 745, §2, is further amended to read:

**§3755. Limitations on graveyard, automobile recycling business and junkyard permits**

**1. Highways; Interstate and Primary Systems.** No permit may be granted for an automobile graveyard or junkyard within 1,000 feet of the right-of-way of any highway incorporated in the Interstate and Primary Systems or within 600 feet of the right-of-way of any other highway, except for:

A. Those automobile graveyards or junkyards ~~which~~ that are kept entirely screened to ordinary view from the highway at all times by natural objects, plantings or fences;

(1) Screening required by this paragraph must be well constructed and properly maintained at a minimum height of 6 feet and acceptable to the municipal officers or county commissioners. It must comply with the rules adopted by the Department of Transportation. The permit shall specify that compliance with these rules is required; and

B. Those automobile graveyards or junkyards located within areas ~~which~~ that have been zoned for industrial use and located more than 600 feet but less than 1,000 feet from the right-of-way of any

highway incorporated in the Interstate and Primary Systems.

**2. Public facilities.** No permit may be granted for an automobile graveyard or junkyard ~~which that~~ is:

A. Located within 300 feet of any public park, public playground, public bathing beach, school, church or cemetery; and

B. Within ordinary view from that public facility.

**2-A. Public and private water supplies.** No permit may be granted for automobile graveyard operations within 100 feet of a well that serves as a public or private water supply. This prohibition does not include a private well that serves only the automobile graveyard or the owner's or operator's abutting residence. This prohibition does not apply to wells installed after the effective date of this subsection if the automobile graveyard has already received a permit under section 3753.

**3. Limitation on new permits.** No permit may be granted for any automobile graveyard or junkyard established after October 3, 1973, and located within 100 feet of any highway.

**4. Rules.** No permit may be granted for an automobile graveyard or junkyard that does not comply with the rules adopted under section 3759. Municipal officers or county commissioners as provided for in section 3753 may apply more stringent restrictions, limitations and conditions in considering whether to grant or to deny any permit for an automobile graveyard or junkyard adjacent to any highway.

**5. Local ordinances.** This subchapter ~~shall~~ may not be construed to limit a municipality's home rule authority to enact ordinances with respect to automobile graveyards, automobile recycling businesses and junkyards ~~which that~~ concern any other standards that the municipality determines reasonable, including, but not limited to:

A. Compliance with state and federal hazardous waste regulations;

B. Fire and traffic safety;

C. Levels of noise ~~which that~~ can be heard outside the premises;

D. Distance from existing residential or institutional uses; and

E. The effect on ground water and surface water, provided that municipal ordinances on ground water are no less stringent than or inconsistent with rules adopted by the Department of Environmental Protection concerning automobile graveyards and junkyards.

Municipal officers or county commissioners shall consider compliance with these local ordinances in deciding whether to grant or deny a permit for any automobile graveyard, automobile recycling business or junkyard and in attaching conditions of approval to the grant of a permit.

**6. Applicability.** Municipalities may apply local ordinances adopted previously under subsection 5 pertaining to automobile graveyards and junkyards to an automobile recycling business without amending those ordinances to include automobile recycling businesses. A municipality must provide notice of its intent to apply these ordinances at the time an application for an automobile recycling business permit is filed.

**Sec. 6. 30-A MRSA §3755-A** is enacted to read:

**§3755-A. Automobile recycling business permits; operation standards**

**1. Application.** An application for an automobile recycling business permit must include the following information:

A. The name and address of the property owner;

B. The name and address of the person or entity who will operate the site; and

C. A site plan, including:

(1) Property boundary lines;

(2) A description of the soils on the property;

(3) The location of any sand and gravel aquifer recharge areas;

(4) The location of any residence or school within 500 feet of where the cars will be stored;

(5) The location of any body of water on the property or within 200 feet of the property lines;

(6) The boundaries of the 100-year flood plain;

(7) The location of all roads within 1,000 feet of the site;

(8) A plan for containment of fluids, containment and disposal of batteries and storage or disposal of tires; and

(9) The location within the property boundary lines where vehicles are drained, dismantled or stored.

**2. Standards for permit.** The municipality may issue a permit to an automobile recycling business if the business demonstrates that the business meets the operation standards set forth in subsection 3.

**3. Operation standards.** An automobile recycling business licensed under this section must meet the following standards.

A. The site of the yard must be enclosed by a visual screen at least 6 feet high and built in accordance with rules adopted by the Department of Transportation pursuant to section 3759.

B. A vehicle with an intact engine or motor may not be stored within 100 feet of any body of water or freshwater wetland, as defined by Title 38, section 436-A, subsection 5.

C. A vehicle may not be dismantled or stored within 500 feet of a school, church, cemetery or public playground or park that existed on the date the permit was issued.

D. A vehicle may not be dismantled or stored over a sand and gravel aquifer or aquifer recharge area.

E. A vehicle containing fluids may not be dismantled or stored within the 100-year flood plain.

F. A vehicle may not be dismantled or stored within 100 feet of a well that serves as a public or private water supply, excluding a private well that serves only the automobile recycling business or the owner or operator's abutting residence.

G. A vehicle may not be located or dismantled closer than 20 feet from any lot line, unless the operator has notarized written permission from the abutting property owner.

H. Dismantling of a vehicle must be performed in accordance with the following standards.

(1) The battery must be removed.

(2) Engine lubricant, transmission fluid, brake fluid and engine coolant must be drained into watertight, covered containers and must be recycled or disposed of in accordance with applicable federal or state laws, rules or regulations.

(3) Fluids from a vehicle may not be permitted to flow or be discharged into or onto the ground.

(4) The recycling operation must comply with all applicable federal or state laws related to hazardous materials.

**4. Revocation or suspension of permit.** For purposes of section 3758, subsection 3, each of the standards set forth in this section are conditions of a permit.

**5. Relationship to automobile graveyard permit.** A person who recycles automobiles but does not qualify for, or loses, an automobile recycling business permit may apply for an automobile graveyard permit.

**Sec. 7. 30-A MRSA §3756**, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is further amended to read:

**§3756. Permit fees**

The municipal officers or county commissioners shall collect, in advance from the applicant for a permit, a fee in accordance with the following schedule:

**1. Graveyard or junkyard more than 100 feet from highway.** Fifty dollars for each permit for an automobile graveyard or junkyard located more than 100 feet from any highway, plus the cost of posting and publishing the notice under section 3754; ~~and~~

**2. Graveyard or junkyard within 100 feet from highway.** Two hundred dollars for each permit for an automobile graveyard or junkyard located within 100 feet from any highway, plus the cost of posting and publishing the notice under section 3754; ~~and~~

**3. Recycling business.** Two hundred fifty dollars for a 5-year permit for an automobile recycling business plus the cost of posting and publishing the notice under section 3754.

**Sec. 8. 30-A MRSA §3758, sub-§3**, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is further amended to read:

**3. Revocation or suspension of permit.** Violation of any condition, restriction or limitation inserted in a permit by the municipal officers or county commissioners is cause for revocation or suspension of the permit by the same authority ~~which~~ that issued the permit. No permit may be revoked or suspended without a hearing and notice to the owner or the operator of the automobile graveyard, automobile recycling business or junkyard. Notice of hearing ~~shall~~ **must** be sent to the owner or operator by registered mail at least 7 but not more than 14 days before the hearing. The notice must state the time and the place of hearing and contain a statement describing the alleged violation of any conditions, restrictions or limitations inserted in the permit.

See title page for effective date.