

# 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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urance contracts, advertising contracts, construction or installation contracts, servicing contracts and all other agreements in which the manufacturer has a direct or indirect interest, are subject to this chapter.

### **§1365. Franchise interest; vested rights**

Notwithstanding any other provision of law, it is unlawful for the manufacturer or franchisor, without due cause, to terminate a franchise or to fail to renew a franchise on terms then equally available to all its distributors or dealers.

### **§1366. Notice form, delivery and content**

All notices of termination or nonrenewal required by this chapter must:

**1. Delivery.** Be sent by registered, certified or other receipted mail, delivered by telegram or personally delivered to the distributor or dealer; and

**2. Statement of intent.** Contain a statement of intent to terminate or not renew the franchise together with the reasons for termination or nonrenewal and the effective date of the termination, nonrenewal or expiration.

### **§1367. Manufacturer's warranty obligations**

A manufacturer shall honor, in a timely fashion, an obligation to dealers or distributors to replace goods, reimburse or pay costs and expenses or provide services arising as a result of a warranty, franchise agreement or other agreement subject to this chapter.

### **§1368. Public policy**

A contract or part of a contract or activity undertaken pursuant to a contract in violation of this chapter is deemed against public policy and is void and unenforceable.

### **§1369. Statute of limitation**

Actions arising out of any provision of this chapter must be commenced within 2 years after the cause of action accrues; however, if a person liable under this chapter conceals the cause of action from the person entitled to bring that action, the period prior to the discovery of that cause of action is excluded in determining the time allowed for commencement of the action. If a cause of action accrues during the pendency of a civil, criminal or administrative proceeding against a person brought by the Federal Government or any of its agencies under the antitrust laws, the Federal Trade Commission Act or any other federal act, or the laws of the State related to antitrust laws or to franchising, that action may be commenced within one year after the final disposition of the civil, criminal or administrative proceeding.

### **§1370. Penalty**

Violation of this chapter constitutes an unfair trade practice under the Maine Unfair Trade Practices Act, Title 5, chapter 10.

See title page for effective date.

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## **CHAPTER 196**

### **H.P. 168 - L.D. 220**

#### **An Act to Amend the Shoreland Zoning Law**

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

**Sec. 1. 38 MRSA §435, first ¶,** as amended by PL 1989, c. 403, §3, is further amended to read:

To aid in the fulfillment of the State's role as trustee of its waters and to promote public health, safety and the general welfare, it is declared to be in the public interest that shoreland areas be subject to zoning and land use controls. Shoreland areas include those areas within 250 feet of the normal high-water line of any great pond, river or saltwater body, within 250 feet of the upland edge of a coastal or freshwater wetland, within 250 feet of the upland edge of a freshwater wetland except as otherwise provided in section 439-A, subsection 2, or within 75 feet of the high-water line of a stream. The purposes of these controls are to further the maintenance of safe and healthful conditions; to prevent and control water pollution; to protect fish spawning grounds, aquatic life, bird and other wildlife habitat; to protect buildings and lands from flooding and accelerated erosion; to protect archaeological and historic resources; to protect commercial fishing and maritime industries; to protect freshwater and coastal wetlands; to control building sites, placement of structures and land uses; to conserve shore cover, and visual as well as actual points of access to inland and coastal waters; to conserve natural beauty and open space; and to anticipate and respond to the impacts of development in shoreland areas.

**Sec. 2. 38 MRSA §436-A, sub-§9-A** is enacted to read:

**9-A. Outlet stream.** "Outlet stream" means any perennial or intermittent stream, as shown on the most recent edition of a 7.5-minute series or, if not available, a 15-minute series topographic map produced by the United States Geological Survey, that flows from a freshwater wetland.

**Sec. 3. 38 MRSA §438-A, sub-§2,** as corrected by RR 1991, c. 2, §143, is amended to read:

**2. Municipal ordinances.** In accordance with a schedule adopted by the board and acting in accordance

with a local comprehensive plan, municipalities shall prepare and submit to the commissioner zoning and land use ordinances that are consistent with or are no less stringent than the minimum guidelines adopted by the board and, for coastal communities, that address the coastal management policies cited in section 1801. When a municipality determines that special local conditions within portions of the shoreland zone require a different set of standards from those in the minimum guidelines, the municipality shall document the special conditions and submit them, together with its proposed ordinance provisions, to the commissioner for review and approval.

Notwithstanding section 435, a municipality may limit to 75 feet the shoreland zone around a freshwater wetland that has not been rated by the Department of Inland Fisheries and Wildlife as having moderate or high value provided that the municipality applies the requirements of this article regarding streams as defined under section 436-A to any outlet stream from any freshwater wetland.

See title page for effective date.

## CHAPTER 197

S.P. 178 - L.D. 592

### An Act to Clarify the Appointment, Powers and Duties of Building Committees

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

**Sec. 1. 20-A MRSA §15902, sub-§1**, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

**1. Building committee.** The legislative body of a school administrative unit may ~~at a regular or specially called meeting~~ establish a special building committee at a regular or specially called meeting held prior to a school construction project receiving the concept approval provided in section 15901. If the legislative body does not establish a special building committee, ~~then~~ the school board shall act as the building committee and may delegate the powers and duties of the building committee to the superintendent. If a vacancy occurs in the membership of a special building committee established under this subsection by the legislative body, the legislative body may fill that vacancy. The powers and duties of the building committee must be determined at the time of its establishment by the legislative body of the school administrative unit, or by the school board when it acts as the building committee and delegates those powers and duties to the superintendent. Powers and duties not assigned to the building committee that are not specifically delegated to other entities in this section remain with the school board.

See title page for effective date.

## CHAPTER 198

H.P. 109 - L.D. 151

### An Act to Amend the Laws Governing Termination of Parental Rights and Placement of Children

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

**Sec. 1. 22 MRSA §4038, sub-§7, ¶D** is enacted to read:

D. The court shall consider, but is not bound by, the wishes of the child in making a determination under paragraph A, if the child is 12 years of age or older.

**Sec. 2. 22 MRSA §4055, sub-§3**, as enacted by PL 1979, c. 733, §18, is amended to read:

**3. Wishes of child.** The court ~~shall~~ may not order termination if the child is at least 14 years old and objects to the termination. The court shall consider, but is not bound by, the wishes of a child 12 years of age or older in making an order under this section.

See title page for effective date.

## CHAPTER 199

H.P. 236 - L.D. 304

### An Act to Amend the Laws Regarding Protection from Harassment to Include the Protection of Rental Property

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

**Sec. 1. 5 MRSA §4651, sub-§2**, as amended by PL 1987, c. 695, §1, is further amended to read:

**2. Harassment.** "Harassment" means any repeated act of intimidation, harassment, physical force or threat of physical force directed against any person, family, landlord or their property or advocate with the intention of causing fear or, intimidation or destruction of rental property or to deter free exercise or enjoyment of any rights or privileges secured by the Constitution of Maine and the United States Constitution. This definition does not include any act protected by the constitutional guarantee of free speech.

**Sec. 2. 5 MRSA §4653, sub-§1**, as amended by PL 1987, c. 708, §3, is further amended to read: