

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

§2164-C. Free competition

~~No~~ An insurer, domestic or foreign, or its agent or employee, ~~shall~~ may not require, directly or indirectly, that appraisals or repairs to motor vehicle glass ~~should~~ or should not be made or not be made in a specified place of business.

A domestic or foreign insurer or its agent or employee may not contract with any person to act as its agent for purposes of managing, handling or arranging repair or replacement of motor vehicle glass when that person is compensated by payment of a portion of the difference between the list price of the product or services provided and the amount paid to the person providing repair and replacement service.

See title page for effective date.

CHAPTER 204**H.P. 179 - L.D. 231****An Act to Establish Uniform Procedures and Standards for Administrative Consent Agreements**

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

Whereas, the process of exploring and resolving violations of environmental laws is critical to the well-being of the State; and

Whereas, this legislation clarifies and improves that process; 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. 38 MRSA §347-A, sub-§1, as amended by PL 1989, c. 890, Pt. A, §31 and affected by §40, is repealed and the following enacted in its place:

1. General procedures. This subsection sets forth procedures for enforcement actions.

A. Whenever it appears to the commissioner, after investigation, that there is or has been a violation of this Title, of rules adopted under this Title or of the terms or conditions of a license, permit or order issued by the board or the commissioner,

the commissioner may initiate an enforcement action by taking one or more of the following steps:

(1) Resolving the violation through an administrative consent agreement pursuant to subsection 4, signed by the violator and approved by the board and the Attorney General;

(2) Referring the violation to the Attorney General for civil or criminal prosecution;

(3) Scheduling and holding an enforcement hearing on the alleged violation pursuant to subsection 2; or

(4) With the prior approval of the Attorney General, initiating a civil action pursuant to section 342, subsection 7.

B. Before initiating a civil enforcement action pursuant to paragraph A, the commissioner shall issue a notice of violation to the person or persons the commissioner considers likely to be responsible for the alleged violation or violations. The notice of violation must describe the alleged violation or violations, to the extent then known by the commissioner; cite the applicable law, rule and term or condition of the license, permit or order alleged to have been violated; and provide time periods for the alleged violator to take necessary corrective action and to respond to the notice. For violations the commissioner finds to be minor, the notice may state that further enforcement action will not be pursued if compliance is achieved within the time period specified in the notice or under other appropriate circumstances. The commissioner is not required to issue a notice of violation before issuing an emergency order pursuant to subsection 3 or other applicable provision of this Title; nor is the commissioner required to issue a notice of violation before referring an alleged violation to the Attorney General for criminal prosecution or in a matter requiring immediate enforcement action.

Sec. 2. 38 MRSA §347-A, sub-§4, as enacted by PL 1989, c. 890, Pt. A, §32 and affected by §40, is repealed and the following enacted in its place:

4. Administrative consent agreements. Following issuance of a notice of violation pursuant to subsection 1 and after receipt of the alleged violator's response to that notice or expiration of the time period specified in the notice for a response, in situations determined by the commissioner appropriate for further enforcement action, the commissioner may send a proposed administrative consent agreement to the alleged violator or violators.

A. Except as otherwise expressly agreed to by the Attorney General, all proposed administrative consent agreements must be reviewed and approved by the Department of the Attorney General before being sent to the alleged violator.

B. All proposed administrative consent agreements sent to the alleged violator must be accompanied by written correspondence from the department, in language reasonably understandable to a citizen, explaining the alleged violator's rights and responsibilities with respect to the proposed administrative consent agreement. The correspondence must include an explanation of the factors considered by the commissioner in determining the proposed civil penalty, a statement indicating that the administrative consent agreement process is a voluntary mechanism for resolving enforcement matters without the need for litigation and an explanation of the department's procedures for handling administrative consent agreements. The correspondence must also specify a reasonable time period for the alleged violator to respond to the proposed administrative consent agreement and offer the opportunity for a meeting with department staff to discuss the proposed agreement.

C. After a proposed administrative consent agreement has been sent to the alleged violator, the commissioner may revise and resubmit the agreement if further circumstances become known to the commissioner, including information provided by the alleged violator, that justify a revision.

D. The public may make written comments to the board at the board's discretion on an administrative consent agreement entered into by the commissioner and approved by the board.

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

Effective June 2, 1993.

CHAPTER 205

S.P. 87 - L.D. 241

An Act to Ensure Geographically Appropriate Placement for Nursing Home Residents

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

Sec. 1. 22 MRSA §1867, as enacted by PL 1991, c. 780, Pt. R, §2, is repealed and the following enacted in its place:

§1867. Distance restriction on placement of Medicaid recipients

The department may make Medicaid reimbursement for a nursing facility contingent on a maximum distance between a patient's home and the nursing facility if the maximum distance is not more than 60 miles; except that the distance restriction may not be applied to a Maine Veterans' Home.

See title page for effective date.

CHAPTER 206

H.P. 758 - L.D. 1025

An Act to Increase the Number of Moose Permits and Make Other Changes in the Moose Hunting Laws

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

Sec. 1. 12 MRSA §7463-A, sub-§1, as amended by PL 1985, c. 232, is repealed.

Sec. 2. 12 MRSA §7463-A, sub-§1-A is enacted to read:

1-A. Moose hunting districts and zones. The commissioner may establish one or more moose hunting districts. The commissioner may also establish moose hunting zones within those districts. Physical boundaries must be used to delineate all zones and districts. The boundaries of the districts and zones and the number of permits to be issued for each zone must be made public at least 14 days before application for permits may be made.

Sec. 3. 12 MRSA §7463-A, sub-§2, as enacted by PL 1981, c. 118, §2, is repealed.

Sec. 4. 12 MRSA §7463-A, sub-§2-A is enacted to read:

2-A. Number of permits. The commissioner may issue moose hunting permits according to the following schedule:

A. In 1994, no more than 1,200 permits;

B. In 1995, no more than 1,400 permits; and

C. In 1996 and in each year thereafter, no more than 1,500 permits.

Sec. 5. 12 MRSA §7463-A, sub-§3, as enacted by PL 1981, c. 118, §2, is amended to read: