

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

~~during the term of the transaction~~, entered into in this State within the preceding calendar year and held either by the seller, lessor, or lender for more than 30 days after the inception of the sale, lease or loan giving rise to the obligations, or by an assignee who has not filed notification. A refinancing of a sale, lease or loan resulting in an increase in the amount of an obligation is considered a new sale, lease or loan to the extent of the amount of the increase.

Sec. 2. 9-A MRSA §6-203, sub-§§3-A and 3-B are enacted to read:

3-A. Notwithstanding subsections 2 and 3, lenders who are supervised financial organizations shall pay a volume fee of \$20 for each \$100,000, or part thereof, of the original unpaid balances arising from or taken by assignment from consumer credit transactions entered into in this State during the previous calendar year.

3-B. Notwithstanding subsections 2 and 3, lenders who are supervised lenders making loans secured by an interest in land shall pay a volume fee of \$15 for each \$100,000, or part thereof, of the original unpaid balances arising from consumer credit transactions entered into in this State during calendar year 1993 and \$20 per \$100,000 of such balances from transactions entered into in 1994 and subsequent calendar years.

Sec. 3. Report. The Superintendent of the Bureau of Consumer Credit Protection shall report to the Joint Standing Committee on Banking and Insurance on or before January 1, 1995 on the following issues: changing economic conditions; the portion of staff time expended relative to various categories and sizes of business on complaint resolution, product review, consumer education and enforcement activities; the need for maintenance of adequate reserves without retention of excessive carryover balances; and the bureau's administrative expenses in relation to the various categories and transaction volumes of lenders, lessors, sellers and assignees.

See title page for effective date.

CHAPTER 269

S.P. 363 - L.D. 1120

An Act to Amend the Law Regarding Rate Setting at Residential Treatment Centers

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

Sec. 1. 22 MRSA §8152, sub-§4, as repealed and replaced by PL 1987, c. 432, §1, is amended to read:

4. Interim rate. If a residential treatment center has substantially complied with subsection 3, paragraph A, and if the State has not offered, in good faith, a contract to a residential treatment center by July 1st of each year, services ~~which that~~ are currently being provided by that residential treatment center ~~shall~~ **must** be paid at a rate equal to the rate established immediately prior to July 1st of each year, increased or decreased by the ~~most current wage and price index established by Data Resources, Inc~~ annual inflation rate as measured by the most recent Consumer Price Index for all Urban Consumers (CPI-U) All Items, published by the United States Department of Labor. This interim rate ~~shall remain~~ remains in effect for a residential treatment center until the State offers that residential treatment center a contract. The rate ~~shall~~ **must** then return to the level established immediately prior to July 1st of each year until a negotiated contract has been signed by both parties.

See title page for effective date.

CHAPTER 270

H.P. 776 - L.D. 1049

An Act to Permit the Inclusion of Occupational Injury as a Reportable Condition under the Occupational Disease Reporting System

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

Sec. 1. 22 MRSA §1491, as enacted by PL 1985, c. 452, §1, is amended to read:

§1491. Occupational disease reporting

As used in this chapter the term "occupational disease" means any abnormal condition or disorder, ~~other than resulting from an occupational injury~~ including an occupational injury, caused by exposure to environmental factors associated with employment. Occupational diseases ~~shall~~ include the following: Asbestosis; mesothelioma; silicosis; and exposure to heavy metals. Reporting of other occupational diseases may be required only by departmental rules.

See title page for effective date.

CHAPTER 271

H.P. 980 - L.D. 1311

An Act to Change the Railroad Fire Protection Laws

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

Sec. 1. 12 MRSA §9405, as amended by PL 1987, c. 464, §1, is repealed.

Sec. 2. 12 MRSA §9405-A is enacted to read:

§9405-A. Railroad right-of-way; director may order flammable materials removed

A person, firm or corporation operating a railroad on or through forest, brush, grass-covered land or areas of high-value property shall maintain its right-of-way according to the minimum standards established in this section by destroying, removing, or modifying so as not to be flammable any vegetation or other flammable material as defined in this section. The director or an authorized agent is the final authority as to whether material is considered a flammable material and whether a condition is considered a fire hazard.

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Authorized agent" means any forest ranger of the State.

B. "Authorized railroad representative" means a person designated by a railroad to accept a legal summons and other documents.

C. "Distance" means horizontal distance and not slope distance.

D. "Fire hazard" means a condition resulting from a combination of the factors of ease of ignition, heat yield, and rate of fire spread as influenced by particular vegetation and other flammable materials, weather and slope.

E. "Fire-start area" means an area that has experienced one or more railroad-caused fires in the previous 5 calendar years.

F. "Flammable material" includes, but is not limited to, grass, weeds, brush, logs, waste railroad ties, refuse material, debris, dead and desiccated vegetation, and all materials that burn easily. "Flammable material" does not include:

(1) Wooden poles or towers and cross arms supporting switching circuits or other electrical power or communication conductors;

(2) Wooden components of trestles, tunnels and other structures; or

(3) Material that an authorized agent has evaluated and determines not flammable.

G. "Forest, brush and grass-covered land" means land covered wholly or in part by timber, trees, brush, shrubs, grass, including grain and hay, and other natural vegetation. Cultivated agricultural land planted to crops other than grain or hay are not included.

H. "Operator" means the person or entity responsible for maintenance of the railroad right-of-way.

I. "Railroad-caused fire" means a preventable fire resulting from operations upon a railroad right-of-way. It does not mean unpreventable fires such as caused by wrecks, bombs or natural causes such as lightning or controlled burning for the purpose of destroying flammable materials.

J. "Right-of-way" means the strip of land, outside of yard limits, owned or controlled by the person or entity operating a railroad for a distance not exceeding 100 feet or to the property boundary measured at right angles to the axis of the rail at any given location. The distance must be measured from the outermost rail on both sides of the mainline or mainlines, on sidings, and also includes intervening strips between sidings and mainlines.

K. "Towpath" means a narrow strip of right-of-way adjacent to each side of ballast that is commonly referred to as the walkway and is normally kept clear for personnel safety and is not less than 6 feet from outside rail to outer edge.

L. "High-value property" means homes, structures, fuel tanks, cut forest products, equipment and other improvements that are near the right-of-way and at risk should a fire start on the right-of-way.

2. Minimum standards. A railroad right-of-way must be maintained and kept in compliance with the following minimum fire hazard reduction standards.

A. The area within 7 feet of outside of rail, including ballast and towpath, must be kept clear of flammable material that by its physical arrangement or its accumulation is likely to contribute to the propagation of railroad-caused fires.

B. For a fire-start area, the area within 25 feet of outside of rail, including ballast and towpath, must be kept clear of flammable material that by its physical arrangement or its accumulation is likely to contribute to the propagation of railroad-caused fires. A linear distance of 1/4 mile on either side of an identified fire-start area must be maintained along both sides of the railroad track as specified in this paragraph.

C. Where a right-of-way passes through an area of high-value property and the right-of-way contains sufficient flammable material so that a fire starting on the right-of-way could travel to and threaten the high-value property, the minimum 7-foot standard is extended to 25 feet.

3. Communications. The bureau shall inform annually a railroad company operating within the State of the 5-year fire-start areas and the areas that are high-value property along its right-of-way. In addition, the bureau shall notify a railroad company of new forest fire occurrence and changes in high-value property as they are observed.

A railroad company shall notify the bureau of the name and mailing address of its authorized railroad representative on the effective date of this section and thereafter whenever the name or mailing address changes.

4. Failure to maintain. Failure to maintain a railroad right-of-way as provided in this section constitutes a violation. For the purposes of this section, every day from January 1st of the calendar year in which the violation occurred and continuing until full compliance is achieved is a separate offense.

5. Legal service. Legal service of a summons under this section occurs when a legal summons is delivered in person or by certified mail, return receipt requested, to the railroad company's authorized representative.

Sec. 3. 12 MRSA §9703, as amended by PL 1991, c. 591, Pt. E, §12, is further amended to read:

§9703. Partial payment of costs of suppressing forest fires

Any person who intentionally or negligently causes a fire that burns forest, brush, grass or other lands or intentionally fails to take reasonable action to control a fire on that person's own land is liable civilly for restitution of costs incurred by state or municipal government entities in the suppression of that fire, up to the maximum amount of restitution permitted under section 9321. Compliance with ~~an approved plan pursuant to section 9405~~ 9405-A does not relieve a railroad company of liability under this section.

Sec. 4. Effective date. This Act takes effect January 1, 1994.

Effective January 1, 1994.

CHAPTER 272

H.P. 396 - L.D. 509

An Act to Clarify the Management of Real Estate Leases

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

Sec. 1. 5 MRSA §1742-D, sub-§9 is enacted to read:

9. Exception. The land leases of the various departments and agencies of State Government are exempted from the provisions of this section.

See title page for effective date.

CHAPTER 273

H.P. 798 - L.D. 1084

An Act Repealing Advisory Boards on Aging, Retirement and Veterans' Matters

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

Sec. 1. 5 MRSA §12004-J, sub-§8, as enacted by PL 1989, c. 547, §1 and affected by §5, is repealed.

Sec. 2. 37-B MRSA §505, sub-§4, as amended by PL 1991, c. 626, §18, is further amended to read:

4. Vietnam and atomic veterans. In addition to subsections 1 to 3, the following applies to Vietnam and atomic veterans.

A. Unless the context indicates otherwise, the following definitions in section 522 apply to this subsection.

(1) "Atomic veteran" means a person who:

(a) Participated in the occupation of Japan between August 1, 1945 and August 1, 1946;

(b) Was an American prisoner of war used by the Japanese to clean up Hiroshima or Nagasaki before the surrender of the Japanese empire or a prisoner of war who transited through either Hiroshima or Nagasaki following repatriation;

(c) Is a veteran of the Armed Forces of the United States who participated in the atmospheric testing of nuclear weapons; or

(d) Is a veteran in the Armed Forces of the United States who was exposed to radiation as a result of that person's