

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

(1) A person ~~shall is not be~~ a controlling person under paragraph A if that person holds voting power, in good faith and not for the purpose of circumventing this section, as an agent, bank, broker, nominee or trustee for one or more beneficial owners who do not individually or, if they are a group acting in concert, as a group have the voting power specified in paragraph A or who are not ~~deemed~~ considered a controlling person under paragraph B; ~~and~~

(2) A person has voting power over a voting share if that person has or shares, directly or indirectly, through any option, contract, arrangement, understanding, voting trust, conversion right or relationship, or by acting jointly or in concert or otherwise, the power to vote, or to direct the voting of, that voting share; ~~and~~

(3) A person engaged in business as an underwriter or group consisting of persons engaged in business as underwriters is not a controlling person under paragraph A if that person or group holds voting power specified in paragraph A, in good faith and not for the purpose of circumventing this section, over shares of the corporation acquired through participation in good faith in a firm commitment underwriting of an offering of shares registered under the United States Securities Act of 1933.

See title page for effective date.

CHAPTER 303

S.P. 235 - L.D. 728

An Act to Make Provisions of the Maine Human Rights Act Consistent with Federal Law

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

Whereas, unless certain provisions of the Maine Human Rights Act are amended before the normal effective date of legislation, the Maine Human Rights Commission will be unable to receive certain federal funding; and

Whereas, restoration of federal funds is necessary to assist the Maine Human Rights Commission in performing its statutorily mandated responsibilities; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Con-

stitution 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. 5 MRSA §4566, sub-§4-B, as enacted by PL 1977, c. 648, §1, is amended to read:

4-B. Subpoenas; contest of validity. ~~Subpoenas shall be issued only upon application to and approval of the Superior Court. If a subpoena is issued, notice must be given to the person who is alleged to have engaged in the unlawful discrimination.~~ The person upon whom the subpoena is served ~~may~~ may contest its validity. A judicial review of the subpoenas ~~shall be permissible~~ is permissible in any Superior Court; ;

Sec. 2. 5 MRSA §4612, sub-§4, ¶A, as amended by PL 1991, c. 99, §29, is further amended to read:

A. If the commission finds reasonable grounds to believe that unlawful discrimination has occurred, and further believes that irreparable injury or great inconvenience will be caused the victim of such discrimination or to members of a racial, color, sex, physical or mental disability, religious, nationality group or age group if relief is not immediately granted, or if conciliation efforts under subsection 3 have not succeeded, the commission ~~shall~~ may file in the Superior Court a civil action seeking such relief as is appropriate, including temporary restraining orders.

Sec. 3. 5 MRSA §4633 is enacted to read:

§4633. Prohibition against retaliation and coercion

1. Retaliation. A person may not discriminate against any individual because that individual has opposed any act or practice that is unlawful under this Act or because that individual made a charge, testified, assisted or participated in any manner in an investigation, proceeding or hearing under this Act.

2. Interference, coercion or intimidation. It is unlawful for a person to coerce, intimidate, threaten or interfere with any individual in the exercise or enjoyment of the rights granted or protected by this Act or because that individual has exercised or enjoyed, or has aided or encouraged another individual in the exercise or enjoyment of, those rights.

3. Remedies and procedures. The remedies and procedures available under sections 4611 to 4614, 4621, 4622 and 4623 are available to aggrieved persons for violations of subsections 1 and 2.

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

Effective June 9, 1993.

CHAPTER 304

H.P. 1013 - L.D. 1359

An Act to Amend the Laws Concerning Medicare Supplement Insurance

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

Sec. 1. 24-A MRSA §5010-A is enacted to read:

§5010-A. Coverage of the disabled

An issuer offering coverage under a Medicare supplement policy in this State shall offer coverage under its standardized plans to all individuals, regardless of age, who are entitled to Medicare benefits due to disability. Issuers shall give notice of Medicare supplement coverage to individuals enrolled in Medicare in advertising of Medicare supplement policies intended for use in this State. By January 1, 1994, the superintendent shall establish rules to ensure that the notice of the availability of coverage for the disabled is sufficiently advertised.

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

1993-94

PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF

Bureau of Insurance

All Other \$2,000

Provides an allocation for additional rule-making costs relating to Medicare supplement insurance.

See title page for effective date.

CHAPTER 305

S.P. 404 - L.D. 1262

An Act Regarding Child Molestation

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

Sec. 1. 17-A MRSA §1322, sub-§3, as amended by PL 1989, c. 872, §5 and c. 924, §13, is repealed and the following enacted in its place:

3. Economic loss. “Economic loss” includes economic detriment consisting of environmental clean-up expense, property loss, allowable expense, work loss, replacement services loss and, if injury causes death, dependent’s economic loss and dependent’s replacement services loss. Noneconomic detriment is not loss. Economic detriment is loss although caused by pain and suffering or physical impairment. “Economic loss” includes expenses of an emergency response by any public agency.

A. “Allowable expense” means reasonable charges incurred for reasonably needed products, services and accommodations, including those for medical care, rehabilitation, rehabilitative occupational training, counseling services and other remedial treatment and care, and nonmedical remedial care and treatment rendered in accordance with a recognized religious method of healing. The term includes reasonable and customary charges incurred for expenses in any way related to funeral, cremation and burial. It does not include that portion of a charge for a room in a hospital, clinic, convalescent or nursing home, or any other institution engaged in providing nursing care and related services, in excess of a reasonable and customary charge for semiprivate accommodations, unless other accommodations are medically required.

B. “Dependent’s economic loss” means loss after a decedent’s death of contributions of things of economic value to the decedent’s dependents, not including services they would have received from the decedent if the decedent had not suffered the fatal injury, less expenses of the dependents avoided by reason of decedent’s death.

C. “Dependent’s replacement loss” means loss reasonably incurred by dependents after a decedent’s death in obtaining ordinary and necessary services in lieu of those the decedent would have performed for their benefit if the decedent had not suffered the fatal injury, less expenses of the dependents avoided by reason of the decedent’s death and not subtracted in calculating dependent’s economic loss.

C-1. “Environmental clean-up expense” means any reasonable expense incurred for products and services needed to clean up any harm or damage caused to the environment, including any harm or damage caused by chemicals; to restore the environment to its previous condition prior to any harm or damage; and to properly dispose of chemicals and other materials, including those used in the manufacture of scheduled drugs in violation of chapter 45.