

# 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 341****S.P. 350 - L.D. 1064****An Act Concerning Plastic Holding Devices Used in Packaging****Be it enacted by the People of the State of Maine as follows:****Sec. 1. 7 MRSA §18, sub-§2-A**, as enacted by PL 1991, c. 833, §2, is amended to read:

**2-A. Exceptions.** Notwithstanding subsection 1, a person may sell or offer to sell products in containers connected to each other with a plastic holding device that decomposes by photodegradation, chemical degradation or biodegradation within a reasonable period of time upon exposure to the elements and that:

A. Is designed or manufactured to be broken when a container is removed;

B. Breaks simultaneously with the removal of the container; or

C. Is approved for sale by the commissioner as an experimental device. The commissioner may approve a device as experimental under this paragraph only if the commissioner determines that the device conforms with the intent of this subsection. The commissioner shall notify in writing each member of the joint standing committee of the Legislature having jurisdiction over energy and natural resources matters immediately upon receiving a request for approval of an experimental device. Such notification must include the date the request was received, the name of the person or business requesting approval and a brief description of the device.

~~This subsection is repealed on October 1, 1993.~~**Sec. 2. 7 MRSA §18, sub-§3** is enacted to read:

**3. Repeal.** This section is repealed 90 days after the adjournment of the Second Regular Session of the 116th Legislature.

**Sec. 3. 7 MRSA §18-A** is enacted to read:**§18-A. Connectors**

**1. Prohibition.** The wholesale sale of any product in containers connected by plastic rings or other plastic holding devices is prohibited.

**2. Prohibition; all sales.** Beginning 180 days after the adjournment of the Second Regular Session of the

116th Legislature, the sale of any product in containers connected by plastic rings or other plastic holding devices is prohibited.

**3. Exception.** Notwithstanding subsections 1 and 2, a person may sell pharmaceuticals, infant formula or medical food products in containers connected by plastic rings or other plastic holding devices if the plastic rings or plastic holding devices decompose by photodegradation, chemical degradation or biodegradation within a reasonable period of time on exposure to the elements. For the purposes of this subsection, the terms "pharmaceuticals," "infant formula" and "medical food" have the same meaning as in the federal Food, Drug, and Cosmetic Act, 21 United States Code, Section 321 et seq., as amended.

**4. Effective date.** This section takes effect 90 days after the adjournment of the Second Regular Session of the 116th Legislature.

**Sec. 4. 7 MRSA §524, last ¶**, as enacted by PL 1987, c. 373, §§2 and 5, is repealed.

**Sec. 5. 10 MRSA §1652-A**, as enacted by PL 1987, c. 373, §§3 and 5, is repealed.

**Sec. 6. Report.** By March 1, 1994, those persons who are manufacturers or distributors of products sold in the State in containers connected by plastic holding devices and any interested person who is developing or has developed an alternative to plastic holding devices may report, jointly or separately, to the Joint Standing Committee on Energy and Natural Resources. Any report submitted under this section may include any materials, research or other information relevant to the product or the actual or potential use of the product in markets in the State.

**Sec. 7. Committee legislation authorized.** The Joint Standing Committee on Energy and Natural Resources may report out legislation to the Second Regular Session of the 116th Legislature on any matter pertaining to plastic holding devices.

See title page for effective date.

**CHAPTER 342****H.P. 666 - L.D. 904****An Act to Protect Maine Citizens From the Effects of Environmental Tobacco Smoke****Be it enacted by the People of the State of Maine as follows:****Sec. 1. 22 MRSA c. 262** is enacted to read:

**CHAPTER 262****SMOKING****§1541. Definitions**

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

**1. Designated smoking area.** "Designated smoking area" means an enclosed area designated as a place for smoking. A designated area must be designed to minimize smoke escaping from the designated area into a public place.

**2. Enclosed area.** "Enclosed area" means a space between a floor and a ceiling that is demarcated on all sides by floor-to-ceiling walls, windows, doors or passageways. Partitions, partial walls or office dividers that do not extend from the floor to the ceiling are not demarcations of enclosed areas.

**3. Private office.** "Private office" means an enclosed area that constitutes the work area for no more than one person.

**4. Public place.** "Public place" means any place not open to the sky into which the public is invited or allowed. Except as provided in section 1542, subsection 2, paragraph J, a private residence is not a public place.

**5. Restaurant.** "Restaurant" means a restaurant as defined in section 1579-A, subsection 1.

**6. Smoking.** "Smoking" includes carrying or having in one's possession a lighted cigarette, cigar, pipe or other object giving off tobacco smoke.

**§1542. Smoking prohibited in public places**

**1. Prohibition.** Smoking is prohibited in all enclosed areas of public places and all rest rooms made available to the public.

**2. Limitations.** The prohibition in subsection 1 is subject to the following limitations.

**A.** Smoking is not prohibited in an enclosed area of a public place during a period of time that the facility containing the enclosed area of the public place is not open to the public.

**B.** Smoking is not prohibited in theaters or other enclosed structures used for plays, lectures, recitals or other similar purposes if the smoking is solely by a performer and the smoking is part of the performance.

**C.** Smoking is not prohibited in any area where undertaken as part of a religious ceremony or as part of a cultural activity by a defined group.

**D.** Smoking in restaurants is governed by the provisions of section 1579-A.

**E.** Smoking in places of employment is governed by the provisions of section 1580-A. If public employees' rights provided in collective bargaining agreements are affected by this section, the employees have the right to reopen negotiations for the purpose of bargaining for smoking areas in nonpublic areas of publicly owned buildings.

**F.** Smoking in hospitals is governed by the provisions of section 1580-B.

**G.** Smoking is not prohibited in taverns or lounges.

**H.** Smoking is not prohibited in motel or hotel rooms that are rented to members of the public.

**I.** Smoking is not prohibited in those portions of public places consisting of private offices when no member of the public is present, subject to the provisions of section 1580-A and provided that smoking may be allowed in a private office.

**J.** Smoking is not prohibited in a private residence unless the private residence is used as a licensed day care or baby-sitting service, in which case that portion of the private residence used to care for children is a public place for the period of time that children who are being cared for are present in that portion of the residence.

**K.** Smoking is not prohibited in public places when beano or bingo games are being conducted in accordance with the provisions of Title 17, sections 314 and 314-A.

**L.** Smoking is not prohibited in a retail store under 2,000 square feet that primarily sells tobacco or tobacco-related products.

**M.** Smoking is not prohibited on privately chartered buses.

**3. Location of designated smoking area.** Nothing in this chapter prohibits the location of a designated smoking area within a public area, as long as no sales, services or other commercial or public activities are conducted in that area.

**§1543. Posting signs**

Signs must be posted conspicuously in buildings where smoking is regulated by this chapter. Designated areas must have signs that read "Smoking Permitted"

with letters at least one inch in height. Places where smoking is prohibited must have signs that read "No Smoking" with letters at least one inch in height or the international symbol for no smoking.

#### **§1544. Retaliation prohibited**

A person may not discharge, refuse to hire, discipline or otherwise retaliate against an employee or applicant who pursues any remedy available to enforce the requirements of this chapter.

#### **§1545. Penalty**

A person who violates any provision of this chapter commits a civil violation for which a forfeiture not to exceed \$100 may be adjudged.

**Sec. 2. 22 MRSA §1578**, as amended by PL 1987, c. 20, §2, is repealed.

**Sec. 3. 22 MRSA §1578-A**, as enacted by PL 1987, c. 332, is repealed.

**Sec. 4. 22 MRSA §1578-B, sub-§§4 and 5**, as enacted by PL 1987, c. 687, are amended to read:

**4. Employees.** School employees are prohibited from tobacco use in school buildings or on school grounds, except that a local school board or school employees may establish through collective bargaining a designated smoking area or areas in accordance with section 1580-A, subsection 3, and employees may reopen collective bargaining negotiations in accordance with section 1578-A, subsection 4, for the purpose of bargaining for smoking areas. Any school employee smoking area ~~shall~~ must be located away from areas frequented by students.

**5. Public.** Tobacco use by any member of the public, other than an employee or student, in school buildings and on school grounds ~~shall be~~ is governed by ~~section 1578-A~~ chapter 262.

**Sec. 5. 22 MRSA §1580-C**, as enacted by PL 1989, c. 743, is repealed.

**Sec. 6. 22 MRSA §1580-D**, as enacted by PL 1989, c. 878, Pt. G, §2, is repealed.

**Sec. 7. 22 MRSA c. 265-A**, as enacted by PL 1985, c. 737, Pt. A, §50, is repealed.

**Sec. 8. 22 MRSA §1672-A**, as corrected by RR 1991, c. 1, §28, is repealed.

**Sec. 9. Effective date.** This Act takes effect January 1, 1994.

Effective January 1, 1994.

## **CHAPTER 343**

**S.P. 286 - L.D. 856**

### **An Act Regarding County Contingent Account Limits**

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

**Sec. 1. 30-A MRSA §922, sub-§2**, as amended by PL 1991, c. 789, §1, is further amended to read:

**2. Contingent fund.** There is established a contingent account in each county in an amount not to exceed \$50,000 annually, except in Sagadahoc County where the contingent account may not exceed 4% of the annual budget. Notwithstanding the preceding sentence, a county, by unanimous action of the county commissioners, may increase the contingent account limit to an amount not exceeding \$100,000. Any funds that are available to each county may be used for this purpose. This fund may be used at the discretion of the county commissioners for emergency purposes only, except that if a county increases the contingent account limit, expenditures from the account above \$50,000 must be approved by a majority of the county budget or finance committee if the county's budget is not finally approved by the Legislature. At the end of each fiscal year there must be transferred from unencumbered county funds an amount sufficient to restore the established county contingent account.

See title page for effective date.

## **CHAPTER 344**

**H.P. 1119 - L.D. 1518**

### **An Act to Bring State Water Quality Law into Compliance with Federal Requirements**

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

**Sec. 1. 38 MRSA §464, sub-§2-A** is enacted to read:

**2-A. Removal of designated uses; creation of subcategories of designated uses.** Removal of designated uses and creation of subcategories of designated uses are governed by the provisions of this subsection and 40 Code of Federal Regulations, Part 131, as amended.

A. The board must conduct a use attainability analysis:

(1) Prior to proposing to the Legislature a designated use of a specific water body that