

# 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 463

H.P. 680 - L.D. 922

**An Act to Clarify the Definition of Teacher under the Laws of the Maine State Retirement System****REVISOR'S NOTE:**

The Secretary of the Senate reported that L.D. 922 did not receive the necessary number of votes in the Senate to become effective law pursuant to the Constitution of Maine, Article IX, Section 21. Accordingly, the Department of the Attorney General has determined by letter to the Secretary of the Senate dated September 1, 1993 that L.D. 922 will not become effective.

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

**Sec. 1. 38 MRSA §589, sub-§3**, as enacted by PL 1991, c. 384, §9 and affected by §16, is amended to read:

**3. Emission monitoring devices.** Failure Except as provided in this subsection, failure by a person to register, install, maintain and use emission monitoring devices or to file reports from those devices renders that person liable to the penalties prescribed in sections 348 and section 349. Emission monitoring devices must record accurate and reliable data during all source-operating time except for periods when emission monitoring devices are subject to established quality assurance and quality control procedures or to unavoidable malfunction. In any enforcement action brought by the department, the burden of proof is on the licensee to demonstrate that the failure of emission monitoring devices to record accurate and reliable data was due to an unavoidable malfunction or the performance of established quality assurance and quality control procedures on the monitoring system.

A. The department may not initiate enforcement action pursuant to section 349 against any person for failure to operate a continuous emission monitoring system for gaseous emissions as long as the system is recording accurate and reliable data at least 90% of the source-operating time in each quarter of the calendar year. If the continuous emission monitoring system for gaseous emissions is recording accurate and reliable data less than 90% of source-operating time within any quarter of the calendar year, the department may initiate enforcement action and may include in that enforcement action any period of time that the continuous emission monitoring system was not recording accurate and reliable data during that quarter unless the licensee can demonstrate to the satisfaction of the department that the failure of the system to record accurate and reliable data was due to the performance of established quality assurance and quality control procedures or unavoidable malfunctions.

B. The department may not initiate enforcement action pursuant to section 349 against any person for failure to operate a continuous opacity monitoring system as long as the system is recording accurate and reliable data at least 95% of the source-operating time in each quarter of the calendar year, excluding time periods when the licensee is performing quality assurance and quality control procedures on the system that are required by the department. If the continuous opacity monitoring system is recording accurate and reliable data less than 95% of the source-operating time within any quarter of the calendar year, the department may initiate enforcement action and may include in that

## CHAPTER 464

S.P. 368 - L.D. 1125

**An Act Concerning Continuous Emission Monitoring Devices**