

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**  
**ONE HUNDRED AND SIXTEENTH LEGISLATURE**

**SECOND REGULAR SESSION**

**January 5, 1994 to April 14, 1994**

**THE GENERAL EFFECTIVE DATE FOR**  
**SECOND REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**JULY 14, 1994**

**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**

Legislature having jurisdiction over human resource matters regarding the activities and recommendations of the process action team that, under the auspices of the Governor's Commission on Supported Employment, is addressing the issues of national accreditation, minimum standards and quality in disability services.

**Sec. 27. Feasibility of long-term care development account.** The Department of Human Services shall review the law governing certificates of need in the Maine Revised Statutes, Title 22, chapter 103 and determine the need for and feasibility of establishing a long-term care certificate of need development account. The department shall submit its recommendations along with any necessary implementing legislation to the joint standing committee of the Legislature having jurisdiction over human resource matters by November 1, 1994.

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

Effective April 12, 1994.

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## CHAPTER 662

S.P. 707 - L.D. 1904

### An Act to Establish the Maine Surplus Energy Auction Program

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

Sec. 1. 35-A MRSA c. 44 is enacted to read:

#### CHAPTER 44

#### MAINE SURPLUS ENERGY AUCTION PROGRAM

##### §4401. Definitions

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

**1. Eligible electric utility.** "Eligible electric utility" means an electric utility in the State with over \$35,000,000 in annual revenues.

**2. Marginal cost.** "Marginal cost" means the actual additional power supply and delivery costs incurred by the eligible electric utility to serve the customers selected pursuant to section 4402.

##### §4402. Program established

**1. Price of electricity.** There is established within the commission the Maine Surplus Energy Auction Program, referred to in this chapter as "the program," which provides access to surplus electricity to selected industrial and commercial electricity consumers at a price no lower than the marginal cost of that electricity to the utility. Surplus electricity is available for sale under the program only for the period during which the commission, pursuant to section 4403, determines that surplus will be available.

**2. Notification.** Within 120 days of the effective date of this section, eligible electric utilities shall provide notice of the program to all industrial and commercial customers within their respective service areas and distribute to those customers requests for proposals for purchases of electricity under the program.

**3. Selection criteria.** Eligible electric utilities shall evaluate proposals received from customers in response to the notice provided under subsection 2 and select candidate customers from within the utilities' respective service areas to participate in the program. The proposals must be evaluated and selected on the basis of the following criteria.

A. The following are favored:

(1) Proposals to purchase electricity for new and incremental uses that would increase the customer's existing load and that would not occur but for this program;

(2) Proposals from customers who will be able to operate competitively at otherwise applicable electricity rates beyond the term of a contract made pursuant to the program;

(3) Proposals for contracts that, if accepted, would be likely to result in additions to or maintenance of the employment base in this State; and

(4) Proposals for contracts that, if accepted, would maximize contributions to utility revenues and load, with due consideration given to the quality and the type of that load.

B. The following is not favored:

(1) Any proposal that, if accepted, would likely result in a shift in business activity to or create an unfair competitive advantage for the business making the proposal to the

disadvantage of other existing businesses in this State.

**4. Contract terms.** Upon the selection of candidate proposals, eligible electric utilities shall negotiate the sale of electricity from the surplus energy pool established under section 4403. The terms of these contracts must be based on the proposals submitted pursuant to this section and the criteria established under subsection 3 and must be for a period not to extend beyond the period during which the commission, pursuant to section 4403, determines that surplus will be available. Contracts entered into under this chapter must include provisions making the contract interruptible and terminable to ensure that only surplus energy or capacity is sold under the contract.

**§4403. Surplus energy pool established**

The commission shall, within 90 days of the effective date of this section, estimate the total amount of surplus electricity that is likely to be available to each eligible electric utility and the period during which that surplus will be available. The commission shall calculate the total surplus as the amount of electricity not required to meet the utility's projected load at any time during the period of surplus and not needed to satisfy the requirements of the utility's participation in the New England power pool as defined in section 4103. The energy pool available to be auctioned under this chapter may be no more than 80% of the total surplus electricity estimated by the commission. The commission may further restrict the size of the pool to the extent the commission determines necessary to protect the interests of ratepayers. This subsection does not preclude an eligible electric utility from marketing surplus energy under any other applicable tariff or special contract filed with the commission.

**§4404. Report to Legislature**

The commission shall report annually to the Governor and the Legislature on the status of the Maine Surplus Energy Auction Program.

See title page for effective date.

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**CHAPTER 663**

**H.P. 1384 - L.D. 1883**

**An Act to Promote the Quality of  
Maine Dairy Products**

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

**Whereas,** this legislation provides information for consumers about the manner by which milk is produced in the State, including use of recombinant bovine somatotropin, or rbST; and

**Whereas,** with the expiration of the state ban on the use of rbST and the approval of the Federal Government for use of rbST, this information is needed immediately; 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. 7 MRSA §2901-B** is enacted to read:

**§2901-B. Trademark for milk and milk products**

The department shall adopt rules permitting the use of the certification trademark provided for in section 443-B on milk or milk products. The initial rules must include limitations relating to the use of milk from cows that have been treated with recombinant bovine somatotropin, referred to in this section as "rbST." The rules may require that the department receive written consent from producers to draw blood from their milking herd, examine historical milk production records, inspect medicine storage places, and to perform other inspections reasonably necessary to verify compliance with the trademark criteria.

**1. Notice by producer.** If the criteria for use of the certification trademark include absence of the use of rbST, a milk producer in this State who sells milk to a dealer who uses the trademark must notify that milk dealer before using rbST within the milking herd of the producer's dairy farm. Notification to the dealer must be made at least 45 days before using rbST. Notification must be made by certified mail and sent to the dealer's employee responsible for milk procurement at the plant location where the milk is processed. For purposes of this section, "possession of rbST" means use.

**2. Failure to provide notice.** If a Maine producer fails to give the dealer the notice required in subsection 1, the dealer is not required to comply with the notice requirements of section 2903-A before refusing to continue to purchase milk under any contract with that producer.

**Sec. 2. 7 MRSA §2909** is enacted to read: