

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE

FIRST REGULAR SESSION
December 7, 1994 to June 30, 1995

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 29, 1995

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
1995

Whereas, these details, standards and criteria will have a significant impact on residents of the State, including, but not limited to, owners of older automobiles and sellers of used automobiles; and

Whereas, it is essential that the Legislature be involved in working out these details of the program; 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. 29-A MRSA §403, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is repealed.

Sec. 2. 38 MRSA c. 28, as amended, is repealed.

Sec. 3. Allocation. The following funds are allocated from Other Special Revenue funds to carry out the purposes of this Act.

	1995-96	1996-97
ENVIRONMENTAL PROTECTION, DEPARTMENT OF		
Air Quality Control		
Positions - Other Count	(-4.0)	(-4.0)
Personal Services	(\$171,385)	(\$176,480)
All Other	(21,337)	(21,505)
Deallocates funds no longer required as a result of the repeal of the Motor Vehicle Emission Inspection Program.		
DEPARTMENT OF ENVIRONMENTAL PROTECTION		
TOTAL	(\$192,722)	(\$197,985)

Sec. 4. Allocation. The following funds are allocated from the Highway Fund to carry out the purposes of this Act.

	1995-96	1996-97
SECRETARY OF STATE, DEPARTMENT OF THE		

Administration - Motor Vehicles

Positions - Legislative Count	(-3.0)	(-3.0)
Personal Services	(\$93,380)	(\$92,101)
All Other	(47,496)	(48,921)

Deallocates funds no longer required as a result of the repeal of the Motor Vehicle Emission Inspection Program. The positions eliminated include a Clerk IV position, a Clerk Typist III position, a Clerk Typist II position and a Project Clerk Typist II position.

DEPARTMENT OF THE SECRETARY OF STATE	_____	_____
TOTAL	(\$140,876)	(\$141,022)

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

Effective April 28, 1995.

CHAPTER 51

S.P. 56 - L.D. 85

An Act to Amend the Laws Concerning Guardianship

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

Sec. 1. 18-A MRSA §5-311, sub-§(c), as repealed and replaced by PL 1985, c. 770, §1, is amended to read:

(c) No owner, proprietor, administrator, employee or other person with a substantial financial interest in a facility or institution ~~which is licensed~~ under Title 22, sections 1817 and 7801, may act as guardian of an incapacitated person who is a resident, as defined in Title 22, section 7901-A, unless the person requesting to be appointed guardian is one of the following:

- (1) The spouse of the incapacitated person;
- (2) An adult child of the incapacitated person;
- (3) A parent of the incapacitated person or a person nominated by the will of a deceased parent; or

(4) A relative of the incapacitated person with whom the incapacitated person has resided for more than 6 months prior to the filing of the petition for appointment.

See title page for effective date.

CHAPTER 52

S.P. 152 - L.D. 338

**An Act to Amend the Laws
Pertaining to the Return of Security
Deposits and Nonpayment of Rent or
Utility Charges**

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

Sec. 1. 14 MRSA §6033, sub-§2, as amended by PL 1985, c. 264, is further amended to read:

2. Return; time; retention. A landlord shall return to a tenant the full security deposit deposited with the landlord by the tenant or, if there is actual cause for retaining the security deposit or any portion of it, the landlord shall provide the tenant with a written statement itemizing the reasons for the retention of the security deposit or any portion of it:

A. In the case of a written rental agreement, within the time, not to exceed 30 days, stated in the agreement; and

B. In the case of a tenancy at will, within 21 days after the termination of the tenancy or the surrender and acceptance of the premises, whichever occurs later.

The written statement itemizing the reasons for the retention of any portion of the security deposit ~~shall~~ must be accompanied by a full payment of the difference between the security deposit and the amount retained.

Reasons for which a landlord may retain the security deposit or a portion of the security deposit include, but are not limited to, covering the costs of storing and disposing of unclaimed property, nonpayment of rent and nonpayment of utility charges that the tenant was required to pay directly to the landlord.

The landlord is deemed to have complied with this section by mailing the statement and any payment required to the last known address of the tenant.

~~Nothing in this section may preclude the landlord from retaining the security deposit to cover the costs of storing and disposing of unclaimed property, for~~

~~nonpayment of rent or nonpayment of utility charges which the tenant was required to pay directly to the landlord.~~

Sec. 2. 14 MRSA §6034, as enacted by PL 1977, c. 359, is amended to read:

§6034. Wrongful retention; damages

1. Notice to landlord of intention to bring suit; presumption on failure to return deposit. ~~Should~~ If the landlord ~~fail~~ fails to return the security deposit and provide the itemized statement within the time periods in section 6033, the tenant shall give notice to the landlord of ~~his~~ the tenant's intention to bring a legal action no less than 7 days prior to commencing the action. ~~Should~~ If the landlord ~~fail~~ fails to return the entire security deposit within the 7-day period, it ~~shall be~~ is presumed that the landlord is ~~willfully and wrongly~~ wrongfully retaining the security deposit.

2. Double damages for wrongful retention. The ~~willful~~ wrongful retention of a security deposit in violation of this chapter ~~shall render~~ renders a landlord liable for double the amount of that portion of the security deposit wrongfully withheld from the tenant, together with reasonable attorney's fees and court costs.

3. Burden of proof. In any court action brought by a tenant under this section, the landlord ~~shall bear~~ has the burden of proving that ~~his~~ the landlord's withholding of the security deposit, or any portion of it, was not wrongful.

See title page for effective date.

CHAPTER 53

H.P. 276 - L.D. 380

**An Act to Establish a Minimum
Percentage Markup for Alcoholic
Beverages**

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

Sec. 1. 28-A MRSA §606, sub-§8 is enacted to read:

8. No maximum limit on price. An agency store may sell liquor at any price equal to or higher than the retail sales price set in accordance with chapters 65 and 67.

See title page for effective date.