

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

D. Employed in a program established under a certification issued by the United States Department of Justice under 18 United States Code, Section 1761.

Sec. 2. Application. Notwithstanding Public Law 1991, c. 885, Part A, section 10, the Maine Revised Statutes, Title 39-A, section 203 applies to eligibility for compensation for incapacity on or after the effective date of this Act regardless of the date of injury.

See title page for effective date.

CHAPTER 294

H.P. 973 - L.D. 1382

An Act to Strengthen the Laws Concerning Labeling and Advertising of Native Produce

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

Sec. 1. 7 MRSA §443-A, as amended by PL 1979, c. 731, §19, is repealed and the following enacted in its place:

§443-A. Native produce

1. Prohibition. Farm produce sold or offered for sale within the State may not be labeled or advertised as "native," "native-grown," "locally grown" or by a similar designation, unless that product was actually grown in the State.

2. Penalty. Violation of subsection 1 is a civil violation punishable by a fine of not less than \$200 nor more than \$300.

3. Burden of proof. The burden of proof concerning the origin of farm produce is on the seller. The burden may be met by written documentation showing the origin of farm produce.

4. Enforcement. This section is enforced by the Department of Agriculture, Food and Rural Resources.

See title page for effective date.

CHAPTER 295

S.P. 80 - L.D. 168

An Act to Clarify Insurance Coverage Regarding Breast

Reconstruction after Mastectomy Surgery

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

Sec. 1. 24 MRSA §2320-C is enacted to read:

§2320-C. Coverage for mastectomy surgery

All individual and group nonprofit and medical services plan contracts and all nonprofit health care plan contracts providing coverage for mastectomy surgery must provide coverage for reconstruction of the breast on which surgery has been performed and surgery and reconstruction of the other breast to produce a symmetrical appearance if the patient elects reconstruction and in the manner chosen by the patient and the physician.

Sec. 2. 24-A MRSA §2731-A, as enacted by PL 1991, c. 333, §1, is repealed.

Sec. 3. 24-A MRSA §2745-C is enacted to read:

§2745-C. Coverage for mastectomy surgery

All individual health policies providing coverage for mastectomy surgery, except those designed to cover only specific diseases, hospital indemnity or accidental injury, must provide coverage for reconstruction of the breast on which surgery has been performed and surgery and reconstruction of the other breast to produce a symmetrical appearance if the patient elects reconstruction and in the manner chosen by the patient and the physician.

Sec. 4. 24-A MRSA §2837-C is enacted to read:

§2837-C. Coverage for mastectomy surgery

All group health policies providing coverage for mastectomy surgery, except those designed to cover only specific diseases, hospital indemnity or accidental injury, must provide coverage for reconstruction of the breast on which surgery has been performed and surgery and reconstruction of the other breast to produce a symmetrical appearance if the patient elects reconstruction and in the manner chosen by the patient and the physician.

Sec. 5. 24-A MRSA §4237 is enacted to read:

§4237. Coverage for mastectomy surgery

All individual or group coverage subject to this chapter that provides for mastectomy surgery must provide coverage for reconstruction of the breast on which surgery has been performed and surgery and reconstruction of the other breast to produce a

symmetrical appearance if the patient elects reconstruction and in the manner chosen by the patient and the physician.

See title page for effective date.

CHAPTER 296

H.P. 788 - L.D. 1105

An Act to Clarify the Responsibility of an Insurance Agent in the Disclosure of Information

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

Sec. 1. 24-A MRSA §3102-A is enacted to read:

§3102-A. Indemnification; surety on bonds

1. Annual notice to indemnitors. An insurer authorized to transact surety insurance in this State that acts as surety upon a payment or performance bond executed in this State in reliance on an indemnity agreement shall annually notify the following persons of the existence of the indemnity agreement:

- A. All indemnitors who are residents of the State;
- B. All indemnitors of a bond executed by a corporation incorporated in the State; and
- C. The surety insurer's agent or broker, if an agent or broker is involved.

Notice to the indemnitors must be sent by certified mail to their last known address. The annual notice must be sent on or before the anniversary of the date of the execution of the indemnity agreement.

2. Termination of indemnity agreement. Failure to send an annual notice in accordance with the requirements of this section terminates an indemnity agreement executed after the effective date of this section as to any indemnitor to whom the annual notice was not sent. In no event does failure to send an annual notice or termination of the indemnity agreement relieve an indemnitor or the indemnitors' heirs, successors or assigns from past, present or future liability arising under any such bond executed in reliance upon the indemnity agreement if that indemnity agreement was in effect at the time the bond was executed.

See title page for effective date.

CHAPTER 297

H.P. 85 - L.D. 121

An Act to Make the Workers' Compensation Laws for Temporary Employees Consistent with Those Laws for Permanent Employees

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

Sec. 1. 39-A MRSA §104, first ¶, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

An employer who has secured the payment of compensation in conformity with sections 401 to 407 is exempt from civil actions, either at common law or under sections 901 to 908; Title 14, sections 8101 to 8118; and Title 18-A, section 2-804, involving personal injuries sustained by an employee arising out of and in the course of employment, or for death resulting from those injuries. An employer that uses a private employment agency for temporary help services is entitled to the same immunity from civil actions by employees of the temporary help service as is granted with respect to the employer's own employees as long as the temporary help service has secured the payment of compensation in conformity with sections 401 to 407. "Temporary help services" means a service where an agency assigns its own employees to a 3rd party to work under the direction and control of the 3rd party to support or supplement the 3rd party's work force in work situations such as employee absences, temporary skill shortages, seasonal work load conditions and special assignments and projects. These exemptions from liability apply to all employees, supervisors, officers and directors of the employer for any personal injuries arising out of and in the course of employment, or for death resulting from those injuries. These exemptions also apply to occupational diseases sustained by an employee or for death resulting from those diseases. These exemptions do not apply to an illegally employed minor as described in section 408, subsection 2.

See title page for effective date.

CHAPTER 298

H.P. 1060 - L.D. 1489

An Act to Implement the Recommendations of the Commission to Study Potato Quality Issues