

# 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**

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**J.S. McCarthy Company**  
**Augusta, Maine**  
**1995**

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

See title page for effective date.

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**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.

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**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.

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**CHAPTER 298**

**H.P. 1060 - L.D. 1489**

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

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

Sec. 1. 7 MRSA §441, as repealed and replaced by PL 1979, c. 672, Pt. A, §16, is amended to read:

§441. Rules

The commissioner may prescribe, in a manner consistent with the Maine Administrative Procedure Act, rules and regulations for carrying out this subchapter, including the fixing of fees to be charged any individual, firm or organization requesting an inspection pursuant to section 446 or receiving an inspection pursuant to section 951. These fees shall must, as nearly as possible, cover the costs of the inspection services for the commodity inspected. All fees collected shall must be paid by the commissioner to the Treasurer of State and are appropriated for the purposes of this subchapter. Any unexpended balance from the funds thus appropriated shall may not lapse, but shall must be carried forward to the same fund for the next fiscal year.

Sec. 2. 7 MRSA §951, as amended by PL 1979, c. 731, §19, is further amended by adding at the end 2 new paragraphs to read:

Notwithstanding the provisions of article 4, the commissioner after consultation with the Maine Potato Board may require, by rules adopted pursuant to the Maine Administrative Procedure Act, the inspection of all or a portion of consumer packs of potatoes for conformity with the U.S. #1 grade or other grades. Inspection under any rule adopted pursuant to this section must be performed by a licensed federal-state potato inspector, state potato inspector or seed potato inspector. At the request of and in consultation with the Maine Potato Board, the commissioner shall initiate rulemaking to require inspection of consumer packs of potatoes.

A person who violates rules adopted under this section commits a civil violation for which a forfeiture not to exceed \$1,000 for the first offense and \$2,000 for any subsequent offense may be adjudged.

See title page for effective date.

CHAPTER 299

H.P. 334 - L.D. 454

An Act Revising the Liability for the Storage and Distribution of Natural Gas

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

Sec. 1. 14 MRSA §165, as enacted by PL 1975, c. 186, is repealed and the following enacted in its place:

§165. Liability of those who store or distribute natural gas

1. Liability without proof of negligence. A natural gas company or natural gas pipeline company that stores or distributes natural gas is liable for all acts and omissions of its servants and agents that cause death or injury to persons or damage to property resulting from explosions or fire caused by natural gas escaping from the natural gas storage or distribution system under its control or from explosions or fire caused by defects in the natural gas storage and distribution systems under its control.

2. Rebuttable presumption. When there is death or injury to persons or damage to property resulting from explosions or fire caused by escaping natural gas, there is a rebuttable presumption that the gas escaped because of a defect in a portion of the storage or distribution system under the company's control.

3. Exceptions. The company is not liable for death or injury to persons or damage to property caused by:

A. An act of God or war;

B. Fault of the plaintiff to the extent that the plaintiff's fault bars or reduces the plaintiff's recovery under section 156; or

C. Intervening fault of a 3rd party for whose actions the company is not legally liable. If death or injury to persons or damage to property is caused by the combined fault of the company and other parties, the liability of the company is joint and several with those other parties.

4. Indemnity. In the event that the company is exposed to liability under this section because of the negligence of a 3rd party, the 3rd party shall indemnify the company for the company's losses, including any damages awarded or negotiated through settlement to any party, and costs and attorney's fees.

See title page for effective date.

CHAPTER 300

H.P. 1081 - L.D. 1523

An Act Requiring that Certain Nonprofit Corporations Provide for the Disposal of Assets