

# 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**

**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**Sec. 1. 7 MRSA §441**, as repealed and replaced by PL 1979, c. 672, Pt.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.

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**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.

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**CHAPTER 300**

**H.P. 1081 - L.D. 1523**

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

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

Sec. 1. 13 MRSA §931-A is enacted to read:

**§931-A. Bylaws; disposal of assets**

The bylaws of a corporation organized under this chapter after the effective date of this section must provide for the disposal of the corporation's assets.

Sec. 2. 13 MRSA §2861-A is enacted to read:

**§2861-A. Bylaws; disposal of assets**

The bylaws of a corporation organized under this chapter after the effective date of this section must provide for the disposal of the corporation's assets.

Sec. 3. 13-B MRSA §1104-A is enacted to read:

**§1104-A. Bylaws; disposal of assets**

After the effective date of this section, a domestic corporation organized under this Title or a domestic corporation filing an annual report under section 1301 shall provide for the disposal of the corporation's assets in its bylaws.

See title page for effective date.

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**CHAPTER 301**

H.P. 1073 - L.D. 1508

**An Act Concerning Residential Treatment Facilities**

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

Sec. 1. 22 MRSA §8101, sub-§4-B is enacted to read:

**4-B. Residential treatment facility with secure capacity.** "Residential treatment facility with secure capacity" means a children's home that provides a mental health intensive treatment program to a child whose diagnostic assessment indicates that the persistent pattern of the child's mental health presents a likely threat of harm to self or others and requires treatment in a setting that prevents the child from leaving the program.

See title page for effective date.

**CHAPTER 302**

H.P. 935 - L.D. 1324

**An Act to Require the Commissioner of Defense and Veterans' Services to Be Confirmed by the Legislature**

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

Sec. 1. 37-B MRSA §3, sub-§1, ¶A, as enacted by PL 1983, c. 460, §3, is amended to read:

A. Be appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over veterans' affairs and confirmation by the Legislature and serve at the pleasure of the Governor;

See title page for effective date.

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**CHAPTER 303**

H.P. 722 - L.D. 996

**An Act to Prevent the Loss of Federal Impact Aid Funds to Schools Required to Reimburse under Federal Law**

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

Sec. 1. 20-A MRSA §15612, sub-§5, ¶D, as enacted by PL 1993, c. 410, Pt. DDDD, §1, is amended to read:

D. For fiscal year 1992-93, if the State does not meet the wealth neutrality test requirement of Public Law 81-874, subsection 5(d)(2) and if a state school subsidy of a school administrative unit is reduced in fiscal year 1992-93 as a result of Public Law 81-874 receipts, the Legislature unconditionally commits to restoring in fiscal year 1995-96 to that school administrative unit all of the state subsidy withheld due to receipt of Public Law 81-874, Section 3(c)(1) funds ~~if those funds must be subsequently returned to the Federal Government.~~ The required amount of \$1,877,937.42 must be provided from the ending balance of fiscal year 1994-95 general purpose subsidy for public schools.

See title page for effective date.