

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

B. "Skiing" means the use of a ski area for downhill, telemark or cross country skiing or snowboarding; for sliding downhill on snow or ice on skis, a toboggan, sled, tube, snowboard or any other device; or for similar uses of the ski slopes and trails.

C. "Skier" means any person who participates in any of the activities at a ski area described in paragraph B.

2. Acceptance of inherent risks. Because skiing as a recreational sport, and the use of passenger tramways associated with skiing, may be hazardous to skiers or passengers, regardless of all feasible safety measures that may be taken, each person who participates in the sport of skiing accepts, as a matter of law, the risks inherent in the sport and, to that extent, may not maintain an action against or recover from the ski area operator, or its agents, representatives or employees, for any losses, injuries, damages or death that result from the inherent risks of skiing.

3. Warning notice. A ski area operator shall post and maintain at the ski area where the lift tickets and ski school lessons are sold and at the loading point of each passenger tramway signs that contain the following warning notice:

WARNING:

Under Maine law, a skier assumes the risk of any injury to person or property resulting from any of the inherent dangers and risks of skiing and may not recover from any ski area operator for any injury resulting from any of the inherent dangers and risks of skiing, including, but not limited to: existing and changing weather conditions; existing and changing snow conditions such as ice, hardpack, powder, packed powder, corn, crust and slush and cut-up, granular and machine-made snow; surface or subsurface conditions such as dirt, grass, bare spots, rocks, stumps, trees, forest growth or other natural objects and collisions with such natural objects; lift towers, lights, signs, posts, fences, mazes or enclosures, hydrants, water or air pipes, snowmaking and snow-grooming equipment, marked or lit trail maintenance vehicles and snowmobiles, and other man-made structures or objects and their components, and collisions with such man-made objects; variations in steepness or terrain, whether natural or as a result of slope design, snowmaking or grooming operations, including but not limited to ski jumps, roads and catwalks or other terrain modifications; the presence of and collisions with other skiers; and the failure of skiers to ski safely, in control or within their own abilities.

4. Duty to ski within limits of ability. A skier has the sole responsibility for knowing the range of the skier's own ability to negotiate any slope or ski trail, and it is the duty of the skier to ski within the limits of the skier's own ability, to maintain control of the rate of speed and the course at all times while skiing, to heed all posted and oral warnings and instructions by the ski area operator and to refrain from acting in a manner that may cause or contribute to the injury of the skier or others.

5. Responsibility for collisions. The responsibility for a collision between any skier while skiing and any person or object is solely that of the skier or skiers involved in the collision and not the responsibility of the ski area operator or its agents, representatives or employees.

6. Liability. A ski area operator or its agents, representatives or employees are not liable for any loss, injury, damage or death resulting from the design of the ski area.

7. Provision of name and current address required. A skier involved in, causing or contributing to a collision or other accident at a ski area that results in a fall or injury may not leave the vicinity of the collision or accident before giving that skier's name and current address to an employee or representative of the ski area operator or a member of the ski patrol, except for the purpose of securing aid for a person injured in the collision, in which case the person leaving the scene of the collision shall give that skier's name and current address after securing such aid. A ski area operator, or its agents, representatives or employees, is not liable for a skier's failure to provide that skier's name and address or for leaving the vicinity of an accident or collision.

8. Actions not prohibited. This section does not prevent the maintenance of an action against a ski area operator for:

A. The negligent operation or maintenance of the ski area; or

B. The negligent design, construction, operation or maintenance of a passenger tramway.

See title page for effective date.

CHAPTER 473

S.P. 203 - L.D. 546

An Act to Change the Law That Determines When a Sentence in Excess of 20 Years May Be Imposed for a Class A Crime

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

Sec. 1. 17-A MRSA §1252, sub-§2, ¶A, as amended by PL 1987, c. 808, §§1 and 3, is further amended to read:

A. In the case of a Class A crime, the court shall set a definite period not to exceed 40 years. The court may consider a serious criminal history of the defendant and impose a maximum period of incarceration in excess of 20 years based on either the nature and seriousness of the crime alone or on the nature and seriousness of the crime coupled with the serious criminal history of the defendant;

See title page for effective date.

CHAPTER 474

H.P. 561 - L.D. 762

An Act to Amend the Trust Fund Provisions of Cemeteries and Crematories

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

Sec. 1. 13 MRSA §§1264 to 1267 are enacted to read:

§1264. Trust funds for services or property

1. Trust accounts. Pre-need funds received for cemetery or crematory services or property to be delivered at or after the date of death must be placed in a cemetery or crematory trust account in a bank, trust company, credit union or savings institution. For purposes of this subsection, "pre-need funds" means all money paid during a person's lifetime to a cemetery or crematory by that person or by another person on that person's behalf under an agreement that services will be performed or property will be delivered in connection with the disposition of that person's body after that person's death.

2. Trust agreement. A trust agreement setting forth the following information must be signed by the payor and the payee and the original agreement must be given to the payor and a copy of that agreement must be given to the payee:

- A. The name and address of the individual for whose benefit services or property will be delivered;
- B. The name of the entity acting as trustee;
- C. The name and address of the payor;

D. The services or property that will be provided by the payee;

E. Statements that a full refund of the principal of the funds placed in trust must be made by the payee upon written request of the payor, the payor's attorney-in-fact or the payor's personal representative and that, in the absence of such a request, the payee may withdraw the funds only upon the death of the person for whose benefit the funds were paid and shall use the funds in accordance with the purposes identified in the trust agreement; and

F. A statement that interest on funds placed in trust will not be paid to the payor in the event of a refund of principal of trust funds and any interest that may accrue remains with the payee.

3. Services and property covered. This section applies to cemetery or crematory services such as cremation fees, grave opening and closing charges and inscription of death dates. This section does not apply to the sale of cemetery lots or plots, monuments and memorials, garden crypts, lawn crypts, mausoleum crypts, cremation urns and niches, vaults, liners and similar tangible personal property if title to and physical possession of the specific property has passed to the buyer. Any funds expended to purchase tangible personal property when that personal property is held by the payee until the time of need are not considered funds that must be placed in the trust account.

4. Refund provisions. A full refund of the principal of the funds placed in trust must be made by the payee upon written request of the payor, the payor's attorney-in-fact or the payor's personal representative. In the absence of such a request, the payee may withdraw the funds only upon the death of the person for whose benefit the funds were paid and shall use the funds in accordance with the purposes identified on the trust agreement.

5. Administrative fees. The payee may not charge the payor, the payor's attorney-in-fact or the payor's personal representative an administrative fee for funds or tangible personal property held in trust.

6. Application. The provisions of this section apply only to funds received by a payee of a trust account after the effective date of this section.

§1265. Tangible personal property

Upon written request and payment of any reasonable out-of-pocket expenses, a cemetery or crematory shall deliver to a person, the person's attorney-in-fact or the person's personal representative any item of tangible personal property purchased by