

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**  
**ONE HUNDRED AND SEVENTEENTH LEGISLATURE**

**FIRST SPECIAL SESSION**  
**November 28, 1995 to December 1, 1995**

**SECOND REGULAR SESSION**  
**January 3, 1996 to April 4, 1996**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**JULY 4, 1996**

**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**

**Sec. 2. Application.** This Act applies to causes of action in which the harm or injury occurred on or after the effective date of this Act.

See title page for effective date.

**CHAPTER 577**

**H.P. 546 - L.D. 742**

**An Act Regarding Wrongful Death Actions**

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

**Sec. 1. 18-A MRSA §2-804, sub-§(b),** as amended by PL 1991, c. 187, is further amended to read:

(b) Every such action must be brought by and in the name of the personal representative of the deceased person, and the amount recovered in every such action, except as otherwise provided, is for the exclusive benefit of the surviving spouse, if no minor children, and of the children if no surviving spouse, and one-half for the exclusive benefit of the surviving spouse and one-half for the exclusive benefit of the minor children to be divided equally among them, if there are both surviving spouse and minor children, and to the deceased's heirs to be distributed as provided in section 2-106; if there is neither surviving spouse nor minor children. The jury may give such damages as it ~~deems~~ determines a fair and just compensation with reference to the pecuniary injuries resulting from ~~such~~ the death to the persons for whose benefit the action is brought, and in addition ~~thereto~~ shall give such damages as will compensate the estate of the deceased person for reasonable expenses of medical, surgical and hospital care and treatment and for reasonable funeral expenses, and in addition ~~thereto~~ may give damages not exceeding \$75,000 \$150,000 for the loss of comfort, society and companionship of the deceased, including any damages for emotional distress arising from the same facts as those constituting the underlying claim, to the persons for whose benefit the action is brought, and in addition ~~thereto~~ may give punitive damages not exceeding \$75,000, provided that the action is commenced within 2 years after the decedent's death. If a claim under this section is settled without an action having been commenced, the amount paid in settlement must be distributed as provided in this subsection. No settlement on behalf of minor children is valid unless approved by the court, as provided in Title 14, section 1605.

See title page for effective date.

**CHAPTER 578**

**H.P. 1208 - L.D. 1658**

**An Act to Encourage Tire Stockpile Abatement**

**Emergency preamble.** Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

**Whereas,** citizens and businesses of this State discard waste tires each year; and

**Whereas,** stockpiles of waste tires have accumulated throughout the State; and

**Whereas,** these stockpiles pose a tremendous potential threat to human health, public safety and the environment; and

**Whereas,** this legislation directs the State to reduce the size and number of tire stockpiles and to encourage the processing of tires for beneficial reuse; 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. 38 MRSA §1316-G** is enacted to read:

**§1316-G. Tire stockpile abatement program**

The State shall undertake a program to eliminate tire stockpiles. The program is under the direction of the department with assistance from other agencies including the State Planning Office, the Department of the Attorney General, the Maine State Police, the Maine National Guard and the Department of Corrections.

**1. Tire stockpile abatement.** The department shall, as available resources allow:

A. Estimate the number of tires that are stockpiled and that pose a significant risk to the environment or public health;

B. Develop a tire stockpile reduction priority plan based on environmental and public health risks;

C. Seek the cooperation and assistance of private and governmental landowners or tire