

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.

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

stockpile operators to reduce the size and number of tire stockpiles;

D. Assist tire stockpile owners and operators willing to cooperate within the law;

E. Utilize enforcement powers unilaterally or in conjunction with the Department of the Attorney General or the Maine State Police or other parties to abate health, safety and environmental risks posed by tire stockpiles when voluntary cooperation is not provided by landowners or operators;

F. Develop or cause to be developed site-specific tire stockpile abatement plans;

G. Give preference in implementing site-specific tire stockpile abatement activities to the processing of tires for removal and beneficial use while mitigating fire risk;

H. Educate the public and encourage use of tires based on consideration of environmental and public health impacts as well as market conditions;

I. Contract for services to reduce tire stockpiles and abate significant risk to the environment and public health at tire stockpile sites; and

J. Report to the Legislature regarding progress, adequacy of funding and any legislation needed to achieve reduction of tire stockpiles and beneficial reuse of tires.

2. Market development. The State Planning Office shall, as available resources allow, assist the department generally in implementation of subsection 1. The assistance may include, but is not limited to, encouraging the beneficial reuse of whole tires and processed tires inside or outside the State. The office may also make recommendations to the Legislature regarding legislation that would enhance the beneficial reuse of waste tires or processed tires.

3. Business retention and new technology. The Department of Economic and Community Development, as available resources allow, shall lead a cooperative effort involving the department, the State Planning Office and the Finance Authority of Maine to identify measures the State can take to provide a favorable environment for the retention of businesses assisting in the processing of waste tires. This cooperative effort must also provide for the introduction of viable new technologies to cost-effectively convert waste tires to commodities that can be utilized for beneficial reuse and for energy production.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.

Effective March 29, 1996.

CHAPTER 579

H.P. 1298 - L.D. 1781

An Act to Support Abatement of Uncontrolled Tire Stockpiles

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

Whereas, uncontrolled tire stockpiles pose a threat to the health and safety of residents of this State; and

Whereas, this Act contains mechanisms to prevent the formation of uncontrolled tire stockpiles and to control those that have already been formed; 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 §1310-BB, as renumbered by RR 1995, c. 1, §33, is repealed.

Sec. 2. 38 MRSA §1316-A, as amended by PL 1995, c. 314, §2, is further amended to read:

§1316-A. Investigation and enforcement

~~Upon investigation, if the commissioner finds that an uncontrolled tire stockpile exists, the commissioner may issue notice to the responsible party or parties and conduct an enforcement hearing in accordance with section 347-A, subsection 2 and issue an order directing the responsible party or parties to mitigate or eliminate the threatening or hazardous conditions posed by the uncontrolled tire stockpile.~~

~~Upon investigation, if the commissioner finds that an uncontrolled tire stockpile is creating or is likely to create a substantial and immediate danger to public health or safety or to the environment, the commissioner may issue an emergency order in accordance with section 347-A, subsection 3 directing~~