

# 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**

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.

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## 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~~

~~the responsible party or parties to take immediate action necessary to reduce or alleviate the danger.~~

If the commissioner finds upon investigation that an area or location where used motor vehicle tires are or were handled, stored or disposed of is not licensed or is in violation of the solid waste management rules relating to tires and presents a significant fire hazard or a threat to public health or safety or to the environment, the commissioner may designate that location as an uncontrolled tire stockpile and may issue an administrative order directing the responsible party or parties to mitigate or eliminate the threatening or hazardous conditions posed by the uncontrolled tire stockpile.

An administrative order issued under this section must contain findings of fact describing, insofar as possible, and with reasonable specificity, the site of the activity and the danger to public health or safety or to the environment.

Service of the commissioner's findings and an administrative order must be made by hand delivery by an authorized representative of the department or by certified mail, return receipt requested.

The person to whom the administrative order is directed shall comply immediately. That person may apply to the board for a hearing within 5 days after receipt of the administrative order. The hearing must be held by the board at the next regularly scheduled meeting following receipt of the application, but in no event later than 30 days after receipt of the application. The nature of the hearing before the board is an appeal. At the hearing, all witnesses must be sworn, and the department shall first establish the basis for the administrative order and for naming the person to whom the administrative order was directed. Within 7 days after the hearing, the board shall make findings of fact and shall continue, revoke or modify the administrative order. The decision of the board may be appealed to the Superior Court in accordance with Title 5, chapter 375, subchapter VII.

The Office of the State Fire Marshal may employ its enforcement powers as authorized in Title 25, section 2396 to require a responsible party or parties to take any action necessary to protect public health and safety from substantial and immediate fire danger posed by an uncontrolled tire stockpile.

**Sec. 3. 38 MRSA §1316-B, first ¶**, as enacted by PL 1991, c. 517, Pt. A, §2, is amended to read:

If a responsible party does not comply immediately with all conditions of an administrative order issued pursuant to sections 347-A, subsection 3 and section 1316-A or an administrative consent agreement issued pursuant to section 347-A,

subsection 4 or any court order, the commissioner may act to abate, clean up or mitigate the threat or hazard posed by an uncontrolled tire stockpile. The commissioner may:

**Sec. 4. 38 MRSA §1316-B, sub-§2**, as enacted by PL 1991, c. 517, Pt. A, §2, is amended to read:

**2. Process and remove.** ~~In consultation with the agency, cause~~ Cause the processing or removal of all stockpiled tires;

**Sec. 5. 38 MRSA c. 13, sub-c. II-B** is enacted to read:

## **SUBCHAPTER II-B**

### **MANAGEMENT OF MOTOR VEHICLE TIRES**

#### **§1316-L. Management of motor vehicle tires**

**1. Disposal, storage and processing.** A person may not dispose of, store or process, or cause to be disposed of, stored or processed, used motor vehicle tires at a site or facility in this State that:

A. Is an uncontrolled tire stockpile that is the subject of an administrative order of the commissioner pursuant to section 1316-A; or

B. Is unlicensed, unless the facility is exempt from licensing or otherwise authorized under state law to dispose of, store or process such tires.

**2. Transfer to tire transporter.** A person may not transfer custody or possession of scrap tires to any transporter if that person knows or has reason to believe the transporter:

A. Does not have a license or permit to transport scrap tires as required by department rules;

B. Does not have a manifest documenting the transport of such tires as required by department rules; or

C. Will transport or handle the scrap tires in violation of this subchapter or of subchapter II-A or rules adopted pursuant to section 1304.

The department shall maintain current lists of uncontrolled tire stockpiles, licensed and authorized tire storage, disposal or processing facilities and transporters licensed or authorized to transport scrap tires.

#### **§1316-M. Transportation of tires**

**1. Examination of license and manifest.** A state, county or local law enforcement officer may examine a nonhazardous waste transporter license to

determine if it is valid, or a nonhazardous waste manifest to determine whether scrap tires are being transported to a licensed or exempt waste facility.

**2. Impoundment.** When a law enforcement officer has reasonable grounds to believe that scrap tires are being transported to an unlicensed, nonexempt waste facility, or that scrap tires are being transported to a waste facility without a manifest or license as required by the department's nonhazardous waste transporter rules, the law enforcement officer may impound the vehicle and hold the vehicle until the transporter has fully complied with department rules.

**3. Alternative manifest.** A law enforcement officer may issue an alternative manifest to the transporter to transport scrap tires to a licensed waste facility. An alternative manifest must include the following information:

- A. The name and location of the waste generator;
- B. The quantity of scrap tires; and
- C. The name and location of the waste facility to which the scrap tires are being transported.

A copy of the alternative manifest prepared by the law enforcement officer and any summons issued to the transporter must be sent to the department.

**4. Violation.** A person commits a Class E crime if that person in fact transports scrap tires without a license or without a manifest as required by department rules. The minimum fines for transporting scrap tires without a manifest are as follows: for a vehicle with a registered gross weight of up to 12,000 pounds, \$500; for a vehicle with a registered gross weight of between 12,001 and 34,000 pounds, \$2,000; and for a vehicle with a registered gross weight of over 34,000 pounds, \$4,500. This minimum fine may not be suspended, but it may be reduced by the amount of the disposal fee paid by the transporter for disposal of the truckload of tires at a licensed waste facility. A person commits a Class D crime if that person, after being cited for a violation of the manifest requirements, transports the tires to an unlicensed, nonexempt waste facility. Notwithstanding Title 17-A, section 1301, the fine for a Class E crime under this subsection may not exceed \$10,000 per violation, and the fine for a Class D crime under this subsection may not exceed \$25,000 per violation.

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

Effective March 29, 1996.

## CHAPTER 580

### H.P. 1357 - L.D. 1862

#### An Act to Ensure That Employees Are Compensated for Accrued Vacation Time in the Event of the Sale of a Business

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

Whereas, current law does not allow the Department of Labor to bring an action on behalf of employees for unpaid wages upon the sale of a business; and

Whereas, upon the sale of a business, employees should be given some assurance of fair treatment following that transaction; and

Whereas, certain employees affected by a pending sale are concerned that they will be denied vacation pay; 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. 26 MRSA §626**, as amended by PL 1991, c. 162, is further amended by adding at the end a new paragraph to read:

Within 2 weeks after the sale of a business, the seller of the business shall pay employees of that business any wages earned while employed by the seller. If the terms of employment include provisions for paid vacations, vacation pay on cessation of employment has the same status as wages earned. The seller of a business may comply with the provisions of this paragraph through a specific agreement with the buyer in which the buyer agrees to pay any wages earned by employees through employment with the seller and to honor any paid vacation earned under the seller's vacation policy.

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

Effective March 29, 1996.