

# MAINE STATE LEGISLATURE

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

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

**SECOND SPECIAL SESSION**  
**September 5, 1996 to September 7, 1996**

**ONE HUNDRED AND EIGHTEENTH LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 4, 1996 to March 27, 1997**

**FIRST SPECIAL SESSION**  
**March 27, 1997 to June 20, 1997**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**JUNE 26, 1997**

**FIRST SPECIAL SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 19, 1997**

**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**  
**1997**

placard or any other document requesting action from the Secretary of State; or

B. Displays to a law enforcement officer or to the Secretary of State evidence of liability insurance or financial responsibility that is fictitious or fraudulently altered.

**Sec. 3. 29-A MRSA §2251, sub-§4, ¶B**, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

B. Within 5 days from the time of notification of the accident, transmit a the original written report containing all available information to the Chief of the State Police.

See title page for effective date.

## CHAPTER 179

### H.P. 220 - L.D. 284

#### **An Act to Continue the State's Dioxin Monitoring Program and Consolidate Reports to the Legislature**

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

**Sec. 1. 38 MRSA §420-A, sub-§4**, as repealed and replaced by PL 1991, c. 66, Pt. A, §9 and affected by §43, is amended to read:

**4. Report.** The commissioner shall report by ~~December 1, 1990, and annually thereafter on December 1st, March 31st of each year~~ on the results of the monitoring program to the joint standing committee of the Legislature having jurisdiction over natural resources. The annual report must contain the commissioner's conclusions as to the levels of dioxin contamination in the sample subjects and the likely scope of dioxin contamination in the State's waters.

**Sec. 2. 38 MRSA §420-A, sub-§5**, as amended by PL 1995, c. 223, §2, is further amended to read:

**5. Fees assessed.** The commissioner shall assess the selected facilities for the costs of sample collection and analysis, except that, if the selected facility is a publicly owned treatment works, the commissioner may assess the primary industrial generator discharging effluent into the treatment facility if the generator is known or likely to be discharging dioxin into the treatment facility. Fees received under this section must be credited to the Maine Environmental Protection Fund. Payment of these fees is a condition of the discharge license issued under this Title for

continued operation of the selected facilities, except that, if the selected facility is a publicly owned treatment works and the commissioner assesses the fee on an industrial generator, payment of the fee is not a condition of the discharge license of the selected facility. The fees assessed under this subsection may not exceed a total of \$250,000 in any fiscal year.

**Sec. 3. 38 MRSA §420-A, sub-§6**, as amended by PL 1995, c. 223, §3, is further amended to read:

**6. Repeal.** This section is repealed December 31, ~~1997~~ 2002.

**Sec. 4. 38 MRSA §420-B, sub-§4**, as enacted by PL 1993, c. 720, §1, is amended to read:

**4. Report.** No later than ~~January 1st~~ March 31st of each year, the commissioner shall report on the monitoring program to the joint standing committee of the Legislature having jurisdiction over natural resource matters. This report must contain:

A. At the start of each 5-year period, the 5-year monitoring plan;

B. The annual work program for the past year and the current year;

C. The commissioner's conclusions as to the levels of toxic contamination in the State's waters and fisheries; ~~and~~

D. Any trends of increasing or decreasing levels of contaminants found; ~~and~~

E. The report on the results of the dioxin monitoring program required under section 420-A, subsection 4.

See title page for effective date.

## CHAPTER 180

### H.P. 72 - L.D. 97

#### **An Act Concerning the Taxation of Manufactured Homes That Are Stock-in-trade**

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

**Sec. 1. 36 MRSA §655, sub-§1, ¶B**, as repealed and replaced by PL 1973, c. 592, §13, is amended to read:

B. ~~Stock-in-trade~~ Stock-in-trade, including inventory held for resale by a distributor, wholesaler, retail merchant or service

establishment. "Stock-in-trade" also includes an unoccupied manufactured home, as defined in Title 10, section 9002, subsection 7, paragraph A or C, that was not previously occupied at its present location, that is not connected to water or sewer and that is owned and offered for sale by a person licensed for the retail sale of manufactured homes pursuant to Title 10, chapter 951, subchapter II;

See title page for effective date.

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## CHAPTER 181

### H.P. 502 - L.D. 693

#### An Act to Amend Procedures Relating to Extradition Proceedings

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

**Sec. 1. 15 MRSA §210**, as amended by PL 1983, c. 843, §§4 to 6, is further amended to read:

#### **§210. Rights of accused person; habeas corpus**

~~No~~ A person arrested upon ~~such~~ a Governor's warrant ~~shall may not~~ be delivered over to the agent whom the executive authority demanding ~~him~~ shall have the person has appointed to receive ~~him~~ the person, unless ~~he~~ the person is first taken ~~forthwith~~ before a judge of a court of record in this State, who shall inform ~~him~~ the person of the demand made for ~~his~~ the person's surrender and of the crime with which ~~he~~ the person is charged and that ~~he~~ the person has the right to demand and procure legal counsel. If the prisoner or ~~his~~ the prisoner's counsel ~~state states~~ that the prisoner may or will contest extradition, the judge shall fix a reasonable time, not to exceed 7 days, to ~~be allowed him within which~~ allow the person to file a petition contesting extradition. The petition ~~shall must~~ be filed in ~~Superior~~ District Court and ~~shall~~ state the grounds upon which extradition is contested. When the petition is filed, notice of it and of the time and place of hearing ~~shall must~~ be given to the prosecuting attorney of the county in which the arrest is made and in which the accused is in custody, to the Attorney General and to the agent of the demanding state.

A person arrested upon the warrant of the Governor ~~shall may not~~ be admitted to bail, except as provided as follows: If a petition contesting extradition is granted and the order is appealed by the State to the Supreme Judicial Court sitting as the Law Court, the petitioner may be admitted to bail, in the discretion of the presiding ~~justice~~ judge, pending that appeal. If the appeal is sustained, the petitioner ~~shall must~~ be immediately placed in custody without bail to await delivery to the agent of the demanding state.

**Sec. 2. 15 MRSA §210-A**, as amended by PL 1981, c. 317, §3, is further amended to read:

#### **§210-A. Procedure at hearing; review of final judgment**

At the hearing on the petition contesting extradition, if the Governor's warrant and the demand comply with the provisions of this chapter, the petitioner ~~shall have~~ has the burden of proving by clear and convincing evidence that ~~he~~ the petitioner has not been charged with a crime in the demanding state and that ~~he~~ the petitioner is not a fugitive from justice. If the name of the petitioner is the same as that of the person named in the Governor's warrant, the petitioner ~~shall have~~ has the burden of proving, by clear and convincing evidence, that ~~he~~ the petitioner is not the person whom the demanding state is seeking to extradite. If the names are not identical, the respondent ~~shall have~~ has the burden of proving by a preponderance of the evidence that the petitioner is the person sought to be extradited by the demanding state. The following ~~shall be~~ are conclusive on the issue of probable cause:

**1. Indictment.** An indictment or an information issued upon a waiver of indictment; or

**2. Judicial determination of probable cause.** An information or other formal charging instrument or an arrest warrant issued on a determination of probable cause by a judicial officer in the demanding state.

Affidavits, including any affidavits supplied pursuant to the provisions of section 203 or in support of an application for requisition, and any other hearsay evidence ~~which that~~ may be deemed reliable by the court, ~~shall be~~ are admissible at the hearing on the petition contesting extradition, for the purpose of showing that the petitioner is charged with a crime in the demanding state, that there is probable cause, that the petitioner is in fact the person charged with the crime and that the petitioner is a fugitive from justice.

The order or judgment making final disposition of the petition ~~shall constitute~~ constitutes a final judgment for the purpose of review. A final judgment entered under this section may be reviewed by the Supreme Judicial Court sitting as the ~~law court~~ Law Court. An appeal may be taken within 10 days after entry of the order or judgment appealed from. An appeal by the petitioner ~~shall may not~~ proceed unless the ~~law court~~ Law Court issues a certificate of probable cause. The filing of the notice of appeal ~~shall be~~ is deemed to constitute a request for ~~such~~ a certificate of probable cause. Upon the filing of a notice of appeal, the presiding ~~justice~~ judge shall prepare a statement of the facts of the proceedings in the ~~Superior~~ District Court, which ~~shall must~~ be forwarded to the ~~law court~~ Law Court. In ~~his~~ the