

# 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**

both of whom are licensed occupational practitioners under this chapter.

**Sec. 2. 32 MRSA §2279, first ¶,** as enacted by PL 1983, c. 746, §2, is amended to read:

An applicant applying for a license as an occupational ~~therapist or as an occupational therapy assistant~~ therapy practitioner shall file a written application provided by the board, showing to the satisfaction of the board that ~~he~~ the applicant meets the following requirements.

**Sec. 3. 32 MRSA §2279, sub-§5,** as enacted by PL 1983, c. 746, §2, is amended to read:

**5. Examination.** An applicant for licensure as an occupational ~~therapist or as an occupational therapy assistant~~ shall ~~shall~~ therapy practitioner must pass an examination as provided for in section 2280.

See title page for effective date.

## CHAPTER 213

H.P. 439 - L.D. 589

### An Act to Amend the Mobile Home Park Laws Regarding Sales of Homes

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

**Sec. 1. 10 MRSA §9094, sub-§4** is enacted to read:

**4. Interference with sale.** A mobile home park owner may not unreasonably interfere with or discourage a tenant's attempt to sell a mobile home situated on a park lot.

See title page for effective date.

## CHAPTER 214

S.P. 348 - L.D. 1167

### An Act to Clarify the Timber Trespass Laws

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

**Sec. 1. 14 MRSA §7552, sub-§3,** as amended by PL 1995, c. 585, §3, is further amended to read:

**3. Measure of damages.** This subsection governs the measurement of damages resulting from a violation of subsection 2.

A. When agricultural or forest products have been destroyed or carried away, the ~~owner's~~ owner may recover as damages ~~may be measured~~ either ~~by~~ the value of the lost products themselves or ~~by~~ the diminution in value of the real estate as a whole resulting from the violation, whichever is greater.

B. For lost trees, the owner may claim in lieu of market value the forfeiture amounts determined in Title 17, section 2510, ~~subsection~~ subsections 2 and 3. In addition, the owner's damages may include the costs for regeneration of the stand in accordance with Title 12, section 8869.

C. When a monument or marker has been disturbed, removed or destroyed as prohibited in subsection 2, paragraph C, the owner's damages may include the cost of ~~replacing~~ engineering and surveyor services necessary to reestablish a monument or marker ~~by a licensed surveyor~~ and its proper location.

See title page for effective date.

## CHAPTER 215

H.P. 1263 - L.D. 1790

### An Act to Control Browntail Moths

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

**Whereas,** an infestation of browntail moths has made living in certain Maine communities dangerous for adults and children; and

**Whereas,** a browntail moth control program can be undertaken by Maine communities for 1997 if undertaken during the month of May; and

**Whereas,** emergency legislation is required to enable control efforts to be undertaken for 1997; 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. 22 MRSA c. 257-A** is enacted to read:

**CHAPTER 257-A****CONTROL OF BROWNTAIL MOTHS****§1444. Control of browntail moths**

**1. Declaration of public health nuisance.** The Director of the Bureau of Health may declare that an infestation of browntail moths is a public health nuisance. The declaration may be made on the director's own initiative or on petition to the director by municipal officers in a municipality affected by the infestation.

**2. Aerial spraying.** When the infestation causing a public health nuisance may be controlled by the aerial spraying of pesticides, the municipal officers in the affected municipality may conduct aerial spraying subject to rules adopted by the Board of Pesticides Control, pursuant to Title 22, section 1471-R, subsection 3, paragraph C, except that:

A. The municipality rather than the applicator is responsible for compliance with the notification and consent regulations;

B. Landowners who are sent written notification by mail, sent to the landowner's last known address as contained in the municipal assessing records and who fail to respond to the notice within 30 days are deemed to have consented to aerial spraying;

C. A landowner's written consent to spray remains valid unless the municipal officers are notified in writing at least 90 days before spraying is to occur that:

(1) The landowner withdraws consent; or

(2) Ownership of the property has been transferred and the notice contains the name and mailing address of the new owner;

D. Any such notice sent or consent received in calendar year 1997 prior to the effective date of this chapter constitutes adequate notice or consent under the law;

E. Written notice to the landowners must identify the chemicals to be used in the aerial spraying; and

F. Public notice of the date of the aerial spraying, subject to change because of weather conditions, must be given 24 hours prior to the spraying.

**3. Refusal to consent; cost of extermination.** After the declaration of the Director of the Bureau of Health and a written declaration by the municipal officers of their intent to conduct aerial spraying, any

landowner who refuses to consent to aerial spraying shall remove any browntail moth infestation from that landowner's property at that landowner's expense in a time and manner satisfactory to the local health officer. Regardless of whether the nonconsenting landowner's property has an infestation of moths, the nonconsenting landowner is also liable for the additional expenses actually incurred by neighboring consenting landowners or the municipality when neighboring consenting landowners or the municipality uses a method of removal other than aerial spraying due to lack of consent. In such cases, consenting landowners shall remove any browntail moth infestation from their own property at their own initial expense in a time and manner satisfactory to the local health officer.

All additional expenses incurred by a municipality must be repaid to the municipality within 30 days after written demand mailed to the nonconsenting landowner by the municipal officers. If the written demand is not met, a service charge may be assessed by the municipal officers against the land of the nonconsenting landowner for the amount of those expenses. The service charge must be collected in the same manner as municipal sewer service charges are collected pursuant to Title 30-A, section 3406.

All additional expenses incurred by neighboring consenting landowners may be collected by the municipality from nonconsenting landowners as a service charge described in this subsection, following certification in writing by the consenting landowners to the municipal officers of the additional costs. The municipal officers shall make suitable provisions to reimburse the consenting landowners from the amounts collected.

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

Effective May 16, 1997.

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**CHAPTER 216**

**H.P. 242 - L.D. 306**

**An Act to Guarantee That Real Estate Taxes Are Paid**

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

**Sec. 1. 36 MRSA §502**, as amended by PL 1985, c. 568, is further amended to read:

**§502. Property taxable; tax year**