

# 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**

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

Effective May 31, 1997.

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**CHAPTER 386**

**S.P. 634 - L.D. 1851**

**An Act to Amend the Laws  
Regarding Proposed Unaccepted  
Streets**

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

**Sec. 1. 23 MRSA §3032, sub-§1,** as enacted by PL 1987, c. 385, §2, is repealed.

**Sec. 2. 23 MRSA §3032, sub-§1-A** is enacted to read:

**1-A. Deemed vacation.** A proposed, unaccepted way or portion of a proposed, unaccepted way laid out on a subdivision plan recorded in the registry of deeds prior to September 29, 1987 is deemed to have been subject to an order of vacation under section 3027 if, by the later of 15 years after the date of the recording of the subdivision plan laying out the way or portion of the way or September 29, 1997, both of the following conditions have been met:

A. The way or portion of the way has not been constructed or used as a way; and

B. The way or portion of the way has not been accepted as a town, county or state way or highway or as a public, utility or recreational easement.

A way or portion of a way considered vacated under this subsection is subject to section 3033.

See title page for effective date.

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**CHAPTER 387**

**H.P. 446 - L.D. 596**

**An Act to Require the Department of  
Labor to Ensure That Housing  
Provided as an Incident of  
Employment by Agricultural  
Employers Meets Minimum  
Standards of Habitability**

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

**Sec. 1. 22 MRSA §454,** as amended by PL 1989, c. 487, §4, is repealed and the following enacted in its place:

**§454. Duties**

**1. Reporting; action on complaints.** In a book kept for that purpose, the local health officer shall make and keep a record of all the proceedings, transactions, doings, orders and regulations of that local health officer. The local health officer shall assist in the reporting, prevention and suppression of diseases and conditions dangerous to health, and that local health officer is subject to the supervision and direction of the department.

The local health officer shall report promptly to the Commissioner of Human Services, or the commissioner's designee, facts that relate to communicable diseases occurring within the limits of the health officer's jurisdiction, and shall report to the commissioner, or the commissioner's designee, every case of communicable disease as the rules of the department require. Those diseases that the rules of the department may require to be reported are known, under the terms of this Title, as notifiable diseases.

The local health officer shall receive and evaluate complaints made by any of the inhabitants concerning nuisances posing a potential public health threat within the limits of the health officer's jurisdiction. With the consent of the owner, agent or occupant, the local health officer may enter upon or within any place or premises where nuisances or conditions posing a public health threat are known or believed to exist, and personally, or by appointed agents, inspect and examine the same. If entry is refused, the municipal health officer shall apply for an inspection warrant from the District Court, pursuant to Title 4, section 179, prior to conducting the inspection. When the local health officer has reasonable cause to suspect the presence of a communicable disease, the local health officer shall consult with the commissioner, or a designee. The health officer shall then order the suppression and removal of nuisances and conditions posing a public health threat found to exist within the limits of the health officer's jurisdiction. For purposes of this section, "public health threat" means any condition or behavior that can reasonably be expected to place others at significant risk of exposure to infection with a communicable disease.

**2. Departmental intervention.** If the local health officer, or individual designated as the local health officer pursuant to section 451, fails to perform the duties of the local health officer as those duties are described under this section, the department may intervene to perform those duties.

**Sec. 2. 26 MRSA c. 6, sub-c. III** is enacted to read:

**SUBCHAPTER III****HOUSING STANDARDS FOR AGRICULTURAL LABOR****§585. Definitions**

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

**1. Agricultural labor.** "Agricultural labor" means agricultural labor as defined in the Employment Security Law, chapter 13.

**2. Owner.** An agricultural employer is an "owner" of a housing facility or real property if that employer has a legal or equitable interest in the housing facility or real property.

**3. Control.** An agricultural employer is in "control" of a housing facility or real property, regardless of the location of that facility, if the employer is in charge of or has the power or authority to oversee, manage, superintend or administer the housing facility or real property either personally or through an authorized agent or employee, irrespective of whether compensation is paid for engaging in any of those capacities.

**4. Facility.** "Facility" means a structure, trailer or vehicle, or 2 or more contiguous or grouped structures, trailers or vehicles, together with the land appurtenant.

**§586. Agricultural labor housing standards**

The bureau shall adopt rules for the protection of the health, safety and welfare of the agricultural laborers and their families who occupy housing provided, owned or controlled by their employers. These rules apply only to housing facilities of employers of agricultural labor who provide housing to more than 5 employees and whose minimum housing habitability standards are not already established under the regulations on housing promulgated by the United States Department of Labor, Occupational Safety and Health Administration under the federal Migrant and Seasonal Agricultural Worker Protection Act, 29 United States Code, Sections 1801 et seq. The rules adopted under this subchapter must be identical to the federal housing habitability regulations promulgated to protect seasonal and migrant workers under the authority of the federal Migrant and Seasonal Agricultural Worker Protection Act. Rules adopted pursuant to this subchapter are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

**§587. Inspections**

The bureau may inspect housing facilities subject to this subchapter in accordance with this section.

**1. Right of entry.** Without an administrative inspection warrant, any duly designated officer of the bureau may enter a housing facility subject to this chapter at any reasonable time in order to determine compliance with this chapter and any rules in force pursuant to this chapter. No such entry and inspection may be made without the permission of one or more occupants of the facility unless a search warrant is obtained authorizing entry and inspection. If the housing facility is unoccupied, permission of the owner is required before entry and inspection unless a search warrant is obtained.

**2. Technical assistance.** Upon the written request of the bureau, the Department of Human Services, Division of Health Engineering shall provide any technical services that may be required by the bureau to assist with inspections and enforcement of this subchapter.

**3. Municipal inspections.** The bureau may rely on inspections performed by the municipality only to the extent that the municipality has adopted a rule, regulation, ordinance or other code of standard that is at least as stringent as the bureau's rule on that subject. The bureau may rely on municipal inspections only if the inspector is properly licensed or certified by the State to make such inspections.

**§588. Penalties and enforcement**

Actions to enforce this subchapter may be brought in accordance with this section.

**1. Civil violation.** An employer who violates this subchapter or the rules adopted under this subchapter commits a civil violation for which a forfeiture of not less than \$100 nor more than \$1,000 for each violation, payable to the State, may be adjudged. Each day that the violation remains uncorrected following notice to the employer may be counted as a separate offense. The bureau may direct an employer to correct any violations in a manner and within a time frame that the bureau determines appropriate to ensure compliance with the rules or to protect the public health. Failure to correct violations within a time frame established by the bureau constitutes a separate finable offense. In the event of any violation of this subchapter, the Attorney General may seek to enjoin further violation, in addition to any other remedy.

**2. Private right of action.** A civil action may be brought against an employer of agricultural labor by any person aggrieved by a violation of this chapter or rules adopted under this subchapter. If the court finds that the employer violated this subchapter or a rule adopted under this subchapter, it may award

damages of not less than \$100 nor more than \$500 per plaintiff per violation, except that multiple infractions of a single rule under this subchapter constitute only one violation for the purposes of determining the amount of damages due a single plaintiff. In determining the amount of damages to be awarded, the court is authorized to consider whether an attempt was made to resolve the issues in dispute before resort to litigation.

#### **§589. Exemption**

This subchapter does not apply to a person who, in the ordinary course of that person's business, regularly provides housing to the general public on a commercial basis and who provides to any agricultural laborer similar housing on the same or comparable terms and conditions as provided to the general public. Agricultural labor housing may not be brought within this exception simply by offering lodging to the general public.

See title page for effective date.

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## CHAPTER 388

S.P. 290 - L.D. 941

### An Act to Enhance the Potato Industry

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

**Sec. 1. 7 MRSA §950, sub-§2,** as enacted by PL 1981, c. 513, §2, is amended to read:

**2. Consumer pack.** "Consumer pack" means a unit of ~~50 pounds or less net weight~~ of potatoes contained in a bag, crate or any other type of container.

**Sec. 2. 7 MRSA §951, 3rd ¶,** as enacted by PL 1995, c. 298, §2, is amended to read:

Notwithstanding the provisions of article 4, the commissioner after consultation with the Maine Potato Board may require, by rules adopted pursuant to the Maine Administrative Procedure Act, the inspection of all ~~or a portion of~~ consumer packs of potatoes for conformity with the U.S. #1 grade or other grades. Inspection under any rule adopted pursuant to this section must be performed by a licensed federal-state potato inspector, state potato inspector or seed potato inspector. At the request of and in consultation with the Maine Potato Board, the commissioner shall initiate rulemaking to require inspection of consumer packs of potatoes.

**Sec. 3. 7 MRSA §975-A,** as enacted by PL 1993, c. 410, Pt. HHHH, §1, is amended to read:

#### **§975-A. Interest on Potato Marketing Improvement Fund balance**

All or any portion of the interest earned or accruing on the cash balance of the Potato Marketing Improvement Fund may be used for grants to partially or fully fund research projects to study and assess technical problems experienced with new and retrofitted storage facilities and to develop means of dealing with such problems, or to examine, monitor and develop new technologies for the production, storage and handling of potatoes.

**Sec. 4. 7 MRSA §1015, 4th ¶,** as amended by PL 1983, c. 465, §1, is further amended to read:

In order to insure the licensee's financial responsibility and to protect potato producers, the commissioner shall require the licensee to file a bond in a form and amount satisfactory to the commissioner, but in no event not less than ~~\$35,000~~ ~~\$50,000~~ nor more than ~~\$200,000~~ ~~\$300,000~~ in the case of dealers and brokers, or not less than ~~\$50,000~~ ~~\$100,000~~ nor more than ~~\$300,000~~ ~~\$500,000~~ in the case of processors, payable to the commissioner in ~~his~~ the commissioner's official capacity and conditioned on the full and prompt payment for all potatoes received or purchased from producers or other licensees during the effective period of the license. In the case of processors, the amount of bond required ~~shall~~ must be based on the licensee's anticipated monthly volume of purchases, but may be adjusted to reflect other federal escrow accounts or bond requirements met by the licensee ~~which~~ that satisfy the purposes of this section.

**Sec. 5. 7 MRSA §2103-A, sub-§4,** as enacted by PL 1987, c. 336, is amended to read:

**4. Release to public.** For the benefit of the Maine potato industry as a whole, only varieties of seed potatoes ~~of a variety which has~~ that have been released to the public, as provided in this subsection, may be certified, except that varieties of seed potatoes ~~of a variety which~~ that are protected by patent or are otherwise not released to the public may be certified if the applicant for certification demonstrates that ~~he~~ the applicant has been authorized to propagate the variety by the patent holder or, if there is no patent, the registered breeder. Notwithstanding Title 1, chapter 13, subchapter I, all records pertaining to patented and nonreleased potato varieties received or kept by the department are confidential and not available for inspection. A grower may authorize in writing the disclosure of records pertaining to patented or nonreleased potato varieties. Pursuant to the rule-making provisions of the Maine Administrative Procedure Act, Title 5, chapter 375, the commissioner