

# 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**

than one track. The commission may not restrict the number of dashes to fewer than 10.

See title page for effective date.

**CHAPTER 417**

**S.P. 496 - L.D. 1527**

**An Act to Authorize a Police Officer to Impound the Motor Vehicle of a Person Arrested for Operating Under the Influence or Driving with a Suspended or Revoked License**

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

**Sec. 1. 29-A MRSA §2422**, as enacted by PL 1995, c. 368, Pt. AAA, §14, is repealed and the following enacted in its place:

**§2422. Impoundment of motor vehicles for OUI**

**1. Impoundment of vehicle.** A motor vehicle may be seized if it is used by a person arrested for a violation of:

- A. Section 2411; or
- B. Section 2412-A, when the suspension or revocation was for OUI or an OUI offense.

**2. Storage.** If a motor vehicle is seized, it must be held in secure storage by the seizing agency or at the direction of the arresting law enforcement officer.

**3. Release of vehicle.** The motor vehicle may be released after at least an 8-hour period and payment of any towing and storage fees.

See title page for effective date.

**CHAPTER 418**

**H.P. 344 - L.D. 466**

**An Act to Establish Guidelines for the Utilization of Municipal Solid Waste Incinerator Ash and Its Derivatives**

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

**Sec. 1. 38 MRSA §1304, sub-§§13-B and 13-C** are enacted to read:

**13-B. Municipal solid waste incinerator ash; rulemaking.** The board shall adopt rules establishing

requirements for the use of municipal solid waste incinerator ash, referred to in this subsection as "ash." In developing these rules, the board shall consult with the Department of Transportation and the Maine Turnpike Authority on those issues relating to the use of ash in or on roads. In developing these rules, the board shall consider, but is not limited to considering, the following issues:

- A. The feasibility and comparative health risk of using bottom ash versus using combined bottom ash and fly ash;
- B. The risk to human health and the environment from toxic constituents of ash, including dioxin and heavy metals;
- C. Site-specific restrictions and prohibitions on the use of ash, particularly on uses that might expose sensitive populations or sensitive natural resources to health or environmental risks;
- D. Methods of tracking the physical location of ash in all initial and subsequent uses, and whether uses should be restricted to those that can be tracked;
- E. Methods of state and municipal notification of activities involving the use of ash, which may include individual notice or permits for specific projects as needed; and
- F. State and municipal liability in the case of a release or threat of release of a hazardous substance, hazardous waste, hazardous matter, special waste or contaminant into the environment resulting from the use of ash.

Rules adopted pursuant to this subsection must require that any risk assessment performed as part of an application for a license to use ash use the most current available data and methods and be reviewed by the Department of Human Services, Bureau of Health in consultation with the department.

Except as specified in subsection 13-C, a person may not use ash without a license from the department issued pursuant to this subsection. The department may not process or act upon an application for a license under this subsection until rules are finally adopted by the board pursuant to this subsection. For purposes of this subsection, the term "use" includes, but is not limited to, the following: use in a manufacturing process, use as aggregate for asphalt or concrete products, use in the construction industry, use as final landfill closure material and the use of a product manufactured from ash. The term "use" does not include transport, storage or disposal in a landfill licensed to accept ash.

Rules adopted pursuant to this subsection are major substantive rules under Title 5, chapter 375, subchapter II-A.

**13-C. Use of treated ash in secure landfills.** Subject to the requirements of other applicable laws, a person may do the following without a license issued pursuant to subsection 13-B:

A. Process municipal solid waste incinerator ash to remove noncombusted materials, size the ash and reduce the solubility of metals contained within the ash; and

B. Use municipal solid waste incinerator ash processed in the manner specified in paragraph A as follows:

(1) As landfill daily cover material in a secure landfill;

(2) As construction material in a secure landfill; and

(3) In pilot projects in a secure landfill.

The use of municipal solid waste incinerator ash pursuant to this subsection is limited to the lined areas within a secure landfill and each use must receive case-by-case approval from the department. Prior to approving the use of municipal solid waste incinerator ash in a secure landfill, the department shall ensure that the use provides adequate protection of human health and the environment.

For purposes of this subsection, the term "secure landfill" means a landfill that utilizes a liner system, a leachate collection and treatment system and a final cover system to minimize discharges of waste or leachate and control the release of gas to the environment.

**Sec. 2. Findings.** The Legislature makes the following findings:

1. Municipal solid waste incinerator ash contains highly toxic materials such as dioxin that, if inadequately regulated and controlled, can cause very serious damage to the environment and harm to human health and safety;

2. New processing techniques have made possible new uses of this ash that were not contemplated when current laws were enacted; and

3. This Act is essential to ensure that before this ash is used in any manner that introduces the ash into the environment in a way other than through proper landfill disposal the use will be adequately reviewed to

ensure protection against and control of the environmental, health and safety risks.

See title page for effective date.

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## CHAPTER 419

H.P. 1140 - L.D. 1605

### An Act to Prohibit Towns from Cancelling Health Insurance Provided to Retired Employees

**Mandate preamble.** This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, two thirds of all of the members elected to each House have determined it necessary to enact this measure.

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

**Sec. 1. 30-A MRSA §2677** is enacted to read:

**§2677. Health insurance; retired employee**

Notwithstanding section 2671, a municipality shall keep a retired municipal employee formerly employed by the municipality in that municipality's health care plan as long as the retired employee continues to pay the health insurance group rate premiums required for that retired employee.

See title page for effective date.

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## CHAPTER 420

S.P. 218 - L.D. 677

### An Act Regarding the Penalty for Failure to Allow a Terminated Employee to Review Certain Files

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

**Sec. 1. 26 MRSA §631**, as amended by PL 1991, c. 885, Pt. D, §2, is further amended to read:

**§631. Employee right to review personnel file**

The employer shall, upon written request from an employee or former employee, provide the employee, former employee or duly authorized representative with an opportunity to review and copy