

# 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**

violation of any provision of this chapter is against public policy and is void and unenforceable to the extent that it is in conflict with this chapter.

#### **§1447. Civil remedies**

Any recreational vehicle dealer who has been damaged by reason of a violation of a provision of this chapter may bring an action to enjoin that violation and to recover any damages arising from that violation of any part of this chapter. A final judgment, order or decree rendered against a person in any civil, criminal or administrative proceeding under the federal antitrust laws, the Federal Trade Commission Act or under the Maine Revised Statutes is prima facie evidence against that person subject to the conditions set forth in the federal antitrust laws, 15 United States Code, Section 16.

#### **§1448. Statute of limitation**

Actions arising out of any provision of this chapter must be commenced within 4 years after the cause of action accrues. If a person liable under this chapter conceals the cause of action from the knowledge of the person entitled to bring it, the period prior to the discovery of the cause of action by the person so entitled is excluded in determining the time limited for commencement of the action. If a cause of action accrues during the pendency of any civil, criminal or administrative proceeding against a person brought by the United States or any of its agencies under the antitrust laws, the Federal Trade Commission Act or any other federal Act or the laws of the State related to antitrust laws or to franchising, that action may be commenced within one year after the final disposition of the civil, criminal or administrative proceeding.

#### **§1449. Construction**

In construing this chapter the courts may be guided by the interpretations of the Federal Trade Commission Act, 15 United States Code, Section 45.

If any provision of this chapter is declared unconstitutional or the applicability of this chapter to any person or circumstance is held invalid, the constitutionality of the remainder of this chapter and the applicability of this chapter to persons and circumstances is not affected.

#### **§1450. Jurisdiction**

A person who violates any provisions of this chapter is subject to the jurisdiction of the courts of this State upon service of process in accordance with Title 14, chapter 203 and consistent with the maximum limits of due process as decided by the United States Supreme Court.

#### **§1450-A. Penalty**

A person who violates this chapter is guilty of a Class E crime.

See title page for effective date.

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## CHAPTER 428

H.P. 1099 - L.D. 1542

### An Act Concerning Time-out Areas

**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. 20-A MRSA §4502, sub-§5, ¶K,** as enacted by PL 1983, c. 859, Pt. A, §§20 and 25, is amended to read:

K. School improvement; ~~and~~

**Sec. 2. 20-A MRSA §4502, sub-§5, ¶L,** as amended by PL 1989, c. 415, §11, is further amended to read:

L. Prepare and implement an ~~on going~~ ongoing school improvement process and annually update a written school improvement plan, including a fully developed staff development plan for identifying at-risk students in kindergarten ~~through to~~ grade 12, including, but not limited to, truants and dropouts; and the development of appropriate alternative programs to meet their needs; ~~and~~

**Sec. 3. 20-A MRSA §4502, sub-§5, ¶M** is enacted to read:

M. The use of time-out areas, administered in accordance with standards adopted by the department and with this paragraph. The use of a time-out area is subject to the following:

(1) The time-out area must be well ventilated and sufficiently lighted. The time-out area may not be locked; and

(2) The time-out area must be designed to ensure the safety of the student so that the student is supervised by a professional staff member in the room or can be observed from outside of the time-out area and can

be heard by a person supervising the time-out area.

**Sec. 4. Adoption of rules for use of time-out procedures.** The Commissioner of Education shall adopt rules by January 1, 1998 regarding the use of time-out procedures by school administrative units that are in accordance with the standards established by the Department of Human Services for licensing residential child care facilities and the Department of Mental Health and Mental Retardation and Substance Abuse Services for mental health treatment. These rules are major substantive rules as defined in the Maine Revised Statutes, Title 5, chapter 375, subchapter II-A.

See title page for effective date.

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## CHAPTER 429

S.P. 430 - L.D. 1378

### An Act to Amend the Uniform Commercial Code as it Relates to Letters of Credit and Investment Securities

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

#### PART A

**Sec. A-1. 11 MRSA art. 5,** as amended, is repealed.

**Sec. A-2. 11 MRSA art. 5-A** is enacted to read:

#### Article 5-A

#### Letters of Credit

##### §5-1101. Short title

This Article may be known and cited as the "Uniform Commercial Code -- Letters of Credit."

##### §5-1102. Definitions

(1) As used in this Article, unless the context otherwise indicates, the following terms have the following meanings.

(a) "Adviser" means a person who, at the request of the issuer, a confirmer or another adviser, notifies or requests another adviser to notify the beneficiary that a letter of credit has been issued, confirmed or amended.

(b) "Applicant" means a person at whose request or for whose account a letter of credit is issued. The term includes a person who requests an issuer to issue a letter of credit on behalf of another if the person making the request undertakes an obligation to reimburse the issuer.

(c) "Beneficiary" means a person who under the terms of a letter of credit is entitled to have its complying presentation honored. The term includes a person to whom drawing rights have been transferred under a transferable letter of credit.

(d) "Confirmer" means a nominated person who undertakes, at the request or with the consent of the issuer, to honor a presentation under a letter of credit issued by another.

(e) "Dishonor" of a letter of credit means failure to timely honor or to take an interim action, such as acceptance of a draft, that may be required by the letter of credit.

(f) "Document" means a written draft or other demand, document of title, investment security, certificate, invoice or other record, statement or representation of fact, law, right or opinion that:

(i) Is presented in a written or other medium permitted by the letter of credit or, unless prohibited by the letter of credit, by the standard practice referred to in section 5-1108, subsection (5); and

(ii) Is capable of being examined for compliance with the terms and conditions of the letter of credit.

(g) "Good faith" means honesty in fact in the conduct or transaction concerned.

(h) "Honor" of a letter of credit means performance of the issuer's undertaking in the letter of credit to pay or deliver an item of value and unless otherwise provided occurs:

(i) Upon payment;

(ii) If the letter of credit provides for acceptance, upon acceptance of a draft and, at maturity, its payment; or

(iii) If the letter of credit provides for incurring a deferred obligation, upon incurring the obligation and, at maturity, its performance.

(i) "Issuer" means a bank or other person that issues a letter of credit, but does not include an individual who makes an engagement for personal, family or household purposes.