

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.

J.S. McCarthy Company
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1997

ing the principal's finances and property. In the exercise of the powers conferred under a durable financial power of attorney, an attorney-in-fact shall act as a fiduciary under the standards of care applicable to trustees as described by section 7-302. An attorney-in-fact is not authorized to make gifts to the attorney-in-fact or to others unless the durable financial power of attorney explicitly authorizes such gifts.

(b) A durable financial power of attorney must be notarized by a notary public or an attorney at law.

(c) A durable financial power of attorney must contain the following language:

"Notice to the Principal: As the "Principal," you are using this Durable Power of Attorney to grant power to another person (called the "Agent") to make decisions about your money and property and to use it on your behalf. The powers granted to the Agent are broad and sweeping. Your Agent will have the power to sell or otherwise dispose of your property and spend your money without advance notice to you or approval by you. Under this document, your Agent will continue to have these powers after you become incapacitated and you may also choose to authorize your Agent to use these powers before you become incapacitated. The powers that you give your Agent are explained more fully in the Maine Revised Statutes, Title 18-A, sections 5-501 to 5-507 and in Maine case law. You have the right to revoke or take back this Durable Power of Attorney at any time as long as you are of sound mind. If there is anything about this form that you do not understand, you should ask a lawyer to explain it to you.

Notice to the Agent: As the "Agent" or "Attorney-in-fact," you are given power under this Durable Power of Attorney to make decisions about the money and property belonging to the Principal and to spend it on that person's behalf. This Durable Power of Attorney is only valid if the Principal is of sound mind when the Principal signs it. As the Agent, you are under a duty (called a "fiduciary duty") to observe the standards observed by a prudent person dealing with the property of another. The duty is explained more fully in the Maine Revised Statutes, Title 18-A, sections 5-501 to 5-507 and 7-302 and in Maine case law. As the Agent, you are not entitled to use the money for your own benefit or to make gifts to yourself or others unless the Durable Power of Attorney specifically gives you the authority to do so. As the Agent, your authority under this form will end when the Principal dies and you will not have the authority to administer the estate unless you are named in the

Principal's will. If you violate your fiduciary duty under this Durable Power of Attorney, you may be liable for damages and may be subject to criminal prosecution. If there is anything about this form or your duties under it that you do not understand, you should ask a lawyer to explain it to you."

(d) These requirements do not render ineffective a durable financial power of attorney validly executed prior to the effective date of this section.

Sec. 4. 22 MRSA §3477, sub-§1, as amended by PL 1995, c. 696, Pt. B, §3, is further amended to read:

1. Reasonable cause to suspect. When, while acting in a professional capacity, an allopathic or osteopathic physician, medical intern, medical examiner, physician's assistant, dentist, chiropractor, podiatrist, registered or licensed practical nurse, certified nursing assistant, ~~Christian Science practitioner~~, social worker, psychologist, pharmacist, physical therapist, speech therapist, occupational therapist, mental health professional, law enforcement official, coroner, emergency room personnel, ambulance attendant ~~or~~, emergency medical technician ~~or~~ unlicensed assistive personnel suspects that an adult has been abused, neglected or exploited, and has reasonable cause to suspect that the adult is incapacitated, then the professional shall immediately report or cause a report to be made to the department.

Whenever a person is required to report as a member of the staff of a medical, public or private institution, agency or facility, the staff person shall immediately make a report directly to the department.

See title page for effective date.

CHAPTER 454

H.P. 714 - L.D. 978

An Act to Improve the Efficiency of the Department of Agriculture, Food and Rural Resources

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

Sec. 1. 7 MRSA §714, sub-§1, as amended by PL 1993, c. 410, Pt. S, §3, is further amended to read:

1. Application for registration. A person may not distribute in this State a commercial feed, except a customer-formula feed, that has not been registered pursuant to this section. The application for registration must be submitted in the manner prescribed by

the commissioner on forms furnished by the commissioner, and accompanied by a an annual fee of \$40 per brand for pet food and \$30 per brand for all other commercial feed. Upon approval by the commissioner the registration must be issued to the applicant. All registrations expire on the 31st day of December ~~of each year~~. The commissioner may issue a registration for a one-year, 2-year or 3-year period. Registrations for a period in excess of one year may only be issued with the agreement of or at the request of the applicant. The fee for a 2-year registration is 2 times the annual fee. The fee for a 3-year registration is 3 times the annual fee.

Sec. 2. 7 MRSA §743, first ¶, as amended by PL 1989, c. 888, §2, is further amended to read:

Each brand and grade of commercial fertilizer ~~shall~~ must be registered before being offered for sale, sold or distributed in this State. The application for registration ~~shall~~ must be submitted to the commissioner on forms furnished by the commissioner and ~~shall~~ must be accompanied by a an annual fee of \$14 per plant food element guaranteed. All registrations expire on December 31st ~~of each year~~ or in a manner consistent with the provisions as to license expiration of the Maine Administrative Procedure Act, Title 5, section 10002, whichever is later. The commissioner may issue a registration for a one-year, 2-year or 3-year period. Registrations for a period in excess of one year may only be issued with the agreement of or at the request of the applicant. The fee for a 2-year registration is 2 times the annual fee. The fee for a 3-year registration is 3 times the annual fee. The commissioner may ~~suspend or cancel~~ registration for failure to comply with this subchapter or with ~~regulations~~ rules adopted pursuant ~~hereto~~ to this subchapter. This refusal, suspension or cancellation ~~shall be~~ is considered rule-making as that term is defined in the Maine Administrative Procedure Act, Title 5, chapter 375 and notice and opportunity for a hearing ~~shall~~ must be provided in a manner consistent with the Maine Administrative Procedure Act, Title 5, chapter 375. The application ~~shall~~ must include the following information:

Sec. 3. 7 MRSA §1044-A, sub-§2, as enacted by PL 1979, c. 672, Pt. A, §25, is amended to read:

2. Seed labeling license. No person, firm or corporation may label agricultural, vegetable and tree and shrub seeds, except seed potatoes, for planting purposes for distribution or sale in this State without having obtained a seed labeling license. The seed labeling licensee ~~shall be~~ is responsible for the accuracy of the seed contents of all packages, boxes and bags of seeds labeled by ~~him~~ the licensee. The fee for a seed labeling license is \$30 annually. A license may be issued for a one-year, 2-year or 3-year period.

Licenses for a period in excess of one year may only be issued with the agreement of or at the request of the applicant. The fee for a 2-year license is 2 times the annual fee. The fee for a 3-year license is 3 times the annual fee.

Sec. 4. 7 MRSA §2222, as enacted by PL 1993, c. 548, §1, is amended to read:

§2222. Permit and registration

A person who cultivates ginseng for sale must be licensed by the department and shall pay an annual fee of \$10. A person who buys ginseng for resale shall register annually with the department as a ginseng dealer and pay an annual fee of \$25. The commissioner may issue a license for a one-year, 2-year or 3-year period. Licenses for a period in excess of one year may only be issued with the agreement of or at the request of the applicant. The fee for a 2-year license is 2 times the annual fee. The fee for a 3-year license is 3 times the annual fee.

Sec. 5. 10 MRSA §2412, sub-§1, as enacted by PL 1991, c. 712, §3 and affected by §5, is amended to read:

1. Certificate of registration. The state sealer shall provide application forms and shall issue a certificate of registration upon receipt of a completed application accompanied by a an annual fee of \$8 per dispensing nozzle. A certificate of registration expires ~~annually~~ on December 31st. The state sealer may issue a registration for a one-year, 2-year or 3-year period. Registrations for a period in excess of one year may only be issued with the agreement of or at the request of the applicant. The fee for a 2-year registration is 2 times the annual fee. The fee for a 3-year registration is 3 times the annual fee.

Sec. 6. 10 MRSA §2501, as amended by PL 1989, c. 888, §5, is further amended to read:

§2501. Qualifications

Any person wishing to be a licensed public weighmaster shall make application to the state sealer upon forms provided by the state sealer, and each application ~~shall~~ must be accompanied by a an annual fee of \$25. Upon receipt of application and the state sealer's satisfaction that the applicant is of good moral character and has the ability to weigh accurately and to make correct weight certificates and passing such oral or written examination as the state sealer may determine and upon making oath to execute the requisite duties satisfactorily ~~shall~~ must be granted a license as a public weighmaster. Each license ~~shall expire~~ expires on December 31st ~~of each year~~ or in a manner consistent with the Maine Administrative Procedure Act, Title 5, chapter 375, whichever is later, unless sooner revoked or suspended under section

2506. Each licensed public weighmaster shall, at the public weighmaster's own expense, procure an impression seal. The public weighmaster's name and the word "Maine" shall must be inscribed around the outer margin of the seal and the words "licensed public weighmaster" shall must appear in the center thereof of the seal. The seal shall must be impressed upon each weight certificate issued by a licensed public weighmaster. A license may be issued for a one-year, 2-year or 3-year period. Licenses for a period in excess of one year may only be issued with the agreement of or at the request of the applicant. The fee for a 2-year license is 2 times the annual fee. The fee for a 3-year license is 3 times the annual fee.

Sec. 7. 10 MRSA §2651, as amended by PL 1989, c. 888, §6, is further amended to read:

§2651. Registration; certificates

Any person wishing to be registered as a dealer or repairman shall make application to the state sealer upon forms provided by the state sealer, furnishing such pertinent information as may be required and each application shall must be accompanied by a an annual fee of \$25. Upon approval, the state sealer shall issue to the applicant a registration certificate ~~which shall expire that expires~~ on December 31st, or in the manner provided in the Maine Administrative Procedure Act, Title 5, chapter 375, whichever is later, unless sooner suspended or revoked under section 2655. A registration may be issued for a one-year, 2-year or 3-year period. Registrations for a period in excess of one year may only be issued with the agreement of or at the request of the applicant. The fee for a 2-year registration is 2 times the annual fee. The fee for a 3-year registration is 3 times the annual fee.

Sec. 8. 22 MRSA §1471-D, sub-§6, as amended by PL 1983, c. 819, Pt. A, §46, is further amended to read:

6. Renewal. Certification of Licenses for commercial applicators, government pesticide supervisors, spotters, monitors, spray contracting firms and licenses of pesticide dealers shall be valid for one year from the date of issuance. Certification of and private applicators shall be are valid for such period as prescribed by the board by regulation rule. Application for renewal shall must be accompanied by such reasonable fee as the board may by regulation rule require. The board may, by regulation rule, require that such renewal application include reexamination or other procedures designed to assure a continuing level of competence to distribute, use or supervise the use of pesticides safely and properly.

If the board fails to renew a license upon application of the licensee or certificate holder, it shall afford the licensee or certificate holder an opportunity for a

hearing in conformity with Title 5, chapter 375, subchapter IV.

Sec. 9. 22 MRSA §1471-W, sub-§2, as enacted by 1989, c. 93, §2, is amended to read:

2. Issuance of license. The Board of Pesticides Control shall issue a license to distribute general use pesticides to any person upon payment of a fee of \$20 for a calendar year or any part of a calendar year. The Board of Pesticide Control may issue a license for a one-year, 2-year or 3-year period. Licenses for a period in excess of one year may only be issued with the agreement of or at the request of the applicant. The fee for a 2-year license is 2 times the annual fee. The fee for a 3-year license is 3 times the annual fee. Any person licensed to distribute restricted use pesticides shall ~~be is~~ considered licensed to distribute general use pesticides without any additional fee. All fees collected under this section shall ~~be are~~ deposited in the Board of Pesticides Control Special Fund.

Sec. 10. 22 MRSA §2168, sub-§§1 and 2, as enacted by PL 1989, c. 888, §7, are amended to read:

1. Application and renewal. Each application for, or renewal of, a license to operate a food establishment must be accompanied by a fee, based on the number of employees as follows:

- A. For 0 to 10 employees, \$10 annually;
- B. For 11 to 25 employees, \$30 annually; and
- C. For 26 or more employees, \$100 annually.

A license may be issued for a one-year, 2-year or 3-year period. Licenses for a period in excess of one year may only be issued with the agreement of or at the request of the applicant. The fee for a 2-year license is 2 times the annual fee. The fee for a 3-year license is 3 times the annual fee.

2. Food salvage. Each application for, or renewal of, a license to operate a food salvage establishment or to act as a salvage broker must be accompanied by a fee, not to exceed \$30 annually, determined by the commissioner. A license may be issued for a one-year, 2-year or 3-year period. Licenses for a period in excess of one year may only be issued with the agreement of or at the request of the applicant. The fee for a 2-year license is 2 times the annual fee. The fee for a 3-year license is 3 times the annual fee.

Sec. 11. 22 MRSA §2169, 2nd ¶, as enacted by PL 1979, c. 672, Pt. A, §56, is amended to read:

A full-year license shall be is issued for one year from date of issuance and the a one-year, 2-year or 3-year period. Licenses for a period in excess of one

year may only be issued with the agreement of or at the request of the applicant. The fee for a 2-year license is 2 times the annual fee. The fee for a 3-year license is 3 times the annual fee. The prescribed fee shall must accompany the application for license. Licenses may be renewed upon application therefor and payment of the annual fee fees, subject to the commissioner's rules and regulations. Licenses erroneously issued by the commissioner shall be are considered void and shall must be returned to the commissioner on demand.

Sec. 12. 32 MRSA §1901, first ¶, as repealed and replaced by PL 1991, c. 785, §4 and affected by §5, is amended to read:

A person, firm or corporation may not engage in or continue in the business of selling or dealing in nursery stock, as defined in Title 7, section 2211, without first obtaining a license to conduct such business in this State. The State Horticulturist shall prescribe the form of the license. Upon proper application, a license must be issued in the name of the nursery owner or dealer and that license may not be transferred. Each agent and each store acting under a general agent or store must have a license as provided in this section. A license expires annually on December 31st may be issued for a one-year, 2-year or 3-year period. Licenses for a period in excess of one year may only be issued with the agreement of or at the request of the applicant. The fee for a 2-year license is 2 times the annual fee. The fee for a 3-year license is 3 times the annual fee.

Sec. 13. Report on multi-year licensing.

No later than February 15, 2000, the Commissioner of Agriculture, Food and Rural Resources shall report to the joint standing committee of the Legislature having jurisdiction over agricultural matters on the issuance of multi-year licenses and registrations. The report must provide information specific to each license or registration authorized for multi-year issuance in this Act, including the number of licenses and registrations issued for one-year, 2-year and 3-year periods. The report must also offer an assessment of efficiencies realized or difficulties encountered in implementing the multi-year licenses and registrations.

See title page for effective date.

CHAPTER 455

S.P. 351 - L.D. 1170

**An Act to Amend Department of
Defense and Veterans' Affairs Laws**

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

Sec. 1. 2 MRSA §6, sub-§6, as amended by PL 1991, c. 626, §1, is further amended to read:

6. Range 85. The salaries of the following state officials and employees are within salary range 85:

Director of ~~Civil Emergency Preparedness~~ the Maine Emergency Management Agency;

Members, Maine Unemployment Insurance Commission; ~~and~~

Director of the Military Bureau; ~~and~~

Director of the Bureau of Maine Veterans' Services.

Sec. 2. 5 MRSA §285, sub-§1, ¶F-3, as enacted by PL 1993, c. 410, Pt. L, §10, is amended to read:

F-3. Any employee of the Maine State Retirement System; ~~and~~

Sec. 3. 5 MRSA §285, sub-§1, ¶F-4 is enacted to read:

F-4. Any member of the Maine National Guard performing state active service pursuant to Title 37-B, section 181-A, subsection 4 or 5; and

Sec. 4. 5 MRSA §952, sub-§1, ¶¶A and B, as amended by PL 1991, c. 626, §2, are further amended to read:

A. Director of the Military Bureau; ~~and~~

B. Director, Maine Emergency Management Agency; ~~and~~

Sec. 5. 5 MRSA §952, sub-§1, ¶D is enacted to read:

D. Director of the Bureau of Maine Veterans' Services.

Sec. 6. 10 MRSA §1026-C, sub-§3, ¶¶A and B, as amended by PL 1991, c. 626, §3, are further amended to read:

A. One or more individuals who are residents of the State and who have received from the ~~Division of Veterans' Services~~ Bureau of Maine Veterans' Services or any successor agency certifications that they are veterans; or

B. A business organization in which at least 51% of the controlling ownership is held by one or more individuals who are residents of the State and who have received from the ~~Division of Veterans' Services~~ Bureau of Maine Veterans' Services or any successor agency certifications that they are veterans.