

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND EIGHTEENTH LEGISLATURE

SECOND REGULAR SESSION
January 7, 1998 to March 31, 1998

SECOND SPECIAL SESSION
April 1, 1998 to April 9, 1998

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 30, 1998

SECOND SPECIAL SESSION
NON-EMERGENCY LAWS IS
JULY 9, 1998

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Company
Augusta, Maine
1997

6. Chapter 56-A. The superintendent shall ensure that the provisions of chapter 56-A and any rules adopted pursuant to that chapter are enforced consistent with this section.

7. Rules. The superintendent may adopt rules necessary to carry out the provisions of this section. Rules adopted pursuant to this section are major substantive rules as defined in Title 5, chapter 375, subchapter II-A.

8. Private action. This section may not be construed as abridging an insurer's duty to its insured or altering policy provisions. This section may not be construed to create or imply a private cause of action for violation of this section.

9. Applicability. This section does not apply to claims involving workers' compensation, medical malpractice, fidelity, suretyship or boiler and machinery insurance.

PART B

Sec. B-1. 24-A MRSA §12-A, sub-§1, as enacted by PL 1989, c. 269, §3, is repealed and the following enacted in its place:

1. Civil penalty. Civil penalties may be assessed against any person who:

A. Violates any provision of this Title, Title 24 or any other law enforced by the superintendent;

B. Violates any rule lawfully adopted by the superintendent; or

C. Violates any lawful order of the superintendent that has not been stayed by order of the superintendent or the Superior Court.

The Superior Court, upon an action brought by the Attorney General, may assess a civil penalty of not less than \$500 and not more than \$5,000 for each violation in the case of an individual and not less than \$2,000 and not more than \$15,000 for each violation in the case of a corporation or other entity other than an individual, unless the applicable law specifies a different civil penalty.

The superintendent, following an adjudicatory hearing, may assess a civil penalty of up to \$500 for each violation in the case of an individual and a civil penalty of up to \$2,000 for each violation in the case of a corporation or other entity other than an individual, unless the applicable law specifies a different civil penalty. The superintendent may assess a civil penalty only if the Attorney General elected not to pursue an action in Superior Court to seek civil penalties. The Attorney General shall notify the superintendent in writing whether or not the Attorney General elects to

pursue an action in Superior Court within 90 days after receiving a request from the superintendent for such an action.

See title page for effective date.

CHAPTER 635

S.P. 735 - L.D. 2013

An Act to Broaden the Farm Stand Exemption

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

Sec. 1. 23 MRSA §1903, sub-§§1-C and 10-B are enacted to read:

1-C. Agricultural product. "Agricultural product" means an item under paragraph A, B, C or D if the item is sold in accordance with any applicable state or federal law or rule:

A. Fresh fruit, fresh produce or a fresh horticultural or agronomic commodity and a seasonal product made from that fresh fruit, fresh produce or fresh horticultural or agronomic commodity;

B. Trees and wreaths used for decorative purposes;

C. Maple syrup; and

D. A fresh food product made from an animal raised for the purpose of providing food or from the products of that animal.

10-B. Producer. "Producer" means a person who produces, cultivates, grows or harvests an agricultural product.

Sec. 2. 23 MRSA §1913-A, sub-§2, ¶F, as enacted by PL 1991, c. 387, §2, is repealed.

Sec. 3. 23 MRSA §1913-A, sub-§2, ¶G is enacted to read:

G. Signs erected between May 1st and December 31st by a producer of agricultural products, as long as those signs advertise products that are grown, produced and sold on the producer's premise. A producer that grows, produces and sells an agricultural product from a location with frontage on a numbered state highway may not erect a sign under this paragraph adjacent to that highway. Signs must be directional in nature and may advertise only the agricultural product that is available for immediate purchase. The producer erecting the sign shall remove the sign once the agricultural product advertised on the

sign is no longer available. A sign may not exceed 8 square feet in size and must be located within 5 miles of where the product is sold. A sign may only be erected on private property after the producer erecting the sign has obtained the landowner's written consent. A sign must be a minimum of 33 feet from the center of a road. A producer may not erect more than 4 signs pursuant to this paragraph and the total number of signs erected by that producer under this paragraph and section 1911, subsection 2 may not exceed 6.

See title page for effective date.

CHAPTER 636

H.P. 1525 - L.D. 2147

An Act to Amend the Laws Relating to Archives and the Retention and Admissibility of Electronic Records

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

Sec. 1. 5 MRSA §92, as amended by PL 1995, c. 148, §2, is further amended to read:

§92. Declaration of policy

The Legislature declares that it is the policy of the State to make the operations of State Government and local government more efficient, more effective and more economical through ~~current~~ records management; and, to the end that the people may derive maximum benefit from a knowledge of state affairs, preserve its ~~noncurrent~~ records of permanent value for study and research.

Sec. 2. 5 MRSA §92-A, sub-§§1 and 2, as enacted by PL 1973, c. 625, §16, are amended to read:

1. Agency records. "Agency records" means ~~semicurrent~~ records of government agencies to which they retain legal title, but that have been transferred to the custody of the Maine State Archives to effect economies and efficiency in their storage and use pending their ultimate disposition as authorized by law.

2. Archives. "Archives" means ~~noncurrent~~ government records that have been determined by the State Archivist to have sufficient value to warrant their continued preservation and that are in the physical and legal custody of the Maine State Archives.

Sec. 3. 5 MRSA §92-A, sub-§5, as amended by PL 1995, c. 148, §4, is further amended to read:

5. Record. "Record" means ~~any written, printed or graphic matter or any mechanical or electronic data compilation from which information can be obtained, directly or after translation into a form susceptible of visual or aural comprehension, that is in the possession or custody of an agency or public official of the State and has been received or prepared for use in connection with the transaction of public or governmental business or contains information related to the transaction of public or governmental business~~ all documentary material, regardless of media or characteristics, made or received and maintained by an agency in accordance with law or rule or in the transaction of its official business. "Record" does not include extra copies of printed or processed material of which official or record copies have been retained, stocks of publications and processed documents intended for distribution or use or records relating to personal matters that may have been kept in an office for convenience.

Sec. 4. 5 MRSA §92-A, sub-§6 is enacted to read:

6. Electronic record. "Electronic record" means a record whose content is not readable unless retrieved by means of an electronic device such as a computer or an audio or video player.

Sec. 5. 5 MRSA §95, sub-§7, ¶¶A to D, as amended by PL 1995, c. 148, §7, are further amended to read:

A. Provide standards, procedures and techniques for effective management of state and local government records in the conduct of ~~current~~ business;

B. Recommend improvements in ~~current~~ records management practices, including the use of space, equipment and supplies employed in creating, maintaining, storing and servicing state and local government records;

C. Establish schedules, in consultation with the heads of state agencies and local government agencies, under which each agency shall retain records of continuing value, and dispose, as provided by this chapter, of records no longer possessing sufficient administrative, legal or fiscal value to warrant their further keeping for ~~current~~ business purposes; and

D. Obtain such reports from state or local government agencies as are required for the administration of the program;

Sec. 6. 5 MRSA §95, sub-§10, as amended by PL 1991, c. 837, Pt. A, §9, is further amended to read: