

# 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.**

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**J.S. McCarthy Company**  
**Augusta, Maine**  
**1997**

**SUBCHAPTER II**

**SECESSION PROCESS**

**Sec. 2. 30-A MRSA §2172**, as enacted by PL 1995, c. 377, §2, is further amended by repealing and replacing the headnote to read:

**§2172. Information to be submitted with legislation proposing secession**

**Sec. 3. 30-A MRSA §2172, first ¶**, as enacted by PL 1995, c. 377, §2, is amended to read:

A territory that seeks to have legislation submitted on its behalf proposing its secession from a municipality shall provide the Legislature with the following information, ~~if available~~, which the Legislature may use in making a determination on a proposal for secession:

**Sec. 4. 30-A MRSA §2172, sub-§1**, as enacted by PL 1995, c. 377, §2, is repealed and the following enacted in its place:

**1. Report on attempts to resolve differences.**

As required in section 2173, a report on attempts by the secession territory to resolve concerns that have caused the desire to secede from the municipality. If a neutral 3rd party was involved in the attempt to resolve concerns through alternative dispute resolution methods such as mediation, facilitation or arbitration, the territory must also submit a report from the neutral 3rd party;

**Sec. 5. 30-A MRSA §2173** is enacted to read:

**§2173. Local effort prior to seeking secession legislation**

Before requesting the introduction of secession legislation, secession proponents must request an opportunity to meet with the municipal officers of the municipality from which they seek to secede, to attempt to resolve concerns that have created the desire to secede. The request must be made in writing to the municipal officers, must specify the concerns the secession proponents wish to discuss and must request that the issue be placed on the agenda of a regular meeting of the municipal officers. If secession legislation is later introduced, the proponents of secession shall report to the Legislature the results of their request and the contents and result of any meeting held to attempt to resolve concerns.

See title page for effective date.

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**CHAPTER 700**

**S.P. 792 - L.D. 2119**

**An Act to Clarify the Responsibilities of the Advisory Commission on Radioactive Waste during the Decommissioning of Maine Yankee**

**Emergency preamble.** Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

**Whereas**, the decommissioning of the Maine Yankee Atomic Power Plant is already under way and therefore the Advisory Commission on Radioactive Waste should assume its new duties with respect to decommissioning as soon as possible; and

**Whereas**, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

**Sec. 1. 5 MRSA §12004-J, sub-§2-A**, as enacted by PL 1993, c. 664, §4, is amended to read:

<b>2-A.</b>	Advisory Commission on Radioactive Waste <u>and</u> <u>Decommissioning</u>	Legislative Per Diem	38 MRSA §1453-A
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**Sec. 2. 38 MRSA §1453-A**, as amended by PL 1995, c. 642, §§13 and 14, is further amended by repealing and replacing the headnote to read:

**§1453-A. Advisory Commission on Radioactive Waste and Decommissioning**

**Sec. 3. 38 MRSA §1453-A, sub-§1**, as enacted by PL 1993, c. 664, §15 and affected by §21, is amended to read:

**1. Establishment; purpose.** The Advisory Commission on Radioactive Waste and Decommissioning, referred to in this section as the "commission," is established. The commission shall advise the Governor, the Legislature and other pertinent state agencies and entities on matters relating to radioactive waste management and decommissioning of nuclear power plants and provide information to the public and create opportunities for public input in

order to facilitate public understanding of radioactive waste and decommissioning issues.

**Sec. 4. 38 MRSA §1453-A, sub-§2**, as amended by PL 1995, c. 642, §§13 and 14, is further amended to read:

**2. Membership; appointment.** The commission consists of ~~15~~ 17 members, appointed as follows:

A. The commissioner or the commissioner's designee;

B. The Commissioner of Human Services or the commissioner's designee;

C. The State Geologist or a designee;

D. One person from a commercial nuclear power facility situated in the State, appointed by the Governor;

E. Two persons from organizations that hold licenses issued by the State for the use of radioactive material, one appointed by the President of the Senate and one appointed by the Speaker of the House of Representatives;

F. Three Senators, appointed by the President of the Senate, ~~2~~ at least one belonging to the political party holding the largest number of seats in the Senate and at least one belonging to the political party holding the 2nd largest number of seats in the Senate. One of the Senators appointed must serve on the joint standing committee of the Legislature having jurisdiction over natural resources matters and one Senator must serve on the joint standing committee of the Legislature having jurisdiction over utility and energy matters;

G. Three members of the House of Representatives, appointed by the Speaker of the House of Representatives, ~~2~~ at least one belonging to the political party holding the largest number of seats in the House of Representatives and at least one belonging to the political party holding the 2nd largest number of seats in the House of Representatives. One member of the House of Representatives appointed must serve on the joint standing committee of the Legislature having jurisdiction over natural resources matters and one member of the House of Representatives must serve on the joint standing committee of the Legislature having jurisdiction over utility and energy matters; and

H. Four members of the general public with a knowledge of and interest in the management of radioactive materials and radioactive waste, 2 of whom are appointed by the Governor, one of

whom is appointed by the President of the Senate and one of whom is appointed by the Speaker of the House of Representatives. Of these 4 members, one must be a resident of the local community in which the nuclear power plant is located and one must represent a local advisory group on nuclear power plants; and

I. One member representing an environmental advocacy organization, appointed by the Speaker of the House of Representatives.

The terms of the legislative members expire the first Wednesday in December of even-numbered years. The terms of the public member appointed by the President of the Senate, one public member appointed by the Governor and the licensee member appointed by the Speaker of the House of Representatives expire December 31, 1997 and every 2 years thereafter. The terms of the public member appointed by the Speaker of the House of Representatives, the licensee member appointed by the President of the Senate and one public member appointed by the Governor expire December 31, 1996 and every 2 years thereafter. The term of the member representing an environmental advocacy organization expires December 31, 2000 and every 2 years thereafter. Notwithstanding this subsection, any public member or licensee member may be removed by the appointing authority at the pleasure of the appointing authority and a new member may be appointed to complete the term of the preceding appointee. Members may continue to serve until their replacements are designated. Vacancies must be filled by the appointing authority to complete the term of the preceding appointee. The commission shall elect the chair and vice-chair from its membership by majority vote of all members present.

**Sec. 5. 38 MRSA §1453-A, sub-§3, ¶A**, as enacted by PL 1993, c. 664, §15 and affected by §21, is amended to read:

A. Provide opportunities for public input and disseminate information to the general public and promote public understanding concerning the management of radioactive waste and the decommissioning of nuclear power plants;

**Sec. 6. 38 MRSA §1453-A, sub-§3, ¶¶B-1 and B-2** are enacted to read:

B-1. Study issues relating to the decommissioning of nuclear power plants, including, but not limited to, environmental issues;

B-2. Monitor the decommissioning of nuclear power plants;

**Sec. 7. 38 MRSA §1453-A, sub-§4**, as enacted by PL 1993, c. 664, §15 and affected by §21, is amended to read:

**4. Meetings and reports.** The commission shall meet at least 4 times a year. The commission shall submit an annual report of activities to the Governor, the President of the Senate, the Speaker of the House of Representatives ~~and~~, the joint standing committee of the Legislature having jurisdiction over ~~energy and~~ natural resource matters and the joint standing committee of the Legislature having jurisdiction over utility and energy matters by February 15th of each year.

**Sec. 8. 38 MRSA §1453-A, sub-§6,** as amended by PL 1995, c. 333, §4, is further amended to read:

**6. Staff assistance.** The Department of Human Services and the department shall provide assistance to the commission in the conduct of its business. The State Nuclear Safety Advisor and the Public Advocate shall provide consultation as requested.

**Sec. 9. Allocation and position authorization.** Notwithstanding the Maine Revised Statutes, Title 5, section 1585 or any other provision of law, the Commissioner of Environmental Protection may provide support to the Advisory Commission on Radioactive Waste and Decommissioning by contracted services or by the establishment of one part-time position by financial order and the line category transfer of funds. A position established by financial order terminates on the date of the final operating license termination of the Maine Yankee Atomic Power Plant by the Nuclear Regulatory Commission unless extended through legislative approval.

**Sec. 10. Payment by Maine Yankee Atomic Power Plant.** The Maine Yankee Atomic Power Plant shall pay \$25,000 by July 1st of each year to the Department of Environmental Protection to support legislative allocations to the department associated with the Advisory Commission on Radioactive Waste and Decommissioning. Payments required under this section cease on the date of the final operating license termination of the Maine Yankee Atomic Power Plant by the Nuclear Regulatory Commission. Any unobligated balance remaining must be returned to the Maine Yankee Atomic Power Plant.

**Sec. 11. Allocation.** The following funds are allocated from Other Special Revenue to carry out the purposes of this Act.

**1998-99**

**ENVIRONMENTAL  
PROTECTION,  
DEPARTMENT OF**

**Maine Environmental  
Protection Fund**

All Other \$25,000

Provides funds for staff support to the Advisory Commission on Radioactive Waste and Decommissioning.

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

Effective April 3, 1998.

**CHAPTER 701**

**S.P. 761 - L.D. 2068**

**An Act to Permit Off-label Use of  
Prescription Drugs for Cancer, HIV  
or AIDS**

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

**Sec. 1. 24 MRSA §§2320-F and 2320-G** are enacted to read:

**§2320-F. Off-label use of prescription drugs for  
cancer**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Medically accepted indication" includes any use of a drug that has been approved by the federal Food and Drug Administration and includes another use of the drug if that use is supported by one or more citations in the standard reference compendia or if the nonprofit hospital and medical service organization involved, based upon guidance provided by the federal Department of Health and Human Services Medicare program pursuant to 42 United States Code, Section 1395x(t), determines that that use is medically accepted based on supportive clinical evidence in peer-reviewed medical literature.

B. "Off-label use" means the prescription and use of drugs for medically accepted indications other than those stated in the labeling approved by the federal Food and Drug Administration.

C. "Peer-reviewed medical literature" means scientific studies published in at least 2 articles from major peer-reviewed medical journals that