

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**

**ONE HUNDRED AND NINETEENTH LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 2, 1998 to June 19, 1999**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 18, 1999**

**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**  
**1999**

filed under this section within 9 months of the date of the filing. The commission may dismiss without hearing any complaint that it concludes is clearly intended to harass or delay, is frivolous or is clearly without merit.

A complaint filed under this section must specify, to the extent possible, the nature and extent of the alleged undue competitive advantage and the basis for the belief that a an undue competitive advantage exists. The utility shall respond to the complaint within 10 days of receiving notice from the commission of the complaint. Within 10 days of receiving the utility's response, the commission shall determine whether the complaint is clearly intended to harass or delay, is frivolous or is clearly without merit.

For the purposes of this section, the term "affiliated interest" has the same meaning as in section 707, subsection 1, paragraph A. For the purposes of this section, "undue competitive advantage" means an advantage gained by a violation of the requirements established by the commission by rule pursuant to section 715.

**Sec. 2. 35-A MRSA §715**, as enacted by PL 1997, c. 237, §2, is amended to read:

#### **§715. Rulemaking**

The commission shall adopt rules that prescribe the allocation of costs for facilities, services or intangibles that are shared between regulated and unregulated activities of a utility or an affiliated interest as defined in section 707, subsection 1, paragraph A. Rules adopted by the commission may not establish a presumption with regard to the value of good will used by an affiliated interest in those cases where the business venture of the affiliated interest is regulated by the commission. Rules adopted pursuant to this section are major substantive rules as defined in Title 5, chapter 375, subchapter II-A.

**Sec. 3. Major substantive rule revision.** The Public Utilities Commission shall amend its major substantive rule, Chapter 820: Requirements for Non-core Utility Activities and Transactions Between Affiliates, to conform to that section of this Act that amends the Maine Revised Statutes, Title 35-A, section 715. The Public Utilities Commission is not required to hold hearings or conduct other formal proceedings prior to amending its rule to conform to that section of this Act that amends Title 35-A, section 715. Notwithstanding Title 5, chapter 375, subchapter II-A, amending the rule to conform to that section of this Act that amends Title 35-A, section 715 does not require further legislative approval.

See title page for effective date.

## **CHAPTER 159**

**S.P. 127 - L.D. 324**

### **An Act to Allow Assistants to Physicians to Perform Certain Tasks outside the Direct Supervision of the Physicians**

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

**Sec. 1. 32 MRSA §3270-A, first ¶**, as amended by PL 1993, c. 600, Pt. A, §205, is further amended to read:

~~Nothing contained in this~~ This chapter may not be construed to prohibit an individual from rendering medical services; if these services are rendered under the supervision and control of a physician or surgeon; and if that individual has satisfactorily completed a training program approved by the Board of Licensure in Medicine and a competency examination determined by this board. Supervision and control may not be construed as requiring the personal presence of the supervising and controlling physician at the place where these services are rendered, unless a physical presence is necessary to provide patient care of the same quality as provided by the physician. ~~Nothing in this~~ This chapter may not be construed as prohibiting a physician or surgeon from delegating to the physician's or surgeon's employees certain activities relating to medical care and treatment carried out by custom and usage when the activities are under the ~~direct~~ control of ~~and in the personal presence of~~ the physician or surgeon who must be present on the premises at the time the activities are performed. The physician delegating these activities to employees, to program graduates or to participants in an approved training program is legally liable for the activities of those individuals, and any individual in this relationship is considered the physician's agent. ~~Nothing contained in this~~ This section may not be construed to apply to registered nurses acting pursuant to chapter 31.

See title page for effective date.

## **CHAPTER 160**

**H.P. 258 - L.D. 362**

### **An Act to Require Written Explanation from the Department of Transportation When a Municipal Request to Change a Speed Limit is Denied**

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

**Sec. 1. 29-A MRSA §2073, sub-§2**, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

**2. Municipal request.** If a municipal request to the Department of Transportation to change a speed limit is denied, the department shall inform the municipality in writing of the reasons for that denial and shall offer to meet with the municipal officials in that municipality to review those reasons. The municipality may request the department to hold a public hearing within the municipality to provide the department with the views of the public on the requested speed limit change. The department shall:

- A. Hold the hearing within 30 days of the request; and
- B. Inform the municipality of a final decision on the requested speed limit change within 30 days after the hearing.

See title page for effective date.

**CHAPTER 161**

**S.P. 460 - L.D. 1335**

**An Act to Simplify the Collection of Fees for the Maine Dairy Promotion Board and Maine Dairy Nutrition Council**

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

**Whereas**, the collection and distribution of dairy promotion funds are critical to the success of the dairy industry; and

**Whereas**, the existing statutory method of collection results in significant delays and inefficiencies in the distribution of money for dairy promotion; and

**Whereas**, the structure of the dairy industry in Maine makes the current collection and distribution system obsolete; 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. 7 MRSA §2956, 3rd ¶ from the end**, as amended by PL 1995, c. 693, §5 and affected by §25, is further amended to read:

Each licensed dealer shall pay to the commission an annual license fee of \$1 and the sum of ~~6 1/2¢~~ 5¢ per hundredweight as monthly payments, based on quantity of milk purchased or produced in any market area, or purchased or produced in an uncontrolled area and sold in any market area. Two and one-half cents per hundredweight may be deducted by dealers from amounts paid by them to producers of such milk, except that the milk farm-processed into cream for the manufacture of butter is not subject to such sums of ~~6 1/2¢~~ 5¢ per hundredweight. ~~Of the amount paid by each dealer, 1 1/2¢ per hundredweight must be paid by the commission to the Maine Dairy and Nutrition Council for the purposes authorized by section 2999. The commission shall make payments to the Maine Dairy and Nutrition Council on a monthly basis.~~

**Sec. 2. 7 MRSA §2993-A** is enacted to read:

**§2993-A. Collection of fees**

A dealer as defined in section 2991 shall withhold from each Maine milk producer a fee of 10¢ per hundredweight on all milk produced and shall forward that payment to the board no later than the last day of the month following the month in which the milk was produced.

All producer dealers shall pay to the board a fee of 10¢ per hundredweight on all milk produced by the producer dealer no later than the last day of the month following the month in which the milk was produced.

**Sec. 3. 7 MRSA §2999-A** is enacted to read:

**§2999-A. Collection of fees**

A dealer as defined in section 2997 shall pay a fee of 1 1/2¢ per hundredweight based on quantity of milk purchased from Maine producers or purchased from producers outside of the State and sold within the State and shall forward that payment to the council no later than the last day of the month following the month in which the milk was purchased.

All producer dealers shall pay to the council a fee of 1 1/2¢ per hundredweight on all milk sold by the producer dealer no later than the last day of the month following the month in which the milk was produced.

**Sec. 4. 7 MRSA §3152-A, sub-§2**, as enacted by PL 1985, c. 646, §3, is repealed.

**Sec. 5. 7 MRSA 3153, sub-§1**, as corrected by RR 1997, c. 2, §32, is amended to read: