

# 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**

landlord or to the court, continues in effect through any appeal of the District Court's decision. The landlord may apply for turnover of rent money held by the court prior to final judgment by the District Court or prior to final decision on appeal by the Superior Court, upon a showing of hardship and reasonable likelihood of success on the merits. Failure of the tenant to pay rent to the court when due causes the writ of possession to issue immediately.

**3. Right of possession on bond for damages.**

When judgment is rendered for the plaintiff, a writ of possession may issue immediately in the District Court or from the Superior Court during appeal, if the plaintiff provides the defendant with a surety bond conditioned to pay all such damages and costs as may be suffered by the defendant if final judgment is rendered for the defendant. In setting the amount of the required surety bond, the court may consider any offsetting claims between the parties.

**4. Arbitration.** A commercial landlord and tenant may agree in their lease or in a separate agreement to arbitration of disputes as to termination, the right of possession arising under the lease between landlord and tenant and amounts owed for rent before an arbitrator or arbitrators chosen in advance pursuant to the lease or other written agreement. The decision of the arbitrator is final. If the arbitrator rules in favor of the landlord, the landlord may, by presentation of an attested copy of the arbitrator's decision, and after docketing of the arbitrator's decision by the Superior Court, immediately obtain a writ of possession from the clerk of the Superior Court. The arbitrator's decision may be stayed or appealed from only upon such grounds as generally lie for stay or appeal of an arbitration decision pursuant to the Uniform Arbitration Act, Title 14, section 5949.

**5. Jury trial.** A commercial landlord and tenant may agree in the commercial lease or in a separate agreement to waive jury trial of disputes arising under the lease.

**6. Jurisdiction.** The District Court has jurisdiction to hear, decide and award rent and arrears allegedly owing, regardless of the amount.

See title page for effective date.

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**CHAPTER 193**

**S.P. 243 - L.D. 665**

**An Act to Protect the Environment  
by Phasing Out the Use of Old  
Transformers that are Potential  
Sources of PCB Pollution**

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

**Sec. 1. 38 MRSA §419-B** is enacted to read:

**§419-B. Goals for dates of removal of transformers containing polychlorinated biphenyls**

The State's goals for the dates of removal of transformers owned by public utilities that contain polychlorinated biphenyls in concentrations at or above 50 parts per million are as follows. For the purposes of this section, removal of a transformer that contains polychlorinated biphenyls may be accomplished through the retrofilling of the transformer with oil that contains polychlorinated biphenyls in concentrations below 50 parts per million.

**1. Transformers near surface waters.** The goal for the date of removal of pole-mounted or pad-mounted transformers owned by public utilities that contain polychlorinated biphenyls in concentrations at or above 50 parts per million and that are located within 100 feet of any surface water or an elementary school or secondary school as defined in Title 20-A, section 1 is October 1, 2005.

For the purposes of this subsection, "surface water" means a wetland mapped by the United States Fish and Wildlife Service under the National Wetlands Inventory project; a great pond as defined in section 480-B; or a river, stream or brook as defined in section 480-B.

**2. Remaining transformers.** Subject to a utility's existing commercial storage facility license for polychlorinated biphenyls issued by the department, the goal for the date of removal of all pole-mounted or pad-mounted transformers, other than those described in subsection 1, owned by public utilities that contain polychlorinated biphenyls in concentrations at or above 50 parts per million is October 1, 2011.

**3. Uninterruptible service.** The dates in this section may be extended to allow for adequate planning for the removal of transformers that provide electrical service to institutions for which service may not be interrupted without extensive planning, including, but not limited to, hospitals and schools.

**4. Exception.** This section does not apply to transformers located in substations.

**5. Voluntary goals.** A public utility is not required to meet the goals in this section.

**Sec. 2. Progress report.** A public utility that owns a transformer that contains polychlorinated biphenyls in concentrations at or above 50 parts per million shall submit a report by January 15, 2001 to

the joint standing committee of the Legislature having jurisdiction over natural resources matters on:

1. The public utility's progress toward removing those transformers that contain polychlorinated biphenyls in concentrations at or above 50 parts per million and that are located within 100 feet of any surface water or school; and
2. A plan for the removal of those transformers that contain polychlorinated biphenyls in concentrations at or above 50 parts per million and that are located in underground vaults.

**Sec. 3. Report; sources of polychlorinated biphenyls in environment.** The Department of Environmental Protection shall work within its budgeted resources to gather information on sources of polychlorinated biphenyls that may be released into the environment. In gathering the information, the department shall consult with the United States Environmental Protection Agency. The department shall submit a report by January 15, 2001 to the joint standing committee of the Legislature having jurisdiction over natural resources matters with its findings and recommendations related to polychlorinated biphenyls in the environment.

See title page for effective date.

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**CHAPTER 194**

**H.P. 529 - L.D. 736**

**An Act to Further Discourage the Field Theft of Wild Blueberries**

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

**Sec. 1. 36 MRSA §4315, sub-§1,** as amended by PL 1997, c. 511, §23, is further amended to read:

**1. Transportation of wild blueberries without permit.** It is unlawful for a person to transport wild blueberries in quantities exceeding 25 pounds without first obtaining a transportation permit on an official form to be furnished by the Wild Blueberry Commission of Maine. The Wild Blueberry Commission of Maine shall issue upon request official transportation permit forms to ~~owners who~~ shippers and processors certified under section 4305. Shippers and processors may issue the transportation permits to ~~individuals~~ owners or owner's transportation agents with written authorization from owners. Each permit issued must bear a different number and expire at the end of the calendar year. When ~~an owner~~ a shipper or processor issues a transportation permit, the ~~owner~~ shipper or processor shall immediately send a copy to the Wild

Blueberry Commission of Maine. The commission shall keep a permanent record of all permits issued. The commission ~~may adopt rules establishing~~ shall establish the form and content of transportation permits ~~and governing the means of their issuance and establishing~~ establish the record-keeping ~~functions~~ requirements of the commission ~~and the owners, shippers and processors.~~ Notwithstanding any provision of Title 1, chapter 13, subchapter I to the contrary, records pertaining to transportation permits required to be kept by the Wild Blueberry Commission of Maine under this section are confidential to the extent necessary to preserve the identity of parties to individual business transactions. The confidential status does not apply when records kept by the Wild Blueberry Commission of Maine are needed as evidence in any proceeding to enforce any provision of section 4314 or this section, or in any prosecution for a violation of any other criminal law. This subsection does not apply to wild blueberries that have been received by a certified shipper or processor and have been weighed, logged into a permanent record-keeping system and reloaded onto a vehicle for shipping under a bill of lading.

See title page for effective date.

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**CHAPTER 195**

**H.P. 1267 - L.D. 1821**

**An Act to Expressly Treat Involuntary Conduct as a Defense in the Maine Criminal Code**

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

**Sec. 1. 17-A MRSA §31,** as enacted by PL 1981, c. 324, §14, is repealed.

**Sec. 2. 17-A MRSA §103-B** is enacted to read:

**§103-B. Involuntary conduct**

**1. It is a defense that, when a person causes a result or engages in forbidden conduct, the person's act or omission to act is involuntary.**

**2. An omission to act is involuntary if the person fails to perform an act and:**

**A. The person is not capable of performing the act;**

**B. The person has no legal duty to perform the act; or**