

# 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**

B. Has been sexually assaulted within this State in violation of Title 17-A, chapter 11 without regard to whether bodily injury or the threat of bodily injury occurred;

C. Would otherwise be eligible for compensation, even though:

(1) The criminal conduct occurred in this State but within the exclusive jurisdiction of the United States;

(2) The ~~bodily~~ personal injury resulted from conduct that violates a criminal law of the United States; or

(3) The crime occurred in another state, but only if the person is a resident of this State and the other state does not have a victim compensation program for which residents of this State are eligible, and the person would have been eligible under this chapter if the conduct had occurred in this State; or

D. Is a resident of this State and suffers ~~bodily~~ personal injury as a direct result of a crime specified in section 3360, subsection 3, paragraph F committed outside of the United States.

**Sec. 5. 5 MRSA §3360-D, sub-§1, ¶A**, as enacted by PL 1991, c. 806, §3, is amended to read:

A. Claims must be in writing ~~and under oath~~.

**Sec. 6. 5 MRSA §3360-D, sub-§2**, as enacted by PL 1991, c. 806, §3, is amended to read:

**2. Release of records.** ~~If required by the board, the claimant shall execute a release of medical and employment records and information enabling the board to obtain the records and information directly. A signed application for benefits under this chapter is effective under state law to authorize the release of health care, mental health, employment and wage information pertinent to the claim.~~ Additionally, the claimant shall provide the board with other information or the release of such other information as the board determines is reasonably necessary to decide the claim.

**Sec. 7. 5 MRSA §3360-E, first ¶**, as amended by PL 1997, c. 378, §9, is further amended to read:

The board may award compensation to a claimant of up to \$7,500 for actual and unreimbursed losses and eligible expenses of any person who is sexually assaulted or who suffers ~~bodily~~ personal injury or death as the result of a crime specified in section 3360, subsection 3.

**Sec. 8. 5 MRSA §3360-F, sub-§3**, as enacted by PL 1991, c. 806, §3, is amended to read:

**3. Determination of award.** The board shall determine by a preponderance of the evidence whether a specified crime occurred, whether the ~~bodily~~ personal injury or death was the result of that criminal conduct, the amount of eligible expenses and losses suffered by the claimant, whether to award compensation and the amount of the compensation. In determining the amount of compensation to be paid, the board shall consider the amount available to pay victim compensation claims, the history of claims paid by the board, the number and amount of currently pending claims and the nature and cost of expenses submitted by the claimant.

**Sec. 9. Application.** Notwithstanding the Maine Revised Statutes, Title 1, section 302, this Act applies to all requests for compensation pending before the Victims' Compensation Board on the effective date of this Act.

**Sec. 10. Allocation.** The following funds are allocated from Other Special Revenue Funds to carry out the purposes of this Act.

|  | 1999-00  | 2000-01  |
|--|----------|----------|
| <b>ATTORNEY GENERAL,<br/>DEPARTMENT OF THE<br/>Victims' Compensation Fund</b>  |          |          |
| Positions - Legislative Count  | (1,000)  | (1,000)  |
| Personal Services  | \$23,870 | \$35,875 |
| All Other  | 5,504    | 3,149    |
| Provides funds for one Research Assistant position to handle the increased volume of cases from the expansion of the eligibility criteria. |          |          |
| <b>DEPARTMENT OF THE<br/>ATTORNEY GENERAL<br/>TOTAL</b>  | \$29,374 | \$39,024 |

See title page for effective date.

**CHAPTER 361**

**H.P. 299 - L.D. 407**

**An Act to Reconcile Minor Technical Differences between Forest Practices Laws and Rules**

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

**Sec. 1. 12 MRSA §8868, sub-§1**, as amended by PL 1997, c. 720, §3, is repealed and the following enacted in its place:

**1. Clear-cut.** "Clear-cut" means any timber harvesting on a forested site greater than 5 acres in size that results in a residual basal area of trees over 4 1/2 inches in diameter measured at 4 1/2 feet above the ground of less than 30 square feet per acre, unless, after harvesting, the site has a well-distributed stand of acceptable growing stock, as defined by rule, of at least 3 feet in height for softwood trees and 5 feet in height for hardwood trees that meets the regeneration standards defined under section 8869, subsection 1.

**Sec. 2. 12 MRSA §8869, sub-§2-A**, as enacted by PL 1997, c. 720, §7, is amended to read:

**2-A. Separation zones.** ~~For a parcel of land 100 acres or less, a Δ clear-cut must be separated from any other clear-cut by at least 250 feet except where a property line is closer than 250 feet from the edge of the clear-cut. Unless an exemption is provided in rules adopted pursuant to section 8867-A, a separation zone must be equal to or greater than the area clear-cut.~~

~~For a parcel of land over 100 acres, a clear cut must be separated from any other clear cut by a defined area equal to at least the area contained within the perimeter of the clear cut. For a parcel of land over 100 acres, each defined separation zone must be identified with a specific clear cut and be a minimum of 250 feet in width and may not be designated to meet the separation zone requirements for any other clear cut.~~

~~The Commissioner of Conservation may establish, by rule, more stringent separation zone standards for clear cuts greater than 35 acres.~~

**Sec. 3. 12 MRSA §8869, sub-§3**, as amended by PL 1997, c. 720, §8, is further amended to read:

**3. Forest management plans for clear-cuts over 20 acres.** For a clear-cut of ~~35~~ 20 acres or more, the landowner, or agent of the landowner, shall develop, prior to harvest, a forest management plan for that clear-cut signed by a professional forester that conforms to the standards set forth in subsections 1 and 2. The plan must state the purpose of the clear-cut. This plan must be kept on file by the landowner or agent of the landowner and be available for inspection by the bureau until adequate regeneration in accordance with the standards set forth in subsection 1 is established.

**Sec. 4. 12 MRSA §8883, first ¶**, as amended by PL 1997, c. 648, §4, is further amended to read:

~~Prior~~ Unless exempted under subsection 5 or by rule, prior to commencing harvesting operations, the landowner or designated agent shall notify the bureau of the harvest operation. When the harvest is occurring within a municipality, the bureau shall send a copy of the notification form to the municipal clerk.

**Sec. 5. 12 MRSA §8883, sub-§1**, as amended by PL 1997, c. 648, §5, is further amended to read:

**1. Notification prior to harvest.** ~~Notification~~ Unless an alternate form or method of reporting is provided in rule, notification must be on forms supplied by the bureau and must include the following information:

A. The name, address and phone number of the landowner, any designated agent, and, if known, any harvester or harvesters;

B. The name and address of any licensed professional forester consulting the landowner on forest management or harvesting practices;

C. The municipality or township and county of harvest;

D. The name of the nearest public or private all-weather road;

E. The approximate dates the harvest will begin and finish;

F. The anticipated acreage to be harvested;

G. Whether the land is being harvested to convert to another use within 2 years and, if so, what that use is to be;

H. ~~The signatures of the landowner or designated agent and the signature~~ of the harvester when listed on the form in accordance with paragraph A and the licensed professional forester when listed on the form in accordance with paragraph B;

H-1. The signature of the landowner and the signature of the designated agent when a designated agent is listed in accordance with paragraph A. If the designated agent is a licensed professional forester who has a fiduciary responsibility to the landowner, the signature of the landowner is not required;

I. A map locating the harvest site in relation to known or easily identifiable terrain features, such as a road junction or a stream and road junction. The map must be a copy of a 7.5 or 15 minute series topographical map produced by the United States Geological Survey or a map of equivalent or superior detail in the location of roads; and

J. The date of notification.

~~When a landowner has a designated agent, the designated agent must submit with the notification form a notarized statement of agreement signed by the landowner and the designated agent or a durable power of attorney.~~

**Sec. 6. 12 MRSA §8883, sub-§3**, as amended by PL 1997, c. 648, §6, is further amended to read:

**3. Notification form on file; posted.** The landowner or designated agent shall retain a copy of the notification form and produce it upon request of agents as specified in section 8888. The landowner or designated agent shall post a copy of the notification form number at the harvest site in a clearly visible location.

**Sec. 7. 12 MRSA §8883, sub-§5**, as enacted by PL 1989, c. 555, §12 and affected by c. 600, Pt. B, §11, is amended to read:

**5. Notification exemption.** The following activities are exempt from the notification requirement under this section:

A. Activities where forest products are harvested for an owner's own use and are not sold or offered for sale or used in the owner's primary wood-using plants; ~~and~~

B. Precommercial silvicultural forestry activities; ~~and~~

C. Harvesting within a 12-month period when the total area harvested on land owned by that landowner does not exceed:

(1) Two acres if the residual basal area of acceptable growing stock over 4 1/2 inches in diameter measured at 4 1/2 feet above the ground is less than 30 square feet basal area per acre; or

(2) Five acres if the residual basal area of acceptable growing stock over 4 1/2 inches in diameter measured at 4 1/2 feet above the ground is more than 30 square feet basal area per acre.

See title page for effective date.

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## CHAPTER 362

S.P. 667 - L.D. 1889

### An Act to Amend the Maine Milk Laws

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

**Sec. 1. 7 MRSA c. 601** is amended by repealing the chapter headnote and enacting the following in its place:

#### CHAPTER 601

#### MILK AND MILK PRODUCTS

**Sec. 2. 7 MRSA §2901, first ¶**, as amended by PL 1979, c. 541, Pt. A, §72, is further amended to read:

As used in this section; ~~and~~ sections 2901-A to 2904 ~~and 3101 to 3103~~, unless the context otherwise indicates, the following terms ~~shall~~ have the following meanings.

**Sec. 3. 7 MRSA §2901, sub-§1-A**, as enacted by PL 1971, c. 164, §1, is amended to read:

**1-A. Adulterated and misbranded milk and milk products.** "Adulterated milk and milk products" means milk or milk products ~~which that~~ upon analysis are found to contain added water or ~~which contain~~ any unwholesome substance; or milk or milk products ~~which that~~ contain any antibiotics, pesticide or chemical residues; or ~~which that~~ if defined in ~~sections 2901 to 2904 and 3101 to 3103~~ this section or defined in the ~~regulations promulgated~~ rules adopted by the commissioner do not conform to the definition thereof; ~~shall be deemed to be adulterated.~~ Milk or milk products ~~shall be deemed~~ are considered to be misbranded if the labeling is false, improper or misleading in any particular; or the labeling does not comply with the ~~requirements promulgated~~ rules adopted by the commissioner.

**Sec. 4. 7 MRSA §2901, sub-§17** is repealed and the following enacted in its place:

**17. Milk.** "Milk" means the lacteal secretion, practically free from colostrum, obtained by the complete milking of one or more healthy cows, goats or sheep.

**Sec. 5. 7 MRSA §2901, sub-§22**, as amended by PL 1981, c. 315, §5, is repealed and the following enacted in its place:

**22. Milk products.** "Milk products" includes cream, light cream, light whipping cream, heavy cream, heavy whipping cream, whipped cream, whipped light cream, sour cream, acidified sour cream, cultured sour cream, milk, butter, evaporated milk, sweetened condensed milk, nonfat dry milk solids, half and half, sour half and half, acidified sour half and half, cultured sour half and half, concentrated milk and milk products, skim milk, reconstituted or