

# 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**

**§2910. Standards for milk and milk products**

The commissioner, in a manner consistent with the Maine Administrative Procedure Act, shall establish standards by rule for the inspection and examination, licensing, permitting, testing, labeling and sanitation of milk and milk product production and distribution.

The standards must be consistent with the requirements of the official standards, known as the Pasteurized Milk Ordinance, as issued by the Secretary of the United States Department of Health and Human Services, Food and Drug Administration, except that the standards may not prohibit the sale of unpasteurized milk and milk products in the State.

Rules adopted pursuant to this section are major substantive rules as defined in Title 5, chapter 375, subchapter II-A.

**Sec. 16. 7 MRSA cc. 607 and 609,** as amended, are repealed.

**Sec. 17. 10 MRSA c. 503,** as amended, is repealed.

**Sec. 18. Report; legislation authorized.** The Department of Agriculture, Food and Rural Resources shall submit rules provisionally adopted in accordance with the Maine Revised Statutes, Title 7, section 2910 to the Legislature for review as major substantive rules no later than January 3, 2000. The Joint Standing Committee on Agriculture, Conservation and Forestry is authorized to report out legislation relating to the Maine milk laws during the Second Regular Session of the 119th Legislature.

See title page for effective date.

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## CHAPTER 363

H.P. 527 - L.D. 734

### An Act to Strengthen the Child Care Licensing Laws

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

**Sec. 1. 22 MRSA §3296,** as enacted by PL 1989, c. 502, Pt. A, §73, is amended to read:

#### **§3296. Penalty for violations**

Any person who violates this chapter ~~shall be~~ is subject to the applicable penalty as provided in chapters 958-A and 1071 ~~and section 7702.~~

**Sec. 2. 22 MRSA §7702,** as amended by PL 1997, c. 494, §6 and affected by §15, is repealed.

**Sec. 3. 22 MRSA §7702-A** is enacted to read:

#### **§7702-A. Violations; penalties**

**1. Criminal penalties.** Except as otherwise provided by law, a person who violates any provision of this subtitle commits a Class E crime.

**2. Civil penalties.** A person who violates section 7703 or 8603 or rules adopted pursuant to those sections commits a civil violation for which a forfeiture not to exceed \$500 may be adjudged. A person who violates rules governing child-to-staff ratios adopted under section 8302-A, subsection 1, paragraph A or subsection 2, paragraph G commits a civil violation for which a forfeiture not to exceed \$500 per incident or \$500 per number of children above the limitation set by rule, or both, may be adjudged.

**3. Licensure provisions.** A person who violates the following sections or rules adopted pursuant to those sections is subject to the sanctions provided for under the rules of licensure applicable to the facility, day care center or home day care provider:

A. Section 7801, subsection 1, paragraph A;

B. Section 8301-A; or

C. Section 8302-A, subsection 1, paragraphs B to I and subsection 2, paragraphs A to F and H to J.

**4. Dedicated funds.** Fines and forfeitures adjudged under this section are payable to the Purchased Social Services Other Special Revenue account.

**Sec. 4. 22 MRSA §8301-A, sub-§1, ¶A,** as enacted by PL 1997, c. 494, §8 and affected by §15, is repealed and the following enacted in its place:

A. "Day care center" means:

(1) A house or other place in which a person maintains or otherwise carries out a regular program, for consideration, for any part of a day providing care and protection for 13 or more children under 13 years of age;

(2) A facility that is not part of a person's own home where there are between 3 and 12 children being cared for; or

(3) Any location or locations that are operated as a single day care program or by a single person or persons when there are more than 12 children being cared for.

"Day care center" does not include a facility operated as a nursery school, a facility operated by

a home day care provider or a summer camp established solely for recreational and educational purposes or a formal public or private school in the nature of a kindergarten or elementary or secondary school approved by the Commissioner of Education in accordance with Title 20-A.

**Sec. 5. 22 MRSA §8301-A, sub-§§5, 6, 7 and 8** are enacted to read:

**5. Administrative suspension.** Whenever conditions exist that immediately jeopardize the health and safety of children, the commissioner may issue an order of closure, which suspends the certification of the home day care provider or the day care center license for up to 10 days, pending further investigation or prior to obtaining an order of emergency suspension from the court. The department shall require that an order of closure be posted at the facility and made public as it determines to be most appropriate for parents and other potential customers.

**6. Temporary license.** Whenever a certified home day care provider or licensed day care center moves to a new location the department may issue a temporary license, valid pending final action on the application for the new location by the department, when:

A. All applicable standards have been met except a requirement that is dependent on the action of an agency of state government or a contractor of that agency; and

B. Through no action by the applicant that causes a significant delay, timely issuance of a provisional or full license has been delayed by the agency or contractor.

**7. Injunctive relief.** The department may seek an injunction to require compliance with the provisions of this section or rules adopted pursuant to this section.

**8. Rulemaking.** The department shall adopt rules to implement this section. Rules adopted pursuant to this section are routine technical rules as defined by Title 5, chapter 375, subchapter II-A.

See title page for effective date.

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## CHAPTER 364

S.P. 248 - L.D. 670

### An Act to Require That Workers' Compensation Coverage Be Equitably Applied to the Timber Industry

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

**Sec. 1. 39-A MRSA §102, sub-§11, ¶A,** as amended by PL 1997, c. 600, §§3 and 4, is further amended by amending subparagraphs (4) and (5) to read:

(4) Any Except for persons engaged in harvesting of forest products, any person who, in a written statement to the board, waives all the benefits and privileges provided by the workers' compensation laws, provided that the board has found that person to be a bona fide owner of at least 20% of the outstanding voting stock of the corporation by which that person is employed or a shareholder of the professional corporation by which that person is employed and that this waiver was not a prerequisite condition to employment. For the purposes of this subparagraph, the term "professional corporation" has the same meaning as found in Title 13, section 703, subsection 1.

Any person may revoke or rescind that person's waiver upon 30 days' written notice to the board and that person's employer. The parent, spouse or child of a person who has made a waiver under the previous sentence may state, in writing, that the parent, spouse or child waives all the benefits and privileges provided by the workers' compensation laws if the board finds that the waiver is not a prerequisite condition to employment and if the parent, spouse or child is employed by the same corporation that employs the person who has made the first waiver;

(5) The Except for persons engaged in harvesting of forest products, the parent, spouse or child of a sole proprietor who is employed by that sole proprietor or the parent, spouse or child of a partner who is employed by the partnership of that partner may state, in writing, that the parent, spouse or child waives all the benefits and privileges provided by the workers' compensation laws if the board finds that the waiver is not a prerequisite condition to employment;

**Sec. 2. 39-A MRSA §102, sub-§11, ¶B-1** is enacted to read:

B-1. "Employee" includes any person engaged in harvesting forest products, except the following persons, as long as they meet the criteria for obtaining a certificate of independent status or a