

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals  
(may include minor formatting differences from printed original)

**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.**

---

---

**J.S. McCarthy Company**  
**Augusta, Maine**  
**1999**

insurance, issued by the contractor's insurance carrier, certifying that the contractor has obtained the required coverage and indicating the effective dates of the policy, and if the landowner requests and receives at least annually similar certificates indicating continuing coverage during the performance of the work. A landowner who receives a predetermination of the contractor's status as independent contractor or a certificate of independent status is only relieved of liability under this paragraph if the contract for wood harvesting expressly states that the independent contractor will not hire any employees to assist in the wood harvesting without first providing the required certificate of insurance to the landowner.

Notwithstanding section 105, subsection 1, paragraph A, a predetermination under section 105 related only to ~~parties subject to this subsection~~ a person engaged in harvesting forest products is a conclusive presumption that the determination is correct and section 105, subsection 2 does not apply to that determination. Each party involved in or affected by the predetermination must be provided information on the workers' compensation laws and the effect of independent contractor status in relation to those laws. A predetermination under section 105 related to ~~parties subject to this subsection~~ a person engaged in harvesting forest products is effective for one calendar year or the duration of the contract, whichever is shorter.

A landowner required to pay compensation under this section is entitled to be indemnified by the contractor and may recover the amount paid in an action against that contractor. A landowner may demand that the contractor enter into a written agreement to reimburse the landowner for any loss incurred under this section due to a claim filed for compensation and other benefits. The employee is not entitled to recover at common law against the landowner for any damages arising from such injury if the employee takes compensation from that landowner.

Landowners willfully acting to circumvent the provisions of this section by using coercion, intimidation, deceit or other means to encourage persons who would otherwise be considered employees within the meaning of this Act to pose as contractors for the purpose of evading this section are liable subject to the provisions of section 324, subsection 3. Nothing in this section may be construed to prohibit an employee from becoming a contractor subject to the provisions of section 102, subsection 13.

See title page for effective date.

---

## CHAPTER 365

### S.P. 350 - L.D. 1054

#### An Act Requiring Doctors Giving 2nd Opinions in Workers' Compensation Cases to be Certified

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

**Sec. 1. 39-A MRSA §207, first ¶**, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

An employee being treated by a health care provider of the employee's own choice shall, after an injury and at all reasonable times during the continuance of disability if so requested by the employer, submit to an examination by a physician ~~or~~, surgeon ~~or~~ chiropractor authorized to practice as such under the laws of this State, to be selected and paid by the employer. The physician, surgeon or chiropractor must have an active practice of treating patients or have discontinued an active practice not more than 2 years before the date of the examination. For purposes of this section, "active practice" may be demonstrated by having treating privileges at a hospital. A physician or surgeon must be certified in the field of practice that treats the type of injury complained of by the employee. Certification must be by a board recognized by the American Board of Medical Specialties or the American Osteopathic Association or their successor organizations. A chiropractor licensed by the Board of Chiropractic Licensure, who has an active practice of treating patients or who discontinued an active practice not more than 2 years before the examination, may provide a 2nd opinion when the initial opinion was given by a chiropractor. Once an employer selects a health care provider to examine an employee, the employer may not request that the employee be examined by more than one other health care provider, other than an independent medical examiner appointed pursuant to section 312, without prior approval from the employee or a hearing officer. This provision does not limit an employer's right to request that the employee be examined by a specialist upon referral by the health care provider. Once the employee is examined by the specialist, the employer may not request that the employee be examined by a different specialist in the same specialty, other than an independent medical examiner appointed pursuant to section 312, without prior approval from the employee or the board. The employee has the right to have a physician ~~or~~, surgeon ~~or~~ chiropractor of the employee's own selection present at such an examination, whose costs are paid by the employer. The employer

shall give the employee notice of this right at the time the employer requests an examination.

See title page for effective date.

---



---

## CHAPTER 366

### S.P. 515 - L.D. 1516

#### An Act Concerning Disposal of Solid Waste from Decommissioning Activities

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

**Whereas,** decommissioning waste is being generated without public knowledge about disposal plans; and

**Whereas,** municipalities do not know whether this waste is being disposed of within their boundaries; and

**Whereas,** the Advisory Commission on Radioactive Waste and Decommissioning is providing an important service to the State by providing opportunities for public input and advising the Governor, the Legislature and other state agencies on matters relating to radioactive waste management and decommissioning; and

**Whereas,** the Advisory Commission on Radioactive Waste and Decommissioning will be repealed on June 30, 1999; 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. 38 MRSA §1305-B** is enacted to read:

**§1305-B. Municipal notice of decommissioning waste**

**1. Disposal; notice.** A person may not dispose of decommissioning waste in this State without giving notice to the municipality in which the decommissioning waste is to be disposed of. Notice must be given at least 5 working days before the first scheduled disposal. The notice must include:

A. The type of decommissioning waste to be delivered to the landfill;

B. The anticipated amount of decommissioning waste to be delivered to the landfill;

C. The anticipated number of loads that will be delivered to the landfill; and

D. The estimated delivery schedule of the decommissioning waste, including dates for delivery.

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

A. "Decommissioning waste" means any materials, whether solid or fluid, removed from a closed nuclear power plant, other than:

(1) Licensed discharges from the plant; and

(2) High-level radioactive waste and low-level radioactive waste regulated under chapter 14-A.

B. "Dispose of" means to deposit or attempt to deposit in the land or waters of this State.

**Sec. 2. 38 MRSA §1453-A, sub-§7,** as amended by PL 1995, c. 488, §5, is further amended to read:

**7. Repeal.** This commission is subject to review and terminates in accordance with Title 3, chapter 35, not including the grace period, no later than June 30, 1999, ~~unless continued or modified by law 2000.~~

**Sec. 3. PL 1997, c. 686, §12** is amended to read:

**Sec. 12. Reimbursement.** Maine Yankee Atomic Power Company shall reimburse the Department of Environmental Protection for actual costs incurred in conducting activities related to decommissioning by the department's regular or project staff or by the department's contractors. Reimbursement charges may not exceed \$70,000 in fiscal year 1997-98 or \$100,000 in fiscal year 1998-99. Reimbursement charges may not exceed \$50,000 for each remaining year of decommissioning activity.

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

Effective June 1, 1999.

---



---