

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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Augusta, Maine
1999

person for any property damage or damages for personal injury or death resulting from the inherent risks of equine activities. Each participant and spectator in an equine activity expressly assumes the risk and legal responsibility for any property damage or damages arising from personal injury or death that results from the inherent risk of equine activities. Each participant has the sole responsibility for knowing the range of that person's ability to manage, care for and control a particular equine or perform a particular equine activity. It is the duty of each participant to act within the limits of the participant's own ability, to maintain reasonable control of the particular equine at all times while participating in an equine activity, to heed all warnings and to refrain from acting in a manner that may cause or contribute to the injury of any person or damage to property.

2. Exceptions; participants. Nothing in subsection 1 prevents or limits the liability of an equine activity sponsor, an equine professional or any other person engaged in an equine activity, if the equine activity sponsor, equine professional or person:

A. Provided the equipment or tack, and knew or should have known that the equipment or tack was faulty, and the equipment or tack was faulty to the extent that it did cause the injury;

B. Owns, leases, rents or otherwise is in lawful possession and control of the land or facilities upon which the participant sustained injuries because of a dangerous latent condition that was known or should have been known to the equine activity sponsor, equine professional or person;

C. Commits an act or omission that constitutes reckless disregard for the safety of others and that act or omission caused the injury. For the purposes of this section, "reckless" has the same meaning as "recklessly," defined in Title 17-A, section 35, subsection 3, paragraph A; or

D. Intentionally injures the participant.

3. Assumption of risk. In a personal injury action against an equine professional, a defense or immunity described in subsection 1 may be asserted only if the person injured in the course of an equine activity:

A. Had actual knowledge of the inherent risks of equine activities;

B. Had professed to have sufficient knowledge or experience to be on notice of the inherent risks; or

C. Had been notified of the inherent risks and the limitations of liability.

For the purposes of this subsection, notice of the inherent risks of equine activity may be satisfied either by a statement signed by the person injured or by a sign or signs prominently displayed at the place where the equine activity was initiated. The statement or sign must contain at least the following information.

"WARNING

Under Maine law, an equine professional has limited liability for an injury or death resulting from the inherent risks of equine activities."

The message on a sign must be in black letters at least one inch in height and the sign or signs must be placed in a clearly visible location on or near stables, corrals or arenas where the equine professional conducts equine activities.

4. Exceptions; persons who are not participants. Nothing in subsection 1 prevents or limits the liability of an equine activity sponsor, an equine professional or any other person engaged in an equine activity, if that equine activity:

A. Causes injury or death to a person who is not a participant and who is in a place where a reasonable person would not expect an equine activity to occur; or

B. Causes injury or death to a spectator and that spectator was in a place designated or intended by an activity sponsor as a place for spectators.

Sec. 6. 7 MRSA §4104-A, as enacted by PL 1993, c. 650, §5, is repealed.

Sec. 7. 17 MRSA §1011, sub-§12-A, as enacted by PL 1991, c. 779, §43, is amended to read:

12-A. Equine facility. "Equine facility" means a boarding stable or commercial riding facility ~~that requires a license under Title 7, section 4102.~~

See title page for effective date.

CHAPTER 499

H.P. 976 - L.D. 1374

An Act to Create a Sales Tax Exemption for Child Abuse and Neglect Councils, Child Advocacy Organizations and Community Action Agencies

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

Sec. 1. 36 MRSA §1760, sub-§49, as amended by PL 1995, c. 281, §15, is repealed and the following enacted in its place:

49. Child abuse and neglect councils; child advocacy organizations; community action agencies. Except for the sale, storage or use for activities that are mainly commercial enterprises, sales to:

A. Incorporated, nonprofit child abuse and neglect councils as defined in Title 22, section 3872, subsection 1-A;

B. Statewide organizations that advocate for children and that are members of the Medicaid Advisory Committee; and

C. Community action agencies designated in accordance with Title 22, section 5324.

See title page for effective date.

CHAPTER 500

S.P. 716 - L.D. 2038

An Act to Amend the Water Quality Laws to Establish a New Standard for Mercury Discharges

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

Whereas, current law prohibits the discharge of mercury into water in any concentration that increases the natural concentration of mercury in the receiving waters; and

Whereas, new methods for testing mercury discharges now enable mercury to be detected at much lower levels than was previously possible; and

Whereas, it is necessary to immediately establish facility-specific standards for mercury discharges that prevent wastewater dischargers from increasing their mercury discharges and to require dischargers to implement pollution prevention measures to reduce the mercury load while statewide, risk-based criteria are being developed; 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 §420, sub-§1, as amended by PL 1997, c. 722, §§1 and 2, is repealed.

Sec. 2. 38 MRSA §420, sub-§1-A is enacted to read:

1-A. Mercury. Mercury or any compound containing mercury, whether organic or inorganic, as provided in this subsection.

A. After October 1, 2001, a person, firm, corporation or other legal entity may not discharge mercury or any compound containing mercury, whether organic or inorganic, in any concentration that increases the natural concentration of mercury in the receiving waters.

B. Until October 1, 2001, a person, firm, corporation or other legal entity may not discharge mercury or any compound containing mercury in a concentration greater than the concentration discharged as of the effective date of this paragraph.

The department shall establish interim discharge limits, based on procedures specified in rule, for each facility licensed under section 413 and subject to this paragraph. The discharge limits may not be less stringent statistically than the facility's discharge levels as of the effective date of this paragraph, except that the department shall take into account factors such as reduction in flow due to implementation of a wastewater conservation plan, seasonal variations and changes in levels of production. When the department has established an interim discharge limit for a facility, that limit is deemed to be the concentration discharged as of the effective date of this paragraph, and a facility shall comply with that interim discharge limit.

When considering an enforcement action in response to a violation of this paragraph before the department establishes an interim discharge limit for the facility, the commissioner shall consider factors such as reduction in flow due to implementation of a wastewater conservation plan, seasonal variations and changes in levels of production.

A person, firm, corporation or other legal entity that discharges mercury shall implement a mercury pollution prevention plan consistent with model plans developed by the department. The facility shall provide information concerning the status of implementation of the mercury pollution prevention plan to the department by December 15, 1999 and December 15, 2000. A mercury pollution prevention plan must include monitoring for mercury as required by the de-