

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**

**ONE HUNDRED AND NINETEENTH LEGISLATURE**

**SECOND REGULAR SESSION**  
**January 5, 2000 to May 12, 2000**

**THE GENERAL EFFECTIVE DATE FOR**  
**SECOND REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**AUGUST 11, 2000**

**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**  
**2000**

2. The extent to which the costs are or might be reimbursed through federal or other funding sources;

3. The basis for the imposition of federal requirements regarding the employment of network-based location technology and handset-based technology, including whether the requirements are related to the awarding of certain telecommunications privileges; and

4. Whether, in the bureau's opinion, these costs should be reimbursed from the E-9-1-1 fund and the amount the E-9-1-1 surcharge would need to be increased to fund such reimbursement.

The bureau shall provide an interim report on these matters to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters no later than February 1, 2001 and a final report no later than February 1, 2002. The joint standing committee of the Legislature having jurisdiction over utilities and energy matters may report out legislation on E-9-1-1 funding to the First or Second Regular Session of the 120th Legislature.

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

Effective April 10, 2000.

**CHAPTER 652**

**H.P. 1766 - L.D. 2479**

**An Act to Enhance Public Safety By Updating the Laws Pertaining to Explosives and Flammable Liquids**

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

**Sec. 1.** 17-A MRSA §1001, sub-§2, ¶B, as enacted by PL 1975, c. 499, §1, is amended to read:

B. "Regulations" means the rules, regulations, ordinances and bylaws issued by lawful authority pursuant to Title 25, section ~~2441~~ 2472.

**Sec. 2.** 25 MRSA §2433 is repealed.

**Sec. 3.** 25 MRSA §2440, as repealed and replaced by PL 1979, c. 663, §154, is amended to read:

**§2440. Penalties; recovery and appropriation**

Penalties provided in sections 2432, ~~2433~~, ~~2436 A~~ and 2439 may be recovered by complaint, indictment or civil action, 1/2 to the municipality where the offense is committed and 1/2 to the State.

**Sec. 4.** 25 MRSA §2441, as amended by PL 1997, c. 727, Pt. C, §6, is repealed.

**Sec. 5.** 25 MRSA §2443 is repealed.

**Sec. 6.** 25 MRSA §2444, as amended by PL 1997, c. 728, §23, is repealed.

**Sec. 7.** 25 MRSA §2445, as amended by PL 1971, c. 592, §35, is repealed.

**Sec. 8.** 25 MRSA §2446, as amended by PL 1985, c. 11, §1, is repealed.

**Sec. 9.** 25 MRSA c. 318 is enacted to read:

**CHAPTER 318**

**EXPLOSIVES AND FLAMMABLE LIQUIDS**

**SUBCHAPTER I**

**EXPLOSIVES**

**§2471. Definitions**

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

**1. Commissioner.** "Commissioner" means the Commissioner of Public Safety.

**2. Explosive.** "Explosive" means any chemical compound, mixture or device that is designed to function by explosion. The term includes, but is not limited to, dynamite, black powder, pellet powder, initiating explosives, detonators, safety fuses, squibs, detonating cords, igniter cords and igniters.

**3. Magazine.** "Magazine" means a specially constructed building or structure approved for the storage of explosive materials.

**4. Permit.** "Permit" means the nontransferable permission granted by the commissioner containing one or more of the following endorsements: use, storage and intrastate transportation of explosives.

**5. Person.** "Person" means any individual, partnership, corporation, combination of these entities or any other legal entity.

**§2472. Explosives; rules**

**1. Rules.** The commissioner shall adopt rules, which are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A, necessary for the proper oversight of explosives and the enforcement of the provisions of this chapter.

**2. Waivers.** The commissioner may waive the requirements of any rule to cover any special circumstances.

**3. Exceptions.** This section does not apply to:

A. The possession, use, storage or intrastate transportation of 50 pounds or less of smokeless powder or black powder; or

B. The possession, use, storage or intrastate transportation of 10,000 or fewer primers.

#### **§2473. Permits; requirements**

A person may not possess, use, store or transport explosives without a permit. The commissioner shall issue a permit to an applicant who:

**1. Application.** Completes an application form furnished by the commissioner;

**2. Financial responsibility.** Includes proof in the application that the applicant maintains financial responsibility in the form of liability insurance or a surety bond as follows:

A. To obtain a permit with endorsements to possess, use or store explosives, a person must maintain financial responsibility in the form of liability insurance in an amount not less than \$500,000; and

B. To obtain a permit with an endorsement for intrastate transportation of explosives, a person must comply with the requirements in rules adopted pursuant to section 2103-A or 2110, as applicable;

**3. Examination.** Passes a written examination administered by the Department of Public Safety;

**4. Citizenship.** Is a citizen or resident alien of the United States; and

**5. Character.** Demonstrates good moral character and has not been convicted of a crime punishable by a maximum term of imprisonment equal to or exceeding one year. The determination of good moral character must be made in writing by the commissioner, based upon evidence recorded by a governmental entity. The commissioner shall consider matters recorded within the previous 5 years, including, but not limited to, the following:

A. Records of incidents of abuse of family or household members by the applicant provided pursuant to Title 19-A, section 4012, subsection 1;

B. Records provided by the Department of Human Services regarding the failure of the applicant to meet child or family support obligations;

C. Records of 3 or more convictions of the applicant for Class D or E crimes;

D. Records of 3 or more civil violations by the applicant; and

E. Records that the applicant has engaged in recklessness or negligence that endangered the safety of others.

#### **§2474. Suspension or revocation of permit**

The commissioner may, after a hearing in conformance with applicable provisions of the Maine Administrative Procedure Act, suspend or revoke a permit issued under this subchapter. The following are grounds for suspension or revocation of a permit:

**1. Fraud or deceit.** The practice of fraud or deceit in obtaining a permit under this subchapter or in the performance of services within the scope of the permit issued;

**2. Conviction of certain crimes.** Conviction of a crime that relates directly to the practice for which the person is permitted, or conviction of any crime for which incarceration for one year or more may be imposed;

**3. Violation of subchapter or rule.** Any violation of this subchapter or any rule adopted by the commissioner; and

**4. Incompetence.** Incompetence in the practice of storing, using or transporting explosives. A permittee is deemed incompetent in the practice if the permittee has:

A. Engaged in professional conduct that evidences a lack of ability or fitness to perform the duties for which the person is permitted; or

B. Engaged in professional conduct that evidences a lack of knowledge or an inability to apply appropriate principles or skills to carry out the practice for which the person is permitted.

#### **§2475. Suspension by commissioner**

**1. Immediate suspension.** If the commissioner has probable cause to believe that a person permitted under this section poses an immediate threat to the public because of gross negligence in the performance of duties associated with the permit, the commissioner shall immediately suspend that person's permit.

**2. Duration of suspension.** The suspension remains in effect for 30 days unless a revocation

procedure under section 2474 is commenced within 30 days, in which case the suspension continues until the revocation proceeding is complete.

#### **§2476. Fees; permits; required inspections**

**1. Fees.** All fees received by the Department of Public Safety under this subchapter must be used for carrying out the purposes of this subchapter. Any balance of these fees does not lapse but must be carried forward as a continuing account to be expended for the same purposes in the following fiscal years.

**2. Permit.** A permit is valid for 3 years from the date of issue. The fee for a permit is \$30.

**3. Inspection of storage magazines and vehicles used to transport explosives.** All storage magazines and vehicles used to transport explosives in intrastate commerce must be inspected prior to issuance of a permit. The cost of each inspection is \$30. Reinspection of storage magazines and vehicles used to transport explosives must be conducted upon renewal of a permit.

#### **§2477. Violations**

A person who violates a provision of this subchapter or a rule adopted pursuant to this subchapter commits a Class E crime.

### **SUBCHAPTER II**

#### **FLAMMABLE LIQUIDS**

#### **§2481. Definitions**

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

**1. Aboveground flammable liquid storage facility.** "Aboveground flammable liquid storage facility" means any aboveground storage tank or tanks containing flammable liquids, together with associated piping, transfer and dispensing facilities.

**2. Commissioner.** "Commissioner" means the Commissioner of Public Safety or the commissioner's designee.

**3. Department.** "Department" means the Department of Public Safety.

**4. Flammable liquid.** "Flammable liquid" means either a combustible liquid having a flash point at or above 100° Fahrenheit or any volatile liquid having a flash point below 100° Fahrenheit.

**5. Permit.** "Permit" means the nontransferable permission granted by the commissioner to install,

construct or otherwise establish an aboveground flammable liquid storage facility.

**6. Person.** "Person" means any individual, combination of individuals, partnership, corporation or any other legal entity and any nonfederal governmental entity.

#### **§2482. Rules**

**1. Rules.** The commissioner shall adopt rules, which are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A, for the storage, handling, dispensing and secure transportation of flammable liquids.

**2. Exceptions.** The following exceptions apply.

**A.** This section does not apply to the storage in underground tanks of flammable liquids and other hazardous substances that are regulated by the Department of Environmental Protection under Title 38.

**B.** This section does not apply to the storage of flammable substances that are regulated by the Department of Professional and Financial Regulation under Title 32.

#### **§2483. Permits; requirements; fees**

A person may not install, construct or otherwise establish an aboveground flammable liquid storage facility without a permit. The commissioner shall issue a permit to a person who:

**1. Application.** Submits to the commissioner a completed application form furnished by the commissioner; and

**2. Construction plans; technical specifications.** Submits with the application a complete set of construction plans and technical specifications showing the layout of the aboveground flammable liquid storage facility.

#### **§2484. Fees; permits**

**1. Fees.** All fees received by the department under this subchapter must be used for carrying out the purposes of this subchapter. Any balance of these fees does not lapse but must be carried forward as a continuing account to be expended for the same purposes in the following fiscal years.

**2. Permit.** The cost of a permit and an inspection of an aboveground flammable liquid storage facility is \$15.

#### **§2485. Violations**

A person who violates a provision of this subchapter or a rule adopted pursuant to this subchapter commits a civil violation for which a forfeiture of not less than \$100 or more than \$500 may be adjudged for each offense.

**Sec. 10. 38 MRSA §490-Z, sub-§14**, as enacted by PL 1995, c. 700, §35, is amended by amending the first paragraph to read:

**14. Blasting.** The applicant must ensure that the blasting is conducted in accordance with Title 25, ~~section 2444~~ chapter 318.

**Sec. 11. 38 MRSA §568-A, sub-§2, ¶C**, as enacted by PL 1995, c. 361, §5, is amended to read:

C. Conditional deductibles for aboveground facilities and tanks are as follows.

(1) For aboveground tanks subject to the jurisdiction of the State Fire Marshal pursuant to 16-219 CMR, chapter 317, the deductibles are:

(a) Five thousand dollars for failure to obtain a construction permit from the Office of the State Fire Marshal, when required under Title 25, ~~section 2444~~ chapter 318 and 16-219 CMR, chapter 317;

(b) Five thousand dollars for failure to design and install piping in accordance with section 570-K and rules adopted by the department;

(c) Five thousand dollars for failure to comply with an existing consent decree, court order or outstanding deficiency statement regarding violations at the aboveground facility;

(d) Five thousand dollars for failure to implement a certified spill prevention control and countermeasure plan, if required;

(e) Five thousand dollars for failure to install any required spill control measures, such as dikes;

(f) Five thousand dollars for failure to install any required overfill equipment;

(g) Five thousand dollars if the tank is not approved for aboveground use; and

(h) Ten thousand dollars for failure to report any leaks at the facility as required by law.

(2) For aboveground tanks subject to the jurisdiction of the Oil and Solid Fuel Board, the deductibles are:

(a) One hundred and fifty dollars for failure to install the facility in accordance with rules adopted by the Oil and Solid Fuel Board and in effect at the time of installation;

(b) Two hundred and fifty dollars for failure to conform an upgraded facility to the requirements provided in rules of the Oil and Solid Fuel Board;

(c) Two hundred and fifty dollars for failure to make a good faith effort to properly maintain the facility; and

(d) Five hundred dollars for failure to notify the department of a spill.

See title page for effective date.

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## CHAPTER 653

H.P. 1743 - L.D. 2449

### An Act to Allow the State Police to Accept Funds from Private Entities for Services Provided

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

**Sec. 1. 25 MRSA §1502, 4th ¶**, as amended by PL 1993, c. 123, §1, is further amended to read:

~~The~~ Upon the request of a federal agency or other person, the State Police may provide assistance for public safety purposes only to the federal agencies or other person. The Chief of the State Police may charge the various federal agencies or other persons for these services. Revenues received from these agencies and other persons must be allocated for the purpose of funding the cost of providing the services. Beginning January 2001 and annually thereafter, the State Police shall report to the joint standing committee of the Legislature having jurisdiction over criminal justice matters no later than January 15th of each year concerning the assistance provided to federal agencies and other persons during the previous calendar year. The report must contain information about the types of services provided, the number of services and the fees charged by the Chief