

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND TWENTIETH LEGISLATURE
FIRST REGULAR SESSION
December 6, 2000 to June 22, 2001

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 21, 2001

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
2001

(1) The reports must summarize all cases involving the use of restraints, the type of restraints used, the duration of usage and the reasons for the usage.

(2) A monthly summary of the reports must be relayed to the Office of Advocacy.

See title page for effective date.

CHAPTER 246

S.P. 542 - L.D. 1688

An Act to Amend the Personal Sports Mobile Franchise Law

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

Sec. 1. 10 MRSA §1244, sub-§3 is enacted to read:

3. Mediation. A franchisee may not bring an action for recovery of damages or for equitable relief under this section until a franchisee has served upon the franchisor a written demand for nonbinding mediation and either the parties have engaged in such mediation in this State with an independent mediator or 60 days have passed from the franchisor's receipt of notice of mediation, whichever occurs sooner. The service of the written notice of mediation tolls the running of any applicable statute of limitations for the subsequent 60-day period. A franchisor may not establish a new personal sports mobile dealership or relocate an existing sports mobile dealership within or into the relevant market area during this 60-day period. Notwithstanding any agreement or requirement to engage in nonbinding mediation, at the conclusion of the proceedings, the franchisee is entitled to file an action in any court in this State in accordance with section 1250-I. The results of nonbinding mediation are not admissible in the action.

Sec. 2. 10 MRSA §1250-F, sub-§1, as amended by PL 1997, c. 717, §5, is further amended to read:

1. Civil remedies. Any personal sports mobile dealer or franchisee who has been damaged by reason of a violation of a provision of this chapter may bring an action to enjoin that violation and to recover any damages arising from that violation. A franchisee or personal sports mobile dealer who suffers financial loss of money or property, real or personal, or who has otherwise been adversely affected as a result of an unfair method of competition, an unfair or deceptive act or a violation of a provision of this chapter may bring an action for damages and equitable relief, including injunctive relief. When the franchisee or

dealer prevails, the court shall award attorney's fees to the franchisee or dealer regardless of the amount in controversy and assess costs against the opposing party. A final judgment, order or decree rendered against a person in ~~any~~ a civil or administrative proceeding under this chapter or in ~~any~~ a civil, criminal or administrative proceeding under the federal antitrust laws, the Federal Trade Commission Act, or any other part of the Maine Revised Statutes is prima facie evidence against that person subject to the conditions set forth in the federal antitrust laws, 15 United States Code, Section 16.

See title page for effective date.

CHAPTER 247

H.P. 1080 - L.D. 1449

An Act to Ensure Municipal Authority over Sludge and Septage Land Spreading Sites

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

Sec. 1. 38 MRSA §1303-C, sub-§29, as amended by PL 1989, c. 869, Pt. A, §5 and affected by §21, is further amended to read:

29. Solid waste. "Solid waste" means useless, unwanted or discarded solid material with insufficient liquid content to be free-flowing, including, but not limited to, rubbish, garbage, refuse-derived fuel, scrap materials, junk, refuse, inert fill material and landscape refuse, but does not include hazardous waste, biomedical waste, ~~septic tank sludge~~ septage or agricultural wastes. The fact that a solid waste or constituent of the waste may have value or other use or may be sold or exchanged does not exclude it from this definition.

Sec. 2. 38 MRSA §1304, sub-§17 is enacted to read:

17. Sludge and septage guidance. The commissioner shall develop guidance to municipalities regarding the regulation of septage and sludge land application by municipalities. The guidance must include information regarding site location restrictions, testing and enforcement actions that may be undertaken by a municipality and municipal roles and responsibilities under section 1310-U.

Sec. 3. Report on sludge and septage land application guidance. By January 30, 2002, the Department of Environmental Protection is directed to report to the joint standing committee of the Legislature having jurisdiction over natural resources matters on the status of the development of guidance to

municipalities regarding the regulation of septage and sludge land application.

See title page for effective date.

CHAPTER 248

H.P. 245 - L.D. 281

An Act to Clarify Where a Public Hearing Involving Dredging Activity by the Department of Marine Resources Must be Held

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

Sec. 1. 38 MRSA §480-D, sub-§9, as amended by PL 1997, c. 164, §1 and affected by §2, is further amended to read:

9. Dredging. If the proposed activity involves dredging, dredge spoils disposal or transporting dredge spoils by water, the applicant ~~shall~~ must demonstrate that the transportation route minimizes adverse impacts on the fishing industry and that the disposal site is geologically suitable. The Commissioner of Marine Resources shall provide the department with an assessment of the impacts on the fishing industry of a proposed dredging operation in the coastal wetlands. The assessment must consider impacts to the area to be dredged and impacts to the fishing industry of a proposed route to transport dredge spoils to an ocean disposal site. The Commissioner of Marine Resources ~~must~~ may hold a public hearing on the proposed dredging operation. In determining if a hearing is to be held, the Commissioner of Marine Resources shall consider the potential impacts of the proposed dredging operation on fishing in the area to be dredged. If a hearing is held, it must be within at least one of the municipalities in which the dredging operation would take place. If the Commissioner of Marine Resources determines that a hearing is not to be held, the Commissioner of Marine Resources must publish a notice of that determination in a newspaper of general circulation in the area proposed for the dredging operation. The notice must state that the Commissioner of Marine Resources will accept verbal and written comments in lieu of a public hearing. The notice must also state that if 5 or more persons request a public hearing within 30 days of the notice publication, the Commissioner of Marine Resources will hold a hearing. If 5 or more persons request a public hearing within 30 days of the notice publication, the Commissioner of Marine Resources must hold a hearing. In making its determination under this subsection, the department must take into consideration the assessment provided by the Commissioner of

Marine Resources. The permit must require the applicant to:

A. Clearly mark or designate the dredging area, the spoils disposal route and the transportation route;

B. Publish in a newspaper of general circulation in the area adjacent to the route the approved transportation route of the dredge spoils; and

C. Publish in a newspaper of general circulation in the area adjacent to the route a procedure that the applicant will use to respond to inquiries regarding the loss of fishing gear during the dredging operation.

See title page for effective date.

CHAPTER 249

H.P. 747 - L.D. 966

An Act to Amend the Maine Tort Claims Act

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

Sec. 1. 14 MRSA §8107, sub-§2, as enacted by PL 1977, c. 2, §2, is amended to read:

2. Incapacity. If the claimant is incapacitated and thereby prevented from presenting and filing the claim within the time prescribed or if the claimant is a minor, the claim may be presented and filed on behalf of the claimant by any relative, attorney or agent representing the claimant. If the claimant is a minor when the cause of action accrues, the notice may be presented within 180 days of the minor's attaining 18 years of age.

Sec. 2. 14 MRSA §8110, as enacted by PL 1977, c. 2, §§2 and 5 and amended by PL 1979, c. 68, §5, is further amended to read:

§8110. Limitation of actions

Every claim against a governmental entity or its employees permitted under this chapter ~~shall be~~ is forever barred from the courts of this State, unless an action therein is begun within 2 years after the cause of action accrues, except that, if the claimant is a minor when the cause of action accrues, the action may be brought within 2 years of the minor's attaining 18 years of age.