

# 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.**

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**J.S. McCarthy Company**  
**Augusta, Maine**  
**2001**

~~coastal~~ territorial waters, or to utilize when fishing for or taking scallops in the ~~coastal~~ territorial waters, a drag or any combination of drags that measures in excess of 10 feet, 6 inches across from one extreme outside edge of the mouth of the drag or combination of drags to the opposite extreme outside edge.

**Sec. 17. 12 MRSA §6954-C, sub-§1**, as enacted by PL 1997, c. 281, §3, is amended to read:

**1. Gear requirements.** It is unlawful to fish in the ~~coastal~~ territorial waters northerly and inshore of the international bridge that connects Lubec to Campobello Island, New Brunswick, Canada with any drag or combination of drags:

A. That measures in excess of 5 feet, 6 inches in width measuring from one extreme outside edge of the mouth of the drag or combination of drags to the opposite extreme outside edge; and

B. If used for the taking of scallops, that is greater than 8 rings deep.

**Sec. 18. 12 MRSA §6959**, as enacted by PL 1999, c. 576, §1, is amended to read:

**§6959. Dragging in the Taunton River area**

It is unlawful for a person to fish with any drag or combination of drags in the ~~coastal~~ territorial waters westerly and northerly of the Route 1 bridge that connects the towns of Hancock and Sullivan in Hancock County, including Egypt Bay, Taunton Bay and Hog Bay. This section is repealed March 1, 2005.

See title page for effective date.

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**CHAPTER 273**

**H.P. 1104 - L.D. 1473**

**An Act to Make Uniform the Language Governing Parental Rights and Responsibilities in the Maine Revised Statutes**

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

**Sec. 1. 19-A MRSA §1653, sub-§5-A** is enacted to read:

**5-A. Effect of protective order.** Although the court shall consider the fact that a protective order was issued under chapter 101, the court shall determine the proper award of parental rights and responsibilities and award of rights of contact de novo and may not use as precedent the award of parental rights and responsibilities and rights of contact included in the protective order.

**Sec. 2. 19-A MRSA §4001, sub-§3**, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

**3. Enforcement.** To provide protection by promptly entering and diligently enforcing court orders that prohibit abuse and, when necessary, by reducing the abuser's access to the victim and addressing related issues of ~~child-custody~~ parental rights and responsibilities and economic support so that victims are not trapped in abusive situations by fear of retaliation, loss of a child or financial dependence;

**Sec. 3. 19-A MRSA §4006, sub-§5**, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

**5. Interim relief.** The court, in an ex parte proceeding, may make an order concerning the ~~care and custody of~~ parental rights and responsibilities relating to minor children residing in the household and may enjoin the defendant from engaging in the following:

- A. Imposing a restraint upon the person or liberty of the plaintiff;
- B. Threatening, assaulting, molesting, harassing, attacking or otherwise disturbing the peace of the plaintiff;
- C. Entering the family residence or the residence of the plaintiff;
- D. Repeatedly and without reasonable cause:
  - (1) Following the plaintiff; or
  - (2) Being at or in the vicinity of the plaintiff's home, school, business or place of employment;
- E. Taking, converting or damaging property in which the plaintiff may have a legal interest; or
- F. Having any direct or indirect contact with the plaintiff.

If the court enjoins the defendant under this subsection and the enjoined conduct constitutes harassment under Title 17-A, section 506-A, the court shall include in the order a warning in conformity with Title 17-A, section 506-A.

**Sec. 4. 19-A MRSA §4007, sub-§1, ¶G**, as amended by PL 1999, c. 486, §5 and affected by §6, is further amended to read:

G. Either awarding some or all temporary ~~custody of~~ parental rights and responsibilities with regard to minor children or ~~establishing~~ awarding temporary ~~visitation~~ rights of contact with regard

to minor children ~~when the visitation is determined to be in the best interest of the child, or both, under such conditions that the court finds appropriate~~ as determined in accordance with the best interest of the child pursuant to section 1653, subsections 3 to 6. The court's ~~custody and visitation~~ award of parental rights and responsibilities or rights of contact is not binding in any separate action involving an award of parental rights and responsibilities pursuant to chapter 55 or in a similar action brought in another jurisdiction exercising child custody jurisdiction in accordance with the Uniform Child Custody Jurisdiction and Enforcement Act;

See title page for effective date.

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## CHAPTER 274

H.P. 998 - L.D. 1335

### An Act to Clarify the Employment Status of Owner-operators in the Trucking Industry

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

**Sec. 1. 26 MRSA §1043, sub-§11, ¶F**, as amended by PL 1999, c. 389, §§1 to 3 and affected by §4, is further amended by amending subparagraphs (42) and (43) to read:

(42) Services performed by participants enrolled in programs or projects under the national service laws including the federal National and Community Service Act of 1990, as amended, 42 United States Code, Section 12501 et seq., and the federal Domestic Volunteer Service Act, as amended, 42 United States Code, Section 4950 et seq.; ~~and~~

(43) Services of an author in furnishing text or other material to a publisher who:

- (a) Does not control the author's work except to propose topics or to edit material submitted;
- (b) Does not restrict the author from publishing elsewhere;
- (c) Furnishes neither a place of employment nor equipment for the author's use;
- (d) Does not direct or control the time devoted to the work; and

(e) Pays only for material that is accepted for publication; ~~and~~

**Sec. 2. 26 MRSA §1043, sub-§11, ¶F**, as amended by PL 1999, c. 389, §§1 to 3 and affected by §4, is further amended by enacting subparagraph (44) to read:

(44) Services provided by an owner-operator of a truck or truck tractor while leased to a motor carrier, as defined in 49 Code of Federal Regulations, 390.5 (2000), as long as that employment is not subject to federal unemployment tax.

See title page for effective date.

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## CHAPTER 275

H.P. 554 - L.D. 709

### An Act Regarding Ancient Execution Liens

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

#### PART A

**Sec. 1. 14 MRSA §4651-A, sub-§6**, as enacted by PL 1987, c. 184, §23, is amended to read:

**6. Filing during pendency of attachment; date of perfection.** If a lien created by this section is filed or recorded during the pendency of any prejudgment or post-judgment attachment obtained in the underlying civil action against property subject to the lien, the effective date of the lien in the property ~~shall~~ **must** relate back to the date of perfection of the attachment. The relation back ~~shall apply~~ **applies** only to that portion of the lien up to the amount of the attachment. The remainder of such a lien, and the full amount of ~~any~~ a lien created when no attachment is pending, ~~shall become~~ **becomes** effective and ~~be~~ perfected from the date of the filing or recording of the execution. ~~Any lien created pursuant to this section shall continue so long as the judgment in the underlying civil action, or any portion thereof, plus costs and interest, shall remain unpaid, undischarged or unreleased.~~

**Sec. 2. 14 MRSA §4651-A, sub-§8** is enacted to read:

**8. Duration of lien; renewal.** A lien created pursuant to this section after the effective date of this subsection continues for a period of 20 years from the date of the filing of the writ of execution or of the recording of the writ of execution in the registry of deeds, unless the judgment is paid, discharged or released. A lien may be renewed once for a period of