

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

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NON-EMERGENCY LAWS IS
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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

regulations and guidelines promulgated thereunder, including the rules and procedures promulgated by the council under section 1707, regarding the use and dissemination of criminal history records and information.

§1710. Renunciation

This compact binds each party state until renounced by the party state. Any renunciation of this compact by a party state must:

1. How effected. Be effected in the same manner by which the party state ratified this compact; and

2. Notice. Become effective 180 days after written notice of renunciation is provided by the party state to each other party state and to the Federal Government.

§1711. Adjudication of disputes

1. Dispute resolution. The council:

A. Has initial authority to make determinations with respect to any dispute regarding:

(1) Interpretation of this compact;

(2) Any rule or standard established by the council pursuant to section 1707; and

(3) Any dispute or controversy between any parties to this compact; and

B. Shall hold a hearing concerning any dispute described in paragraph A at a regularly scheduled meeting of the council and only render a decision based upon a majority vote of the members of the council. The decision must be published pursuant to the requirements of section 1707, subsection 5.

2. III system. The FBI shall exercise immediate and necessary action to preserve the integrity of the III system, maintain system policy and standards, protect the accuracy and privacy of criminal history records and prevent abuses until the council holds a hearing on the disputes pursuant to subsection 1.

3. Appeal process. The FBI or a party state may appeal any decision of the council to the Attorney General and after that appeal may file suit in the appropriate district court of the United States that has original jurisdiction of all cases or controversies arising under this compact. Any suit arising under this compact and initiated in a state court must be removed to the appropriate district court of the United States in the manner provided in 28 United States Code, Section 1446 or other statutory authority.

See title page for effective date.

CHAPTER 373

H.P. 1224 - L.D. 1665

An Act to Further Reduce Mercury Emissions from Consumer Products

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

Sec. 1. 38 MRSA §1310-B, sub-§2, as affected by PL 1989, c. 890, Pt. A, §40 and amended by Pt. B, §233, is further amended to read:

2. Hazardous waste information and information on mercury-added products. Information relating to hazardous waste submitted to the department under this subchapter or information relating to mercury-added products submitted to the department under chapter 16-B may be designated by the person submitting it as being only for the confidential use of the department, its agents and employees, the Department of Agriculture, Food and Rural Resources and the Department of Human Services and their agents and employees, other agencies of State Government, as authorized by the Governor, employees of the United States Environmental Protection Agency and the Attorney General and employees of the municipality in which the hazardous waste is located. The designation must be clearly indicated on each page or other portion of information. The commissioner shall establish procedures to insure that information so designated is segregated from public records of the department. The department's public records must include the indication that information so designated has been submitted to the department, giving the name of the person submitting the information and the general nature of the information. Upon a request for information, the scope of which includes information so designated, the commissioner shall notify the submitter. Within 15 days after receipt of the notice, the submitter shall demonstrate to the satisfaction of the department that the designated information should not be disclosed because the information is a trade secret, production, commercial or financial information, the disclosure of which would impair the competitive position of the submitter and would make available information not otherwise publicly available. Unless such a demonstration is made, the information must be disclosed and becomes a public record. The department may grant or deny disclosure for the whole or any part of the designated information requested and within 15 days shall give written notice of the decision to the submitter and the person requesting the designated information. ~~Notwithstanding section 344, subsection 4, a~~ A person aggrieved by a decision of the department may appeal only to the Superior Court in accordance with the provisions of section 346. All information provided by the department to the municipality under this subsection must be confiden-

tial and not a public record under Title 1, chapter 13. In the event a request for such information is submitted to the municipality, the municipality shall submit that request to the commissioner to be processed by the department as provided in this subsection.

Sec. 2. 38 MRSA §1661, sub-§1, ¶¶B and D, as enacted by PL 1999, c. 779, §2, are amended to read:

B. ~~An electrical~~ A switch or other device, individually or as part of another product, used to measure, control or regulate gas, other fluids or electricity;

D. ~~An electric relay or other electrical device, excluding an electrical device that is in a mercury-added lamp; and~~

Sec. 3. 38 MRSA §§1661-A, 1661-B and 1661-C are enacted to read:

§1661-A. Notification

1. Prior written notice required. Effective January 1, 2002, a product to which mercury is intentionally added during formulation or manufacture, or a product containing one or more components to which mercury is intentionally added during formulation or manufacture, may not be offered for final sale or use or distributed for promotional purposes in the State unless the manufacturer of the product or product component or a trade association representing manufacturers of the product or component has provided written notice to the department in accordance with this section. The requirements of this section do not apply to drugs approved by the United States Food and Drug Administration. The notice must include the following information on a form provided by the department or the clearinghouse under section 1671:

A. A brief description of the product or product component;

B. The purpose for which mercury is used in the product or product component;

C. The amount of mercury in each unit of the product or product component, reported as an exact number, as an average per product or component with an upper or lower limit or as falling within a range approved by the department;

D. The total amount of mercury in all units of the product or product components sold in the United States during the most recent calendar year for which sales figures are available, reported either for the units or components sold by the manufacturer or as aggregated by a manu-

facturer trade association for all units of the product or components made by the industry; and

E. The name and address of the manufacturer, and the name, address and phone number of a contact person for the manufacturer.

2. Exemption. A mercury-added product or product component for which federal law governs notice in a manner that preempts state authority is exempt from the requirements of this section.

3. Product category information. With the approval of the department, the manufacturer may supply the information required in subsection 1 for a product category rather than an individual product. The manufacturer shall update and revise the information in the notification whenever there is significant change in the information or when requested by the department. The information required under subsection 1, paragraph D must be updated and provided to the department every 3 years.

4. Confidentiality. Information submitted to the department pursuant to this section may be kept confidential as provided under sections 1310-B and 1671.

5. Product components. Notwithstanding subsection 1, paragraph B, the manufacturer of a product containing one or more mercury-added components is not required to include information on the purpose for which the mercury in the component is used in the notice to the department if the component manufacturer has provided that information to the department and the manufacturer of the product that contains the component identifies the component and component manufacturer in the notice.

An importer of the product or product component from a foreign country may not sell, use or distribute the product or product component in the State unless the manufacturer of the product or product component is in compliance with this section, except that this prohibition does not apply to retailers for whom importing is not a primary business.

§1661-B. Disclosure for mercury-containing products used in hospitals

Effective January 1, 2002, the manufacturer of a formulated product that contains mercury or a mercury compound from any source or cause, whether intended or unintended, and that is offered for sale or use to a hospital in the State must provide, upon request of the hospital, a certificate of analysis documenting the mercury content of the product unless the concentration is less than 200 parts per 1,000,000,000. The certificate must be based on representative samples of the product as determined in consultation with the hospital and, at a minimum, an annual analysis of the

product. The hospital shall provide a copy of the certificate to the department upon request. For the purpose of this section, a "formulated product" means a consistent mixture of chemicals, including, but not limited to, acids, alkalis, laboratory chemicals, bleach and other products used for cleaning or disinfection, pharmaceuticals, stains, reagents, preservatives, fixatives, buffers and dyes.

The requirements of this section do not apply to drugs approved by the United States Food and Drug Administration.

§1661-C. Restrictions on sale and use of mercury

1. Fever thermometers. Effective January 1, 2002, a person may not sell or supply a mercury fever thermometer to consumers and patients, except by prescription. With each mercury fever thermometer sold by prescription, the manufacturer shall supply clear instructions on the careful handling of the thermometer to avoid breakage and on proper cleanup should breakage occur. For purposes of this subsection, a "mercury fever thermometer" means a thermometer that contains mercury for the purpose of measuring body temperature, but does not include a thermometer containing mercury solely within a button-cell battery.

2. Manometers. Effective January 1, 2002, a mercury-containing manometer of the type used in milking machines on dairy farms may not be sold or offered for sale, or distributed for promotional purposes in the State. Manufacturers of such manometers shall notify wholesalers and retailers about this ban and shall instruct them on how to properly dispose of the remaining inventory. The department, in consultation with the Department of Agriculture, Food and Rural Resources, shall conduct a program to collect and replace mercury-containing manometers already in use on dairy farms in the State.

3. Schools. Effective January 1, 2002, bulk elemental or chemical mercury or mercury compounds may not be sold for use in a primary or secondary classroom in the State. Manufacturers of such materials shall notify wholesalers and retailers about this ban and shall instruct them on how to properly dispose of the remaining inventory. Mercury-added products used by schools are not subject to this ban.

4. Elemental mercury. Effective January 1, 2002, a person may not sell or provide elemental mercury to another person except for manufacturing or recycling purposes without providing that person with a material safety data sheet, as defined in 42 United States Code, Section 11049, and without requiring the purchaser or recipient to sign a statement that the purchaser or recipient:

A. Will use the mercury only for medical, dental amalgam dispose-caps, research or manufacturing purposes;

B. Understands that mercury is toxic and that the purchaser will store and use it appropriately so that no person is exposed to the mercury; and

C. Will not place or allow anyone under the purchaser's control to place or cause to be placed the mercury in solid waste for disposal or in a wastewater treatment and disposal system.

Sec. 4. 38 MRSA §1665, 2nd ¶, as enacted by PL 1999, c. 779, §2, is amended to read:

By January 1, 2001, automobile manufacturers that sell automobiles at retail in this State or to a retailer in this State shall submit proposed alternative compliance plans to the department. By January 1, 2002, the department shall submit to the joint standing committee of the Legislature having jurisdiction over natural resources matters a plan for the labeling and source separation of automobile component parts to meet the requirements in sections 1662 and 1664. The plan also must include recommendations as to whether and how manufacturers should be required to reduce or phase out the use of mercury in the production of automobiles. The department shall develop the plan in consultation with automobile manufacturers, automobile dismantlers, automobile recyclers and other interested parties. The plan may provide for alternative compliance plans for labeling and must provide for the safe removal and management of mercury-added parts prior to the shredding of vehicles. The department shall also develop, in consultation with the interested parties, an assessment of whether and how mercury switches or other electrical devices in automobile components should be added to the universal waste rules adopted by the board and submit the assessment with the plan.

Sec. 5. 38 MRSA §1670, sub-§8, ¶D-1 is enacted to read:

D-1. Include in its 2002 or 2003 annual report recommendations as to whether and how manufacturers should be required to reduce or phase out the use of mercury in consumer products;

Sec. 6. 38 MRSA §1671 is enacted to read:

§1671. Interstate clearinghouse

The department may participate in the establishment and implementation of a regional, multistate clearinghouse to assist in carrying out the requirements of this chapter and to help coordinate reviews of the manufacturer notifications under section 1661-B, applications for alternative labeling under section 1662, education and outreach activities and any other

activities related to the administration of this chapter. Notwithstanding section 1310-B, subsection 2, the department may provide the interstate clearinghouse with product information submitted to the department under section 1661-A and the department and the interstate clearinghouse may compile or publish analyses or summaries of such information provided the analyses or summaries do not identify any manufacturer or reveal any confidential information.

Sec. 7. Resolve 1997, c. 41, §2 is repealed.

Sec. 8. Board to amend its rules. The Board of Environmental Protection shall amend its hazardous waste management rules to include mercury thermometers in the definition of "universal waste." Prior to those changes being incorporated into the board's rules, the Department of Environmental Protection may develop policies or guidelines as appropriate to facilitate the collection and retirement of the mercury in waste mercury thermometers consistent with applicable laws. Rules adopted pursuant to this section are routine technical rules as defined in the Maine Revised Statutes, Title 5, chapter 375, subchapter II-A.

See title page for effective date.

CHAPTER 374

S.P. 441 - L.D. 1495

An Act to Establish the Maine Military Authority

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

Whereas, the Military Bureau's Maine Readiness Sustainment Maintenance Center, now located at the former Loring Air Force Base, has grown to over 150 employees and needs to continuously expand to keep pace with increased workload demands; and

Whereas, the Military Bureau's Maine Readiness Sustainment Maintenance Center has been unable to sign contracts with other governmental entities because of the present organizational structure of the center; and

Whereas, if this legislation is enacted, the center will be permitted to enter into contracts with various governmental entities, greatly expanding the workforce and new production lines, all of which produce benefits to the Maine National Guard, Aroostook County and the State; 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. 5 MRSA §285, sub-§1, ¶A-1 is enacted to read:

A-1. Any employee of the Maine Military Authority;

Sec. 2. 5 MRSA §931, sub-§1, ¶L-3, as enacted by PL 1999, c. 784, §3, is amended to read:

L-3. The Executive Analyst of the Board of Environmental Protection; ~~and~~

Sec. 3. 5 MRSA §931, sub-§1, ¶L-4 is enacted to read:

L-4. All employees of the Maine Military Authority; and

Sec. 4. 5 MRSA §17001, sub-§40, as amended by PL 1999, c. 152, Pt. E, §3, is further amended to read:

40. State employee. "State employee" means any regular classified or unclassified officer or employee in a department, any employee of the Maine Technical College System, except those who make the election provided under Title 20-A, section 12722, any employee of the Maine Military Authority, any employee of the Northern New England Passenger Rail Authority and any employee transferred from the Division of Higher Education Services to the Finance Authority of Maine who elects to be treated as a state employee, but does not include:

A. A judge, as defined in Title 4, section 1201 or 1301, who is now or later may be entitled to retirement benefits under Title 4, chapter 27 or 29;

B. A member of the State Police who is now entitled to retirement benefits under Title 25, chapter 195; or

C. A Legislator who is now or later may be entitled to retirement benefits under Title 3, chapter 29.

Sec. 5. 14 MRSA §8102, sub-§4, as amended by PL 1995, c. 543, §1, is further amended to read:

4. State. "State" means the State of Maine or any office, department, agency, authority, commission, board, institution, hospital or other instrumentality of the State, including the Maine Turnpike