

# MAINE STATE LEGISLATURE

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

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTIETH LEGISLATURE**

**SECOND REGULAR SESSION**  
**January 2, 2002 to April 25, 2002**

**THE GENERAL EFFECTIVE DATE FOR**  
**SECOND REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**JULY 25, 2002**

**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**  
**2002**

**Sec. B-35. 32 MRSA §15229** is enacted to read:

**§15229. Duties of owners of elevators or tramways**

**1. Owner responsibility.** The responsibility for design, construction, maintenance and inspection of an elevator or tramway rests with the person, firm, partnership, association, corporation or company that owns the elevator or tramway.

**2. Obtain inspection certificate.** The owner of an elevator or tramway shall submit an annual application for an annual inspection certificate together with the inspection report within 30 business days of the inspection and prior to the expiration of the current certificate. The application must be on a form provided by the board and must be accompanied by the required fee set by the director under section 15225-A. A late fee set by the director under section 15225-A may be assessed for failure to submit the application and inspection report in a timely manner.

**3. Failure to qualify for inspection certificate.** The owner of an elevator or tramway that does not qualify for an inspection certificate shall take the elevator or tramway out of operation until the required repairs have been made and a new inspection certificate has been issued.

**4. Notify board when required repairs made.** The owner of an elevator or tramway shall notify the board when required repairs have been made and provide the board with satisfactory evidence of completion.

**5. Elevator or tramway declared idle or placed out of service.** The owner of an elevator or tramway that has been declared idle or placed out of service in accordance with rules adopted by the board shall notify the board within 30 days of declaring the elevator or tramway idle.

**6. Removal.** The owner of an elevator or tramway shall notify the board within 30 days of the removal of the elevator or tramway.

**7. Change of ownership.** The owner of record of an elevator or tramway shall notify the board of a transfer of ownership of an elevator within 30 days of such transfer. The new owner shall apply, on a form provided by the board, for a new inspection certificate that will be issued without the need for an additional inspection for the remainder of the term of the current certificate. A fee for issuance of a new inspection certificate may be set by the director under section 15225-A.

**8. Failure to comply.** In addition to the remedies available under this chapter, an owner who fails to comply with the provisions of this chapter or rules

adopted by the board is subject to the provisions of Title 10, section 8003, subsection 5 whether or not the elevator or tramway has a current inspection certificate, except that, notwithstanding Title 10, section 8003, subsection 5, paragraph A-1, subparagraph 3, a civil penalty of up to \$3,000 may be imposed for each violation.

**Sec. B-36. Transition.** In order to accomplish the transition from licenses issued for a 3-year period to licenses issued for a one-year period, the license or renewal fee assessed will be 1/3 of the fee for a 3-year license until annual license and renewal fees can be adopted by the Director of the Office of Licensing and Registration pursuant to the Maine Revised Statutes, Title 10, section 8003, subsection 2-A, paragraph D and Title 32, section 15225-A.

**Sec. B-37. Appropriations and allocations.** The following appropriations and allocations are made.

**PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF**

**Licensing and Enforcement**

Initiative: Allocates funds for one Boiler Inspector position, one Elevator Inspector position and one Clerk Typist III position and related administrative costs associated with increasing compliance with safety standards that relate to maintenance of boilers and elevators and to strengthen the State's ability to enforce current safety standards.

<b>Other Special Revenue Funds</b>	<b>2001-02</b>	<b>2002-03</b>
Positions - Legislative Count	(0.000)	(3.000)
Personal Services	\$0	\$162,525
All Other	0	29,600
<b>Total</b>	<b>\$0</b>	<b>\$192,125</b>

See title page for effective date.

**CHAPTER 574**

**H.P. 1525 - L.D. 2029**

**An Act to Amend the Laws Regarding Public Health**

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

**Sec. 1. 5 MRSA §12004-I, sub-§36-B,** as enacted by PL 1991, c. 780, Pt. LL, §1, is repealed.

**Sec. 2. 19-A MRSA §651, sub-§1,** as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

**1. Place of recording.** Residents of the State intending to be joined in marriage shall record notice

of their intentions in the office of the clerk of the municipality in which ~~each~~ at least one of them resides. If only one of the parties resides in the State, the parties shall record notice of their intentions in the office of the clerk of the municipality in which the resident party resides. If there is no clerk in the place of their residence, the notice must be filed with the clerk of an adjoining municipality. ~~If both parties reside out of the State, they must record notice of their intentions in the office of the clerk of the municipality in which the parties propose to have the marriage solemnized. If both parties to a marriage reside outside the State, they must file intentions in any municipal office. Once the intentions are filed and the license is issued, the parties are free to marry anywhere within the State.~~

**Sec. 3. 19-A MRSA §652, sub-§1**, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

**1. Marriage license issued.** ~~On and after the 3rd day from~~ After the filing of notice of intentions of marriage, except as otherwise provided, the clerk shall deliver to the parties a marriage license specifying the time when the intentions were recorded.

**Sec. 4. 19-A MRSA §652, sub-§§2 and 4**, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, are repealed.

**Sec. 5. 19-A MRSA §654, sub-§2**, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

**2. Return of original; copies.** The person who solemnized the marriage shall return each original certificate to the clerk who issued the certificate within 7 working days following the date on which the marriage is solemnized by that person. ~~If the marriage was solemnized in a municipality other than the place or places where the parties to the marriage reside, that person shall return a copy of the certificate, or of either certificate if 2 were issued, to the clerk of the town where the marriage was solemnized. The clerk and the State Registrar of Vital Statistics each shall retain a copy of the certificate.~~

**Sec. 6. 19-A MRSA §655, sub-§1, ¶A**, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

A. If a resident of this State:

- (1) A justice or judge;
- (2) A lawyer admitted to the Maine Bar; or
- ~~(3) A justice of the peace; or~~

(4) A notary public under Title 4, chapter 19; and

**Sec. 7. 19-A MRSA §657**, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

**§657. Lack of jurisdiction or authority**

A marriage, solemnized before any known inhabitant of the State professing to be a justice, judge, ~~justice of the peace~~ or notary public; or an ordained or licensed minister of the gospel, is not void, nor is its validity affected by any want of jurisdiction or authority in the justice, judge, ~~justice of the peace~~, notary or minister or by any omission or informality in entering the intention of marriage, if the marriage is in other respects lawful and consummated with a full belief, on the part of either of the persons married, that they are lawfully married.

**Sec. 8. 22 MRSA §772, sub-§2, ¶C**, as amended by PL 1999, c. 76, §1, is further amended to read:

C. Has been determined to ~~be acceptable by the United States Environmental Protection Agency under the Radon Measurement Proficiency Program conducted under 15 United States Code, Section 2661, or other means of proving proficiency as determined by the department~~ meet the proficiency requirements as determined by the department through rule. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

**Sec. 9. 22 MRSA §776, sub-§1**, as enacted by PL 1989, c. 657, §1, is amended to read:

**1. Personal use.** A person performing testing or mitigation on a building owned or inhabited by that person but not for sale at the time that person performs testing or mitigation on that building;

**Sec. 10. 22 MRSA §1405-A**, as enacted by PL 1991, c. 780, Pt. LL, §2, is repealed.

**Sec. 11. 22 MRSA §1406** is enacted to read:

**§1406. Maine Cancer Registry Data Review Committee**

The Maine Cancer Registry Data Review Committee, referred to in this section as the "committee," is established. The committee is appointed and convened by the Bureau of Health to review and advise the administrators of the statewide cancer-incidence registry established in section 1404 on the release of identifiable data as requested by researchers for the purposes of cancer prevention, control and research. The committee is composed of not fewer than 3

members, representing training and experience in the fields of medical or public health research or disease prevention and control. The committee must be guided by rules adopted by the Bureau of Health providing for the protection of the confidentiality of all cancer case data reported to the registry.

**Sec. 12. 22 MRSA §2000**, as amended by PL 1971, c. 598, §36, is further amended to read:

**§2000. Definition of "child"**

For the purposes of this chapter, the word "child" ~~shall mean~~ means any person who has not attained the age of ~~18~~ 22 years.

**Sec. 13. 22 MRSA §2001** is amended to read:

**§2001. Program of service**

The department, through its Bureau of Health, is authorized to administer a program of services for children who are ~~crippled disabled~~ or who are suffering from conditions ~~which that~~ lead to ~~crippling a disability~~, and to supervise the administration of those services included in the program ~~which that~~ are not administered directly by it. The purpose of ~~such included the~~ program ~~shall be~~ is to develop, extend and improve services for locating such children and for providing for medical, surgical, corrective and other services ~~and of~~ care, and for facilities for diagnosis, hospitalization and aftercare. Nothing in this chapter ~~shall may~~ be construed as authorizing any public official, agent or representative, in carrying out ~~said this~~ chapter, to take charge of any child over the objection of either the father or the mother of such child, or of the person standing in loco parentis to such child, except pursuant to a proper court order.

**Sec. 14. 22 MRSA §2615, sub-§1**, as repealed and replaced by PL 1995, c. 622, §5, is amended to read:

**1. Notification.** A public water system shall notify the public of the nature and extent of possible health effects as soon as practicable, but not later than the time ~~periods~~ period established under subsection 4, if the system:

- A. Is not in compliance with a state drinking water rule;
- B. Fails to perform monitoring, testing or analyzing or fails to provide samples as required by departmental rules;
- C. Is subject to a variance or an exemption granted under section 2613; or
- D. Is not in compliance with the terms of a variance or an exemption granted under section 2613.

Public notification under this section must be provided concurrently to the system's local health officer and to the department. When required by law, the department shall forward a copy of the notification to the Administrator of the United States Environmental Protection Agency. The department may require notification to a public water system's individual customers by mail delivery or by hand delivery within a reasonable time, but not earlier than required under federal laws.

**Sec. 15. 22 MRSA §2615, sub-§§3 and 4**, as enacted by PL 1995, c. 622, §6, are amended to read:

**3. Form of notification.** In addition to the notification required under subsection 1, a public water system shall provide public notification ~~by furnishing a copy of the information required under subsection 1 in accordance with this subsection pursuant to the requirements in 40 Code of Federal Regulations, Parts 141 to 143 (2001). A public water system that may provide notification via newspaper or media may voluntarily provide notification to its customers via mail or hand delivery. Notification must be provided:~~

~~A. To a daily newspaper or the communications media covering the territory served by the system; or~~

~~B. When a public water system is not served by a daily newspaper or communications media, or when a public water system is a nontransient, noncommunity system, directly to its customers via hand delivery or through continuous posting in conspicuous places reasonably calculated to reach the customers within the territory served by the system.~~

**4. Additional time of notification.** A public water system shall provide public notification pursuant to subsection 3 ~~on a notification schedule as follows:~~

~~A. When a boil-water order is properly issued to a public water system under section 2614, subsection 3, within 24 hours;~~

~~B. When a violation of a maximum contaminant level does not result in an acute risk to public health, when a treatment technique is required or when a schedule is contained within a variance or an exemption, within 14 days;~~

~~C. When a violation of a maximum contaminant level results in an acute risk to public health, within 72 hours of the identification of the violation;~~

~~D. For minor monitoring violations, as defined by the commissioner by rule, at least once annually;~~

~~E. For monitoring violations, other than for minor monitoring violations, within 90 days of the identification of the violation and at least once annually; and~~

~~F. For ongoing violations, once notification for a violation under this section has been provided, notification by mail delivery or by hand delivery at least once every 3 months for as long as the violation continues.~~

**Sec. 16. 22 MRSA §2701, first ¶,** as amended by PL 1975, c. 293, §4, is further amended to read:

The Department of Human Services shall establish ~~an~~ the Office of Vital Statistics Health Data and Program Management, which shall maintain a ~~statewide~~ statewide system for the registration of vital statistics.

**Sec. 17. 22 MRSA §2701, sub-§1,** as amended by PL 1985, c. 785, Pt. B, §89, is further amended to read:

**1. Registrar.** The Commissioner of Human Services shall appoint a State Registrar of Vital Statistics, referred to in this chapter as the "state registrar," who ~~shall~~ must be qualified in accordance with the standards of education and experience prescribed by the Bureau of Human Resources.

**Sec. 18. 22 MRSA §2701, sub-§2,** as repealed and replaced by PL 1995, c. 694, Pt. D, §29 and affected by Pt. E, §2, is amended to read:

**2. Supervision.** The state registrar has charge of the ~~Office of Vital Statistics~~ statewide system for the registration of vital statistics and is custodian of its files and records. The state registrar:

A. Shall preserve all certificates, records and other reports returned to the state registrar under this Title;

B. Has general supervision of this Title and rules of the department relating to the registration of vital statistics;

C. Has general supervision of Title 19-A, chapter 23;

D. Shall direct, supervise and control the activities of all persons engaged in the operation of the system of vital statistics;

E. Shall conduct training programs to promote uniformity of policy and procedures throughout the State in matters pertaining to the system of vital statistics; and

F. Shall monitor the accuracy, completeness and validity of all information returned to the state registrar under this Title and Title 19-A, chapter 23.

**Sec. 19. 22 MRSA §2701, sub-§5,** as amended by PL 1983, c. 669, is further amended to read:

**5. Deputy State Registrar.** The state registrar may designate an employee of the Office of ~~Vital Statistics Health Data and Program Management~~ Health Data and Program Management to represent the Office of ~~Vital Statistics Health Data and Program Management~~. The representative ~~shall be~~ is known as the Deputy State Registrar of Vital Statistics and ~~shall have~~ has the authority of the state registrar in the state registrar's absence.

**Sec. 20. 22 MRSA §2701, sub-§7, ¶¶A and B,** as enacted by PL 1995, c. 260, §2, are amended to read:

A. "File" means the presentation and acceptance of a vital record or report for registration by the Office of ~~Vital Statistics Health Data and Program Management~~ Health Data and Program Management or a municipal clerk as specified in departmental rule.

B. "Date of filing" means the date a vital record is accepted for registration by the Office of ~~Vital Statistics Health Data and Program Management~~ Health Data and Program Management or a municipal clerk.

**Sec. 21. 22 MRSA §2704** is amended to read:

**§2704. Registration of births and deaths at Veterans Administration Center**

Certificates of live births, deaths and fetal deaths occurring at the Veterans Administration Center at Togus ~~shall~~ must be filed directly with the state registrar. The state registrar shall forward copies of all such certificates of live birth, death and fetal death to the clerk of the municipality where the parents of the child reside or where the deceased was a resident ~~or was buried.~~

**Sec. 22. 22 MRSA §2706, sub-§5** is amended to read:

**5. Person's own records disclosed.** Vital records of a person ~~shall~~ must be made available at any reasonable time upon ~~his~~ that person's request or to ~~his~~ that person's duly designated attorney or agent or attorney for an agent designated by ~~such~~ that person or by a court having jurisdiction over ~~said~~ that person whether the request be made in person, by mail, telephone or otherwise, provided the state registrar is satisfied as to the identity of the requester, and if an attorney or agent, provided the state registrar is satisfied as to ~~his~~ the attorney or agent's authority to

act as such agent or attorney. If such agent or attorney has been appointed by a court of competent jurisdiction, or ~~his the attorney or agent's~~ appearance for such person is entered therein, the state registrar shall upon request so ascertain by telephone call to the register, clerk or recorder of said court, and this ~~shall must~~ be deemed sufficient justification to compel compliance with the request for said record. The state registrar shall, as soon as possible, designate persons in the Office of ~~Vital Statistics~~ Health Data and Program Management who may act in ~~his the state registrar's~~ absence, or in case of ~~his the state registrar's~~ disqualification, to carry out the intent of this subsection.

**Sec. 23. 22 MRSA §2761, sub-§4,** as amended by PL 1997, c. 537, §57 and affected by §62, is further amended to read:

**4. Child not born of marriage.** Except as otherwise provided in this subsection, if the mother was not married at the time of either conception or birth, or between conception and birth, neither the name of the putative father nor any other information about the putative father may be entered on the certificate without his written consent and that of the mother. The signature of the putative father on the written consent must be acknowledged before an official authorized to take oaths. The signature of the mother on her written consent must also be acknowledged before an official authorized to take oaths. If a determination of paternity has been made by a court of competent jurisdiction, then the name of the father as determined by the court must be entered on the birth certificate without the father's or the mother's consent. If the putative father executes an acknowledgement of paternity with the department and the putative father is either named in writing by the mother as the father or is presumed to be the father based on the results of blood or tissue-typing tests, the name of the father must be entered on the birth certificate without the father's or the mother's consent. All voluntary acknowledgments and adjudications of paternity in this State must be filed with the Office of ~~Vital Statistics~~ Health Data and Program Management for comparison with information in the state registry of support orders as established in Title 19-A, section 2104.

**Sec. 24. 22 MRSA §2765, sub-§2-A, ¶C,** as enacted by PL 1989, c. 818, §10, is amended to read:

C. When a new certificate of birth is established following adoption or legitimation, it must be substituted for the original certificate of birth. After that substitution, the original certificate of birth and the evidence of adoption ~~or legitimation~~ are not subject to inspection except upon order of the Probate Court or the Superior Court. The application for legitimation may be released to persons listed on the original birth certificate upon

completion of written application to the State Registrar of Vital Statistics or the registrar's designee.

**Sec. 25. 22 MRSA §2766, 2nd ¶,** as enacted by PL 1983, c. 356, is amended to read:

Upon verification of the information in this section, the state registrar shall prepare a form identifying the birth parents of the adoptee. This form ~~shall must~~ be attached to the new certificate of birth established pursuant to section 2765. A copy of the form ~~shall must~~ be attached to an abstract of birth issued by the Office of ~~Vital Statistics~~ Health Data and Program Management and ~~shall must~~ be provided to the adoptee.

**Sec. 26. 22 MRSA §2842, sub-§2,** as amended by PL 1993, c. 600, Pt. B, §§21 and 22, is further amended to read:

**2. Medical certificate by physician.** The medical certification of the cause of death ~~shall must~~ be completed in typewritten or handwritten block style and signed in a timely fashion by a physician authorized to practice in the State who has knowledge of the patient's recent medical condition, in accordance with department regulations and other laws detailing who can certify and in what time frame, except when the death falls under the jurisdiction of the medical examiner as provided in section 3025. If the patient was a resident of a nursing home licensed under section 1817 at the time of death and if the physician in charge of the patient's care or another physician designated by the physician in charge had not examined the patient within 48 hours prior to death, or within 2 weeks prior to death in the case of a terminally ill patient, the physician in charge or another physician designated by the physician in charge shall examine the body prior to completing the certification of death process. Any physician who fails to complete the medical certification of the cause of death fully, in typewritten or handwritten block style and in a timely manner, or who fails to examine the body of a nursing home resident prior to certifying cause of death as required by this section ~~shall must~~ be reported to the Board of Licensure in Medicine or the Board of Osteopathic Licensure, whichever is appropriate, by the State Registrar of Vital Statistics of the Department of Human Services.

For the purposes of this subsection, the following terms have the following meanings.

A. "Life-sustaining procedure" means any medical procedure or intervention that, when administered to a qualified patient, will serve only to prolong the dying process and ~~shall does~~ not include nutrition and hydration.

B. "Terminally ill patient" means a patient who has been diagnosed as having an incurable or irreversible condition that, without the administration of life-sustaining procedures, will, in the opinion of the attending physician, result in death within a short time.

**Sec. 27. 22 MRSA §2842, sub-§3**, as amended by PL 1987, c. 329, §1, is further amended to read:

**3. Medical certificate by medical examiner.**

When a death occurs under circumstances ~~which that~~ make it a medical examiner case as defined in section 3025, or when inquiry as to the cause of death is required by law, the medical examiner shall complete ~~and sign in typewritten or handwritten block style~~ the medical certification of the cause of death and ~~sign the death certificate~~. A certification need not be completed before the remains are ready for release.

The medical examiner ~~shall be~~ is responsible for the identity of the deceased and the time, date, place, cause, manner and circumstances of death on the death certificate. Entries may be left "pending" if further study is needed; or, at the specific direction of the Attorney General relative to cases under investigation by ~~his the Attorney General's~~ office, entries ~~shall must~~ be left "withheld" until such time as the Attorney General, in ~~his the Attorney General's~~ sole discretion, determines that any criminal investigation and prosecution will not be harmed by public disclosure of such information. Notwithstanding section 2706, subsection 4, unless directed otherwise by the Attorney General as specified in this subsection, this information for which the medical examiner is responsible may be made available to the general public by the Office of Chief Medical Examiner.

**Sec. 28. 22 MRSA §2843, 3rd ¶**, as enacted by PL 1985, c. 231, §2, is amended to read:

A municipal clerk may issue a ~~burial-transit dis-~~ position of human remains permit to a funeral director who presents a report of death and states that ~~he the~~ funeral director has been unable to obtain a medical certification of the cause of death. The funeral director shall name the attending physician or medical examiner who will certify to the cause of death and present assurances that he or she has agreed to do so. The funeral director shall exercise due diligence to secure the medical certification and file the death certificate as soon as possible.

**Sec. 29. 22 MRSA §2844**, as amended by PL 1989, c. 54, is further amended to read:

**§2844. Subregistrars**

The town or city clerk may appoint one or more suitable and proper persons in the municipality as

subregistrars, who ~~shall be~~ are authorized to issue permits for transportation and final disposition of dead human bodies in the same manner as is required of the town or city clerk. Permits may be issued by a subregistrar only when the town or city clerk or deputy clerk is not available. The completed death certificate or report of death, upon which the permit is issued, together with a copy of the ~~burial-transit disposition of~~ human remains permit ~~shall must~~ be forwarded to the town clerk at the earliest opening of the municipal office after the date of issue, and all permits by whomsoever issued ~~shall must~~ be returned to the town clerk as required by section 2843. The appointment of subregistrars ~~shall must~~ be made with reference to locality, so as to best suit the convenience of the inhabitants of the town, and such appointment ~~shall must~~ be in writing and recorded in the office of the town or city clerk. The subregistrars in any town ~~shall~~ hold office at the pleasure of the town clerk.

**Sec. 30. 22 MRSA §2845**, as enacted by PL 1973, c. 252, is amended to read:

**§2845. Certificate of death typewritten**

Any death certificate required to be filed by this chapter ~~shall must~~ be typewritten or ~~printed~~ handwritten in block type prior to such filing.

**Sec. 31. Retroactivity.** That section of this Act that amends the Maine Revised Statutes, Title 22, section 253 applies retroactively to January 1, 2001.

See title page for effective date.

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**CHAPTER 575**

**S.P. 695 - L.D. 1897**

**An Act to Facilitate the Closure of  
Privately Owned Solid Waste  
Landfills**

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

**Whereas**, this legislation allows the owner or operator of a privately owned solid waste disposal facility to use the financial assurance mechanisms allowed under federal law for closure and post-closure care of the facility; and

**Whereas**, the enactment of this legislation will facilitate the closure of privately owned solid waste landfills; 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