

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTIETH LEGISLATURE

FIRST SPECIAL SESSION
November 13, 2002 to November 14, 2002

ONE HUNDRED AND TWENTY-FIRST LEGISLATURE

FIRST REGULAR SESSION
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FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
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IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

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companies or corporations. They may answer by attorney or agent and make disclosures, which ~~shall~~ must be signed and sworn to by ~~such an~~ attorney or agent or ~~such other~~ another person upon whom legal service of the summons may be made. The same proceedings ~~shall~~ must thereupon be had throughout except necessary changes in form, as in other cases of foreign attachment.

Sec. 6. 14 MRSA §2608-A is enacted to read:

§2608-A. Service on financial institution as trustee

Service of trustee process on a financial institution authorized to do business in this State or credit union authorized to do business in this State, as defined in Title 9-B, section 131, is effected by one of the following means:

1. Designated office. Personal service by any lawful means upon the office designated by the financial institution or credit union for service of trustee process in a registry maintained for this purpose by the Secretary of State; or

2. Acceptance by designated officer or employee. Acceptance of service in writing by an officer or employee of the financial institution or credit union expressly authorized to accept service of trustee process.

Sec. 7. 14 MRSA §2614 is amended to read:

§2614. Trustee not appearing defaulted

When a person summoned as trustee neglects to appear and answer to the action, ~~he shall~~ the trustee must be defaulted and adjudged trustee ~~as alleged~~ to the extent that such a person holds goods, effects or credits of the principal defendant otherwise available to satisfy the unsatisfied portion of final judgment. Nothing in this section limits the additional remedies available under this chapter for the trustee's failure to disclose, including the assessment of costs under section 2701 or, in a proper case, contempt.

Sec. 8. 14 MRSA §2901 is amended to read:

§2901. Discontinuance of action

When a trustee action is discontinued or settled by the principal parties ~~thereto to the action~~, the trustee ~~shall be~~ is entitled to no costs, ~~provided if~~ the plaintiff or ~~his~~ the plaintiff's attorney ~~shall~~, at least 7 days before the trustee's disclosure under oath is required to be served, ~~notify~~ notifies the trustee in writing that the action has been discontinued. Upon conclusion of the principal action, when the goods, effects or credits trusteed are not to be used to satisfy a judgment, the plaintiff or the plaintiff's attorney shall

notify the trustee in writing within 30 days of the extinguishment of plaintiff's claim to such property.

If the trustee discloses possession of goods, effects or credits of the principal defendant, or by virtue of default is adjudged trustee, and the trusteed funds are not collected or released within 7 years, they must be presumed abandoned under Title 33, chapter 41 unless the trustee is served with a certificate of the clerk of the appropriate court, between 30 and 90 days prior to such date, evidencing that the principal action is still pending.

Sec. 9. 14 MRSA §2952 is amended to read:

§2952. Judgment against trustee where no examination

After notice of ~~such~~ a motion under section 2951 has been served ~~on him~~, if ~~he~~ the person neglects to appear and answer ~~thereto~~ to the motion, ~~he shall~~ that person must be defaulted and adjudged trustee to the extent that the person holds goods, effects or credits of the principal defendant otherwise available to satisfy the unsatisfied portion of final judgment. ~~If he was not examined in the original action, judgment shall be rendered against him for the whole sum remaining due on the judgment against the principal defendant. Nothing in this section limits the additional remedies available under this chapter for the trustee's failure to disclose, including the assessment of costs under section 3102.~~

Sec. 10. 14 MRSA §3102 is amended to read:

§3102. Default for nonappearance; costs

When the person summoned under section 3101 does not appear and answer to the action, ~~he shall~~ that person must be defaulted, adjudged trustee to the extent provided in section 2614 and be liable to costs. If ~~he~~ that person appears at the return day and submits to an examination on oath and is discharged, ~~he shall~~ the person must be allowed ~~his~~ his legal costs. If ~~he~~ the person is charged, ~~he~~ the person may retain the amount of ~~his~~ his costs. When the plaintiff dismisses ~~his~~ the action against ~~him~~ the trustee or the principal, the trustee ~~shall~~ must be allowed ~~his~~ his costs.

See title page for effective date.

CHAPTER 150

H.P. 549 - L.D. 743

**An Act To Develop a Plan for
Cathode Ray Tube Disposal**

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

Sec. 1. 38 MRSA §1306, sub-§4 is enacted to read:

4. Cathode ray tube disposal. After January 1, 2006, a person may not dispose of a cathode ray tube in a solid waste disposal facility. This subsection may not be construed to affect existing laws, rules or regulations governing disposal of cathode ray tubes in effect prior to January 1, 2006.

Sec. 2. Stakeholder group established. The Department of Environmental Protection shall convene a stakeholder group to assist the department in developing a recommended plan for the collection and recycling of cathode ray tubes, referred to in this section as "CRTs." The plan must utilize the concept of shared responsibility among manufacturers, distributors, retailers, consumers and other parties. The stakeholder group must be convened no later than 30 days after the effective date of this Act.

1. Membership. The stakeholder group must include representation from an environmental advocacy organization; the electronic manufacturing industry; a recycling or consolidation business; the Executive Department, State Planning Office; a statewide municipal association; a solid waste disposal business; and other interested parties that may have a role in the collection and recycling plan.

2. Duties. The Department of Environmental Protection, with the assistance of the stakeholder group, shall:

- A. Identify products that contain CRTs; track the distribution of these products among consumer groups, including households, small businesses and industry; and determine the number of CRTs that are currently available for collection;
- B. Identify existing resources for the collection and recycling of CRTs and recommend ways to expand in-state resources for the collection and recycling of CRTs;
- C. Review the various types and sizes of CRTs in order to recommend which CRTs should be included in a collection and recycling program;
- D. Review alternative disposal practices, including the practice of disposal in lined solid waste landfills or incineration and the practice of collection, recycling and final disposal; and
- E. Estimate the cost of collection and recycling of CRTs and recommend a plan for how the costs should be paid, including the costs of collecting orphaned and historic waste. The payment plan must address shared responsibility among manufacturers, distributors, retailers, consumers and other parties.

3. Report. The Department of Environmental Protection shall submit to the Joint Standing Committee on Natural Resources no later than January 30, 2004 a recommended plan, including any legislation necessary to implement the plan, for the collection and recycling of CRTs that utilizes shared responsibility among manufacturers, distributors, retailers, consumers and other parties. The Joint Standing Committee on Natural Resources may report out legislation concerning the collection and recycling of CRTs during the Second Regular Session of the 121st Legislature.

See title page for effective date.

CHAPTER 151

H.P. 975 - L.D. 1321

An Act Regarding Energy Efficiency Standards

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

Sec. 1. 10 MRSA §1413, sub-§1, as amended by PL 1989, c. 75, §1, is further amended to read:

1. ASHRAE. "~~ASHRAE 90~~" means the ~~current standard for energy conservation in new building design developed and approved by the American Society of Heating, Refrigeration and Air-Conditioning Engineers, Inc.~~ Refrigerating and Air-Conditioning Engineers, Inc.

Sec. 2. 10 MRSA §1413, sub-§§1-A and 1-B are enacted to read:

1-A. ASHRAE Standard 62-2001. "ASHRAE Standard 62-2001" means Ventilation for Acceptable IAQ, ASHRAE Standard 62-2001, the standard for building ventilation adopted by ASHRAE in 2001.

1-B. ASHRAE Standard 90.1, 2001. "ASHRAE Standard 90.1, 2001" means Standard 90.1, 2001 Energy Standard for Buildings, IP Edition, the standard for energy conservation in new building design adopted by ASHRAE in 2001.

Sec. 3. 10 MRSA §1415-C, first ¶, as enacted by PL 1991, c. 246, §6, is amended to read:

Except as provided in this section, any new conditioned space in a residential building constructed after January 1, ~~1989~~ 2004 must conform to the minimum prescriptive or performance standards established in this section.