

# 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**  
**December 4, 2002 to June 14, 2003**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST SPECIAL SESSION**  
**NON-EMERGENCY LAWS IS**  
**FEBRUARY 13, 2003**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 13, 2003**

**PUBLISHED BY THE REVISOR OF STATUTES**  
**IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,**  
**TITLE 3, SECTION 163-A, SUBSECTION 4.**

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**Penmor Lithographers**  
**Lewiston, Maine**  
**2003**

son's authorized representative after disclosing to the covered individual and the covered entity the cost of both drugs and any benefit or payment directly or indirectly accruing to the pharmacy benefits manager as a result of the substitution.

(3) The pharmacy benefits manager shall transfer in full to the covered entity any benefit or payment received in any form by the pharmacy benefits manager as a result of a prescription drug substitution under subparagraph (1) or (2).

F. A pharmacy benefits manager that derives any payment or benefit for the dispensation of prescription drugs within the State based on volume of sales for certain prescription drugs or classes or brands of drugs within the State shall pass that payment or benefit on in full to the covered entity.

G. A pharmacy benefits manager shall disclose to the covered entity all financial terms and arrangements for remuneration of any kind that apply between the pharmacy benefits manager and any prescription drug manufacturer or labeler, including, without limitation, formulary management and drug-switch programs, educational support, claims processing and pharmacy network fees that are charged from retail pharmacies and data sales fees.

3. Compliance. Compliance with the requirements of this section is required in all contracts for pharmacy benefits management entered into in this State or by a covered entity in this State.

4. Enforcement. A violation of this section is a violation of the Maine Unfair Trade Practices Act, for which a fine of not more than \$10,000 may be adjudged.

See title page for effective date.

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## CHAPTER 457

H.P. 963 - L.D. 1309

### An Act To Protect Public Health by Reducing Human Exposure to Arsenic

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

Sec. 1. 33 MRSA §173-A is enacted to read:

**§173-A. Information provided**

Beginning January 1, 2004, unless the transaction is exempt under section 172, the seller of residential real property shall provide to the purchaser information developed by the Director of the Bureau of Health within the Department of Human Services regarding what homeowners should know about arsenic in private water supplies and arsenic in treated wood. Copies of this information must be provided to sellers at cost.

Sec. 2. 38 MRSA c. 16-C is enacted to read:

## **CHAPTER 16-C**

### **ARSENIC-TREATED WOOD PRODUCTS**

#### **§1681. Definitions**

As used in this chapter, unless the context otherwise indicates, "arsenic-treated wood" means lumber, timber, piles, poles, posts, plywood, shakes, shingles or other wood or forest products intended for outdoor use that have been pressure treated to reduce decay with a wood preservative containing inorganic arsenic or inorganic arsenic compounds, including, but not limited to, chromated copper arsenate, commonly referred to as "CCA," or similar arsenic-based wood-preserving chemical mixtures.

#### **§1682. Restriction on sale**

The following restrictions apply to the sale of arsenic-treated wood or wood products for residential uses that are not included as permitted uses in a notice of cancellation order issued by the United States Environmental Protection Agency as published in the Federal Register on April 9, 2003.

1. Purchase of arsenic-treated wood by retail business. Retail businesses that sell wood for residential use may not purchase arsenic-treated wood or wood products for residential uses that are not included as permitted uses in a notice of cancellation order issued by the United States Environmental Protection Agency as published in the Federal Register on April 9, 2003.

2. Sale of arsenic-treated wood. Beginning April 1, 2004, a person may not sell or offer for sale arsenic-treated wood or wood products for residential uses that are not included as permitted uses in a notice of cancellation order issued by the United States Environmental Protection Agency as published in the Federal Register on April 9, 2003. This prohibition does not apply to structures already built containing arsenic-treated wood that are included as part of a residential real estate transaction.

#### **§1683. Statute not admissible in evidence**

This chapter may not be admitted in evidence or offered as an exhibit for any purpose in any civil trial against any wholesaler, retailer or installer of arsenic-treated wood. This section does not apply in cases of enforcement actions brought by the State.

**Sec. 3. Disposal plan.** By January 1, 2005, the Department of Environmental Protection shall submit to the joint standing committee of the Legislature having jurisdiction over natural resources matters a plan for the safe management of arsenic-treated wood waste. The plan must be developed in consultation with interested parties. The plan must include, but is not limited to, recommendations regarding:

1. The separation and segregation of arsenic-treated wood at solid waste handling facilities;
2. Restrictions on the combustion of arsenic-treated wood at incineration facilities, biomass boilers and other boilers; and
3. Restrictions on the disposal of arsenic-treated wood at unlined landfills.

For purposes of this section, "arsenic-treated wood" has the same meaning as in the Maine Revised Statutes, Title 38, section 1681.

**Sec. 4. Report on reducing arsenic exposure and ensuring safe drinking water from private wells.** The Department of Human Services, Bureau of Health shall submit a report no later than October 1, 2004 to the Joint Standing Committee on Natural Resources and the Joint Standing Committee on Health and Human Services after consultation with a diverse group of interested parties. The report must contain an assessment of the need for a comprehensive safe drinking water program for private wells to address arsenic and other contaminants of human health concern and recommendations to address identified needs.

**Sec. 5. Report on arsenic and real estate transactions.** The Real Estate Commission, under the Maine Revised Statutes, Title 32, chapter 114, subchapter 2, shall submit a report no later than October 1, 2004 to the Joint Standing Committee on Natural Resources and the Joint Standing Committee on Business, Research and Economic Development after consultation with the Department of Human Services, Bureau of Health and other interested persons. The report must contain a description of efforts within the real estate industry to increase awareness among real estate licensees and buyers and sellers of residential real estate of the hazards of arsenic in water supplies and treated wood, the need to test for arsenic in private water supplies and the need to identify and to regularly coat with a sealant arsenic-treated wood structures, including decks, entryways and play sets. The efforts may include, but are not

limited to, information directly used by home sellers and buyers, such as modifications to purchase and sales agreements, modifications to hazardous materials disclosures and educational brochures or other written information.

**Sec. 6. Report on arsenic-treated wood uses.** The Department of Environmental Protection shall submit a report no later than January 1, 2004 to the Joint Standing Committee on Natural Resources that contains a market evaluation of the sale of "arsenic-treated wood," as defined in the Maine Revised Statutes, Title 38, section 1681, in the State and the remaining uses of arsenic-treated wood that are still allowed in the State. For marine and other direct water contact uses of arsenic-treated wood, the report must include information on the market availability of alternatives to wood treated with a preservative containing added copper. The joint standing committee may report out legislation to the Second Regular Session of the 121st Legislature to restrict the sale of arsenic-treated wood for all remaining uses.

See title page for effective date.

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## CHAPTER 458

H.P. 195 - L.D. 240

### An Act to Ensure that Maine's Unemployment System is Responsive to the Needs of Today's Workforce

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

**Sec. 1. 26 MRSA §1192, sub-§3,** as repealed and replaced by PL 1983, c. 816, Pt. A, §22, is amended to read:

**3. Is able and available for work.** ~~He~~ The individual is able to work and is available for full-time work at ~~his~~ the individual's usual or customary trade, occupation, profession or business or in such other trade, occupation, profession or business for which ~~his~~ the individual's prior training or experience shows ~~him~~ the individual to be fitted or qualified; and in addition to having complied with subsection 2 is ~~himself~~ actively seeking work in accordance with the regulations of the commission; provided that no ineligibility may be found solely because the claimant is unable to accept employment on a shift, the greater part of which falls between the hours of midnight to 5 a.m., and is unavailable for that employment because of parental obligation, the need to care for an immediate family member, or the unavailability of a personal care attendant required to assist the unemployed individual who is a handicapped person; and provided that an