

# 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**

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

unemployed individual who is neither able nor available for work due to good cause as determined by the deputy ~~shall be~~ is eligible to receive prorated benefits for that portion of the week during which ~~he~~ the individual was able and available;

A. Notwithstanding this subsection, beginning January 1, 2004, an individual who is not available for full-time work as required in this subsection is not disqualified from receiving benefits if:

(1) The individual worked less than full time for a majority of the weeks during that individual's base period and the individual is able and available for and actively seeking part-time work for at least the number of hours in a week comparable to those customarily worked in part-time employment during that individual's base period; or

(2) The individual worked full time for a majority of the weeks during that individual's base period, but is able and available for and actively seeking only part-time work because of the illness or disability of an immediate family member or because of limitations necessary for the safety or protection of the individual or individual's immediate family member.

This paragraph does not apply to a person who applies for benefits after September 30, 2005. This paragraph continues to apply to a person who applies for benefits on or before September 30, 2005 until that person has exhausted benefits payable under that application.

**Sec. 2. Appropriations and allocations.**

The following appropriations and allocations are made.

**LABOR, DEPARTMENT OF**

**Unemployment Compensation Benefit  
Account 0245**

Initiative: Allocates funds to provide for the additional cost of providing unemployment benefits to persons who are unavailable for full-time work under certain circumstances.

<b>Employment Security Trust Fund</b>	<b>2003-04</b>	<b>2004-05</b>
All Other	\$2,280,000	\$2,320,000
<hr style="width: 50%; margin-left: 0;"/>		
Employment Security Trust Fund Total	\$2,280,000	\$2,320,000

See title page for effective date.

**CHAPTER 459**

**S.P. 48 - L.D. 125**

**An Act to Promote Fairness and Opportunity for Working Amputees**

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

**Sec. 1. 24-A MRSA §4315** is enacted to read:

**§4315. Coverage of prosthetic devices**

**1. Definition.** As used in this section, "prosthetic device" means an artificial device to replace, in whole or in part, an arm or a leg.

**2. Required coverage.** A carrier shall provide coverage for prosthetic devices in all health plans that, at a minimum, equals the coverage and payment for prosthetic devices provided under federal laws and regulations for the aged and disabled pursuant to 42 United States Code, Sections 1395k, 1395l and 1395m and 42 Code of Federal Regulations, Sections 414.202, 414.210, 414.228 and 410.100. Covered benefits must be provided for a prosthetic device determined by the enrollee's provider, in accordance with section 4301-A, subsection 10-A, to be the most appropriate model that adequately meets the medical needs of the enrollee.

**3. Prior authorization.** A carrier may require prior authorization for prosthetic devices in the same manner as prior authorization is required for any other covered benefit.

**4. Repair or replacement.** Coverage under this section must also be provided for repair or replacement of a prosthetic device if repair or replacement is determined appropriate by the enrollee's provider.

**5. Coverage under managed care plan.** If coverage under this section is provided through a managed care plan, a carrier may require that prosthetic services be rendered by a provider who contracts with the carrier and that a prosthetic device be provided by a vendor designated by the carrier.

**6. Exclusions.** Coverage is not required pursuant to this section for a prosthetic device that contains a microprocessor or that is designed exclusively for athletic purposes.

**Sec. 2. Application.** The requirements of this Act apply to all policies, contracts and certificates executed, delivered, issued for delivery, continued or renewed in this State on or after January 1, 2004. For