

# MAINE STATE LEGISLATURE

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

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-SECOND LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 1, 2004 to March 30, 2005**

**FIRST SPECIAL SESSION**  
**April 4, 2005 to June 18, 2005**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**JUNE 29, 2005**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST SPECIAL SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 17, 2005**

**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**  
**2005**

**CHAPTER 99****H.P. 574 - L.D. 809****An Act To Facilitate Testimony in  
Workers' Compensation Proceedings****Be it enacted by the People of the State of  
Maine as follows:**

**Sec. 1. 39-A MRSA §309, sub-§3**, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

**3. Witnesses; discovery.** All witnesses must be sworn. Sworn written evidence may not be admitted unless the author is available for cross-examination or subject to subpoena; except that sworn statements by a medical doctor or osteopathic physician relating to medical questions, by a psychologist relating to psychological questions ~~or~~, by a chiropractor relating to chiropractic questions, by a certified nurse practitioner who qualifies as an advanced practice registered nurse relating to advanced practice registered nursing questions or by a physician's assistant relating to physician assistance questions are admissible in workers' compensation hearings only if notice of the testimony to be used is given and service of a copy of the letter or report is made on the opposing counsel 14 days before the scheduled hearing.

Depositions or subpoenas of health care practitioners who have submitted sworn written evidence are permitted only if the hearing officer finds that the testimony is sufficiently important to outweigh the delay in the proceeding.

The board may establish procedures for the prefilming of summaries of the testimony of any witness in written form. In all proceedings before the board or its designee, discovery beyond that specified in this section is available only upon application to the board, which may approve the application in the exercise of its discretion.

See title page for effective date.

**CHAPTER 100****S.P. 91 - L.D. 271****An Act To Allow Counties To  
Recover the Cost of Cleaning Up  
Hazardous Spills****Be it enacted by the People of the State of  
Maine as follows:**

**Sec. 1. 38 MRSA §1318-A**, as amended by PL 1991, c. 817, §33, is further amended to read:

**§1318-A. Recovery by State, counties and  
municipalities for expenditures for  
removal of discharges**

**1. Responsible party.** The responsible party or the person causing the discharge is liable for all acts and omissions of its servants and agents ~~which~~ that are committed within the course and scope of their employment.

**2. State, counties and municipalities to recover for expenditures for removal.** Any person who permits, causes or is responsible for a prohibited discharge shall reimburse the State, counties and municipalities for all costs incurred, including personnel costs, in removing the discharge, including costs for ensuring public safety. Funds recovered under this section must be deposited to the account from which they were expended. Requests from the State for reimbursement, if not paid within 30 days of demand, may be turned over to the Attorney General for collection or may be submitted to a collection agency or agent or an attorney retained by the department with the approval of the Attorney General pursuant to Title 5, section 191, or, for county or municipal cost, to the District Attorney for collection.

In any suit to enforce claims of the State, a county or a municipality under this section, it is not necessary for the State, county or ~~a~~ municipality to plead or prove negligence in any form or manner on the part of the person causing, permitting or responsible for the discharge. The State, county or municipality need only plead and prove the fact of the prohibited discharge and that the discharge occurred while the hazardous matter was in the custody or control of the person causing, permitting or responsible for the discharge.

At the request of one or more municipalities, a county may bring legal action for recovery under this section on behalf of the municipality or municipalities. If the county is successful in the action, the county is entitled to recover the cost of the action and reasonable attorney's fees.

See title page for effective date.

**CHAPTER 101****H.P. 235 - L.D. 311****An Act To Prohibit Steering in  
Automobile Insurance****Be it enacted by the People of the State of  
Maine as follows:**