

# MAINE STATE LEGISLATURE

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

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-THIRD LEGISLATURE**

**SECOND REGULAR SESSION**  
**January 2, 2008 to March 31, 2008**

**FIRST SPECIAL SESSION**  
**April 1, 2008 to April 18, 2008**

**THE GENERAL EFFECTIVE DATE FOR**  
**SECOND REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**JUNE 30, 2008**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST SPECIAL SESSION**  
**NON-EMERGENCY LAWS IS**  
**JULY 18, 2008**

**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**  
**2008**

the evidence must be compiled and presented to the Attorney General or the local district attorney's office for prosecution.

**3. Criminal penalties.** Notwithstanding any other provision of law:

A. A person who practices or represents to the public that the person is authorized to practice as an underground oil storage tank installer or inspector and intentionally, knowingly or recklessly fails to obtain certification as required by this chapter or intentionally, knowingly or recklessly practices or represents to the public that the person is authorized to practice after the certification required by this chapter has expired or been suspended or revoked commits a Class E crime; and

B. A person who violates paragraph A when the person has a prior conviction under this subsection commits a Class D crime. Title 17-A, section 9-A governs the use of prior convictions when determining a sentence, except that, for purposes of this paragraph, the date of the prior conviction must precede the commission of the offense being enhanced by no more than 3 years.

**4. Civil violations.** A person who practices or represents to the public that the person is authorized to practice as an underground oil storage tank installer or inspector without first obtaining certification as required by this chapter or after the certification has expired or has been suspended or revoked commits a civil violation for which a fine of not less than \$100 and not more than \$2,000 for each violation may be adjudged. An action under this subsection may be brought in District Court or Superior Court.

**5. Injunctions.** The Attorney General may bring an action in District Court or Superior Court to enjoin a person from violating subsection 4 and to restore to a person who has suffered any ascertainable loss by reason of that violation any money or personal or real property that may have been acquired by means of that violation and to compel the return of compensation received for engaging in that unlawful conduct.

A person who violates the terms of an injunction issued under this subsection shall pay to the State a fine of not more than \$10,000 for each violation. In an action under this subsection, when a permanent injunction has been issued, the court may order the person against whom the permanent injunction is issued to pay to the Ground Water Oil Clean-up Fund under Title 38, chapter 3, subchapter 2-B the costs of the investigation of that person by the Attorney General and the costs of suit, including attorney's fees. In an action by the Attorney General brought against a person for violating the terms of an injunction issued under this subsection, the court may make the necessary orders or judgments to restore to a person who has suffered any ascertainable loss any money or personal

or real property or to compel the return of compensation received by reason of such conduct found to be in violation of an injunction.

See title page for effective date.

**CHAPTER 498**

**H.P. 1408 - L.D. 2024**

**An Act To Clarify the Licensure of Advanced Practice Registered Nurses**

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

**Sec. 1. 32 MRSA §2102, sub-§4,** as amended by PL 1985, c. 724, §4, is further amended to read:

**4. License.** A "license" is an authorization to practice nursing as a professional nurse or practical nurse or advanced practice registered nurse.

**Sec. 2. 32 MRSA §2102, sub-§5-A,** as enacted by PL 1995, c. 379, §5 and affected by §11, is amended to read:

**5-A. Advanced practice registered nurse.** "Advanced practice registered nurse" means an individual who is currently licensed under this chapter ~~and approved by the board~~ to practice advanced practice registered nursing as defined in subsection 2-A. "A.P.R.N." is the abbreviation for the title of "advanced practice registered nurse." An advanced practice registered nurse may use the abbreviation "A.P.R.N." or the title or abbreviation designated by the national certifying body.

"Advanced practice registered nurse" includes a certified nurse practitioner, a certified nurse midwife, a certified clinical nurse specialist and a certified nurse anesthetist who are licensed under this chapter ~~and are approved by the board~~ to practice advanced practice registered nursing.

**Sec. 3. Effective date.** This Act takes effect September 1, 2008.

Effective September 1, 2008.

**CHAPTER 499**

**S.P. 786 - L.D. 1992**

**An Act To Amend the Laws Governing Agricultural Marketing and Bargaining**

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

**Sec. 1. 7 MRSA §1017, sub-§4**, as amended by PL 2005, c. 333, §3, is further amended to read:

**4. Notification of insufficient or no payment.** Producers may notify the Department of Agriculture, Food and Rural Resources of insufficient or no payment for potatoes or rotation crops after acceptance by any processor, dealer, broker, agent or retailer in the State in violation of subsection 1, paragraph B.

A. The Commissioner of Agriculture, Food and Rural Resources or the commissioner's agent, upon notification by producers of insufficient or no payment, shall immediately investigate the complaint and shall, in a manner consistent with the provisions of the Maine Administrative Procedure Act as to adjudicatory proceedings, hold a hearing, unless such hearing is waived by the processor, dealer, broker, agent or retailer against whom the charge has been made. The processor, dealer, broker, agent or retailer accused of nonpayment shall provide the commissioner with a copy of the contract, if any, and all other materials and information to enable the commissioner to carry out the provisions of this section. Upon finding after investigation that the processor, dealer, broker, agent or retailer has violated the contract, express or implied, the commissioner may recover the proceeds of the bond required by section 1015 and apply those proceeds against the amounts owed producers. In the event the bond proceeds are inadequate to cover the debts owed producers, the commissioner shall require the processor, dealer, broker, agent or retailer to post an additional bond sufficient to cover the remaining debt owed to the producer or producers.

(1) The commissioner, after determination upon a hearing of insufficient payment or nonpayment of debts owed to a producer, may require the licensee, who has been accused or found guilty after a hearing of insufficient payment or nonpayment of debts owed a producer, to formulate a schedule of payments to the producer that is satisfactory to the commissioner. The schedule of payments may not exceed a 30-day period.

(2) The licensee accused of or found by, who after a hearing is determined to be in default of payment to a producer, shall submit a payment schedule to the commissioner within one week from the commissioner's request for a payment schedule. In the event that the schedule of payment is not satisfactory to the commissioner, the commissioner shall establish the schedule of payment not to exceed a 30-day period.

(3) The commissioner shall file a complaint with the District Court seeking to suspend the license of any licensee who fails to conform

to the payment schedule established in this section until the producer is paid the total claim to which the producer is entitled.

(4) Upon the filing of a complaint by the commissioner in the District Court, the licensee shall post a bond sufficient to cover the total claim owed the producer on the date on which the complaint is filed. The bond required for an appeal procedure may be waived by the District Court in the event that the bond required in paragraph A is valid and sufficient to cover the total claim owed the producer.

(5) Nothing in this section may be construed to prohibit a producer from seeking redress for insufficient payment or nonpayment from licensees in any court or in accordance with any federal procedure established to obtain redress.

**Sec. 2. 13 MRSA §1955, sub-§3**, as enacted by PL 1973, c. 621, §1, is amended to read:

**3. Handler.** "Handler," ~~in the case of potatoes, means "processor" as defined under Title 7, section 1012, subsection 14 and in the case of other agricultural products~~ means any person engaged in the business or practice of:

- A. Acquiring agricultural products from producers or associations of producers for processing or sale;
- B. Grading, packaging, handling, storing or processing agricultural products received from producers or associations of producers;
- C. Contracting or negotiating contracts or other arrangements, written or oral, with or on behalf of producers or associations of producers with respect to the production or marketing of any agricultural product; or
- D. Acting as an agent or broker for a handler in the performance of any function or act specified in paragraph A, B or C.

In the case of potatoes, "handler" means a processor as defined under Title 7, section 1012, subsection 14 or a person or company acting as an agent, broker or dealer as defined under Title 7, section 1012, subsections 1, 3 and 5, respectively, for a processor located or licensed in the State and providing more than 100,000 hundredweight of potatoes annually to any one processor.

See title page for effective date.