

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWELFTH LEGISLATURE

FIRST REGULAR SESSION

December 5, 1984 to June 20, 1985

Chapters 1-384

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

J.S. McCarthy Co., Inc.
Augusta, Maine
1986

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION

of the
ONE HUNDRED AND TWELFTH LEGISLATURE

1985

the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

3 MRSA §2, 2nd paragraph, as repealed and replaced by PL 1975, c. 750, §1, is amended to read:

The first regular session of the Legislature, after its convening, shall adjourn no later than 100 legislative days after its convening the 3rd Wednesday in June and the 2nd regular session of the Legislature shall adjourn no later than 50 legislative days after its convening the 3rd Wednesday in April. The Legislature, in case of emergency, may by a vote of 2/3 of the members of each House present and voting, extend the date for adjournment for the first or 2nd regular session by no more than 5 legislative days, and in case of further emergency, may by a vote of 2/3 of the members of each House present and voting, further extend the date for adjournment by 5 additional legislative days. The times for adjournment for the first and 2nd regular sessions may also be extended for one additional legislative day for the purpose of considering possible objections of the Governor to any bill or resolution presented to him by the Legislature under the Constitution, Article IV, Part Third, Section 2.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

Effective May 10, 1985.

CHAPTER 167

H.P. 78 - L.D. 98

AN ACT Defining the Right of State Employees to Testify Before Legislative Committees.

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

5 MRSA c. 2 is enacted to read:

CHAPTER 2

TESTIMONY PROVIDED BY STATE EMPLOYEES

TO LEGISLATIVE COMMITTEES

§21. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Legislative committee. "Legislative committee" means a joint standing committee of the Legislature, a joint select committee of the Legislature, a task force, commission or council or any other committee established by the Legislature and composed wholly or partly of Legislators for the purpose of conducting legislative business.

2. Nonpartisan staff. "Nonpartisan staff" means the directors and staffs of the Office of Legislative Assistants, the Legislative Finance Office, the Legislative Research Office, the Legislative Information Office and the Office of the Legislative Administrative Director.

3. Own time. "Own time" means an employee's personal time or authorized leave time, earned as a condition of employment.

4. State employee. "State employee" means any employee subject to chapters 51 to 57, except nonpartisan staff of the Legislature.

5. Supervisor. "Supervisor" means a commissioner, bureau chief, director, manager or any other person who oversees or supervises state employees in their employment.

§22. Right to provide testimony

Every state employee has the right to represent himself and testify before a legislative committee on his own time. No state employee who complies with this chapter may be denied the right to testify before a legislative committee.

§23. Discharge of, threats to or discrimination against, state employees for testimony presented to legislative committees

A supervisor shall not discharge, threaten or otherwise discriminate against a state employee regarding the employee's compensation, terms, conditions, location or privileges of employment because the employee, in compliance with this chapter, testified before or provides information to a legislative committee.

§24. Presentation of testimony and information

1. Type of information. This chapter protects any state employee who, in compliance with this chapter, presents testimony or information relating to departments or agencies of State Government and which testimony or information pertains to:

A. Successes, failures or problems of current programs;

B. Advantages, disadvantages or other relevant information about proposed programs; and

C. The means of improving existing programs and alternatives to existing programs.

§25. Exclusion of testimony and information from protection

1. Liability of state employees. This chapter does not authorize the presentation to a legislative committee or protect any state employee who presents to a legislative committee the following:

A. Slander; and

B. Libel.

§26. Nonpartisan legislative staff

Nonpartisan staff of the Legislature shall be subject to the policies and rules of the Legislative Council as these policies and rules relate to testifying or providing information to legislative committees.

§27. Representatives of agencies and departments

1. Department testimony and information. Nothing in this chapter may be construed to prohibit a state employee from testifying before or present information to a legislative committee as a representative of a department or agency of State Government and who has been authorized by the commissioner or

director of that department or agency to act in this capacity.

2. Misrepresentations of state employees. Any state employee who represents himself as a spokesman or representative of a department or agency without the authorization of the commissioner or director of that organization shall not be protected by the provisions of this chapter and shall be subject to the penalty in subsection 3.

3. Penalty. Any person who violates this section is guilty of a Class E crime.

§28. Civil actions for injunctive relief or other remedies

A state employee who alleges a violation of his rights under this chapter may bring a civil action, including an action for injunctive relief, within 120 days after the occurrence of that alleged violation. The action may be brought in the Superior Court for the county where the alleged violation occurred, the county where the complainant resides or the county where the person against whom the civil complaint is filed resides.

An employee shall establish each and every element of his case by a preponderance of the evidence.

§29. Remedies ordered by court

A court, in rendering a judgment in an action brought pursuant to this chapter, may order reinstatement of this employee, the payment of back wages, full reinstatement of fringe benefits and seniority rights or any combination of these remedies. A court may also award the prevailing party all or a portion of the costs of litigation, including reasonable attorneys' fees and witness fees, if the court determines that the award is appropriate.

§30. Penalties for violations

A person who violates sections 22, 23 and 24 is liable for a civil fine of \$10 for each day of willful violation, which shall not be suspended. Any civil fine imposed under this section shall be submitted to the Treasurer of State for deposit to the General Fund.

§31. Collective bargaining rights

This chapter shall not be construed to diminish or impair the rights of the State or respective bargaining agent under any collective bargaining agreement.

§32. Jury trial; common-law rights

Any action brought under this chapter may be heard by a jury. Nothing in this chapter may be construed to derogate any common-law rights of an employee.

§33. Office of Personnel to inform supervisors and state employees

The Commissioner of Personnel is responsible for informing supervisors and state employees about the provisions of this chapter. The Commissioner of Personnel, at a minimum, shall distribute a sufficient number of copies of this chapter, which shall be visibly posted in all state buildings, in order to notify the greatest possible number of state employees about the provisions in this chapter.

The Commissioner of Personnel shall use the necessary means to instruct all supervisory personnel about the provisions in this chapter.

Effective September 19, 1985.

CHAPTER 168

S.P. 444 - L.D. 1247

AN ACT Relating to Regulation Fees Under the
Manufacturing of Bedding, Upholstered
Furniture and Cushion Law.

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

26 MRSA §111, 2nd ¶, as amended by PL 1973, c. 555, §1, is further amended to read:

Any individually owned business in this State manufacturing cushions, as ~~described~~ defined in section 81, subsection 3, or articles of bedding, as defined in section 81, subsection 1, and whose gross income from the sale of these products is under