

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND NINETEENTH LEGISLATURE

FIRST REGULAR SESSION
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PUBLISHED BY THE REVISOR OF STATUTES
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J.S. McCarthy Company
Augusta, Maine
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TOTAL

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See title page for effective date.

CHAPTER 453**H.P. 1404 - L.D. 2009****An Act to Redefine Trafficking and
Furnishing of Heroin in Terms of the
Amount of the Drug Possessed****Be it enacted by the People of the State of
Maine as follows:****Sec. 1. 17-A MRSA §1101, sub-§17, ¶C,** as enacted by PL 1975, c. 499, §1, is amended to read:C. To sell, barter, trade, exchange or otherwise furnish for consideration; ~~or~~**Sec. 2. 17-A MRSA §1101, sub-§17, ¶D,** as amended by PL 1997, c. 481, §1, is further amended to read:D. To possess with the intent to do any act mentioned in paragraph C; ~~or~~**Sec. 3. 17-A MRSA §1101, sub-§17, ¶E** is enacted to read:E. To possess 2 grams or more of heroin or 90 or more individual bags, folds, packages, envelopes or containers of any kind containing heroin.**Sec. 4. 17-A MRSA §1101, sub-§18, ¶B,** as enacted by PL 1975, c. 499, §1, is amended to read:B. To possess with the intent to do any act mentioned in paragraph A; ~~or~~**Sec. 5. 17-A MRSA §1101, sub-§18, ¶C** is enacted to read:C. To possess at least one gram but less than 2 grams of heroin or at least 45 but fewer than 90 individual bags, folds, packages, envelopes or containers of any kind containing heroin.**Sec. 6. 17-A MRSA §1103, sub-§3, ¶B,** as amended by PL 1995, c. 635, §2, is further amended to read:B. Fourteen grams or more of cocaine or 4 grams or more of cocaine in the form of cocaine base; ~~or~~**Sec. 7. 17-A MRSA §1103, sub-§3, ¶C,** as enacted by PL 1989, c. 924, §8, is repealed.**Sec. 8. 17-A MRSA §1105, sub-§1, ¶E,** as amended by PL 1995, c. 65, Pt. A, §58 and affected by §153 and Pt. C, §15, is further amended to read:E. A person violates section 1103, and, at the time of the offense, the person is on a school bus or on or within 1,000 feet of the real property comprising a private or public elementary or secondary school. For purposes of this paragraph, "school bus" has the same meaning as set forth in Title 29-A, section 2301, subsection 5; ~~or~~**Sec. 9. 17-A MRSA §1105, sub-§1, ¶F,** as enacted by PL 1989, c. 924, §11, is amended to read:F. A person violates section 1103, and, at the time of the offense, the person enlists or solicits the aid of or conspires with a child who is, in fact, under 18 years of age; to traffick in or furnish any scheduled drug; ~~or~~**Sec. 10. 17-A MRSA §1105, sub-§1, ¶G** is enacted to read:G. A person violates section 1103 or 1106, and, at the time of the offense, the person trafficks in or furnishes heroin in a quantity of 6 grams or more or 270 or more individual bags, folds, packages, envelopes or containers of any kind containing heroin.**Sec. 11. 17-A MRSA §1106, sub-§3, ¶B,** as amended by PL 1995, c. 635, §5, is further amended to read:B. Seven grams or more of cocaine or 2 grams or more of cocaine in the form of cocaine base; ~~or~~**Sec. 12. 17-A MRSA §1106, sub-§3, ¶C,** as enacted by PL 1989, c. 924, §12, is repealed.

See title page for effective date.

CHAPTER 454**S.P. 847 - L.D. 2247****An Act to Fund the Collective
Bargaining Agreements and Benefits
of Employees Covered by Collective
Bargaining and for Certain
Employees Excluded from Collective
Bargaining****Emergency preamble.** Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, certain obligations and expenses incident to the operation of state collective bargaining agreements will become due and payable immediately; and

Whereas, it is the responsibility of the Legislature to act upon those portions of collective bargaining agreements negotiated by the executive branch that require legislative action; and

Whereas, the Governor and the Legislature share a desire to address in a timely manner the needs of certain state employees excluded from collective bargaining units; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of 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:

PART A

Sec. A-1. Costs to the General Fund.

Costs to the General Fund must be provided in the Salary Plan program, referred to in Part E, section 1 of this Act, in the amount of \$4,185,000 for the fiscal year ending June 30, 2000, and in the amount of \$9,717,000 for the fiscal year ending June 30, 2001, to implement the economic terms of the collective bargaining agreements made by the State and the Maine State Employees Association for the administrative services bargaining unit, law enforcement services bargaining unit, operations, maintenance and support services unit, professional and technical services unit and the supervisory services unit.

Sec. A-2. Costs to the Highway Fund.

Costs to the Highway Fund must be provided in the Salary Plan program, referred to in Part E, section 1 of this Act, in the amount of \$2,327,552 for the fiscal year ending June 30, 2000, and in the amount of \$5,568,706 for the fiscal year ending June 30, 2001, to implement the economic terms of the collective bargaining agreements made by the State and the Maine State Employees Association for the administrative services bargaining unit, law enforcement services bargaining unit, operations, maintenance and support services unit, professional and technical services unit and the supervisory services unit.

Sec. A-3. Adjustment of salary schedules for fiscal year 1999-00. Effective at the beginning of the pay week commencing closest to July 1, 1999, the salary schedules for employees in the administrative services bargaining unit, law enforcement services bargaining unit, operations, maintenance and support

services unit, professional and technical services unit and the supervisory services unit must be adjusted by 3%, consistent with the terms of the collective bargaining agreements.

Sec. A-4. Adjustment of salary schedules for fiscal year 2000-01. Effective at the beginning of the pay week commencing closest to July 1, 2000, the salary schedules for employees in the administrative services bargaining unit, law enforcement services bargaining unit, operations, maintenance and support services unit, professional and technical services unit and the supervisory services unit must be adjusted by 2%, consistent with the terms of the collective bargaining agreements.

Sec. A-5. Addition of new salary step for fiscal year 2000-01. Effective at the beginning of the pay week commencing closest to January 1, 2001, the salary schedules for employees in the administrative services bargaining unit, law enforcement services bargaining unit, operations, maintenance and support services unit, professional and technical services unit and the supervisory services unit must be adjusted by adding a new pay step 4% greater than the current highest step and eliminating the first step, consistent with the terms of the collective bargaining agreements.

Sec. A-6. Other employees; similar and equitable treatment. Employees in classifications included in the administrative services bargaining unit, law enforcement services bargaining unit, operations, maintenance and support services unit, professional and technical services unit and the supervisory services unit who are excluded from collective bargaining pursuant to the Maine Revised Statutes, Title 26, section 979-A, subsection 6, paragraphs E and F, must be given equitable treatment on a pro rata basis similar to that treatment given employees covered by the collective bargaining agreements.

PART B

Sec. B-1. Costs to the General Fund.

Costs to the General Fund must be provided in the Salary Plan program, referred to in Part E, section 1 of this Act, in the amount of \$871,000 for the fiscal year ending June 30, 2000, and in the amount of \$2,046,000 for the fiscal year ending June 30, 2001, to implement the economic terms of the collective bargaining agreement made by the State and the American Federation of State, County, and Municipal Employees, Council #93 for the institutional services bargaining unit.

Sec. B-2. Adjustment of salary schedules for fiscal year 1999-00. Effective at the beginning of the pay week commencing closest to July 1, 1999, the salary schedules for employees in the institutional

services bargaining unit must be adjusted by 3%, consistent with the terms of the collective bargaining agreement.

Sec. B-3. Adjustment of salary schedules for fiscal year 2000-01. Effective at the beginning of the pay week commencing closest to July 1, 2000, the salary schedules for employees in the institutional services bargaining unit must be adjusted by 2%, consistent with the terms of the collective bargaining agreement.

Sec. B-4. Addition of new salary step for fiscal year 2000-01. Effective at the beginning of the pay week commencing closest to January 1, 2001, the salary schedules for employees in the institutional services bargaining unit must be adjusted by adding a new pay step 4% greater than the current highest step and eliminating the first step, consistent with the terms of the collective bargaining agreement.

Sec. B-5. Other employees; similar and equitable treatment. Employees in classifications included in the institutional services bargaining unit who are excluded from collective bargaining pursuant to the Maine Revised Statutes, Title 26, section 979-A, subsection 6, paragraphs E and F, must be given equitable treatment on a pro rata basis similar to that treatment given employees covered by the collective bargaining agreement.

PART C

Sec. C-1. Definition of confidential employees. For the purpose of this Part, "confidential employees" means those employees within the executive branch, including probationary employees, who are in positions excluded from bargaining units pursuant to the Maine Revised Statutes, Title 26, section 979-A, subsection 6, paragraphs B, C, D, I and J.

Sec. C-2. Costs to the General Fund. Costs to the General Fund must be provided in the Salary Plan program, referred to in Part E, section 1 of this Act, in the amount of \$740,000 for the fiscal year ending June 30, 2000, and in the amount of \$1,770,000 for the fiscal year ending June 30, 2001, to fund salary and benefit changes for confidential employees.

Sec. C-3. Costs to the Highway Fund. Costs to the Highway Fund must be provided in the Salary Plan program, referred to in Part E, section 1 of this Act, in the amount of \$68,137 for the fiscal year ending June 30, 2000, and in the amount of \$163,757 for the fiscal year ending June 30, 2001, to fund salary and benefit changes for confidential employees.

Sec. C-4. Adjustment of salary schedules for fiscal year 1999-00. Effective at the beginning

of the pay week commencing closest to July 1, 1999, the salary schedules for confidential employees must be adjusted by 3%.

Sec. C-5. Adjustment of salary schedules for fiscal year 2000-01. Effective at the beginning of the pay week commencing closest to July 1, 2000, the salary schedules for confidential employees must be adjusted by 2%.

Sec. C-6. Addition of new salary step for fiscal year 2000-01. Effective at the beginning of the pay week closest to January 1, 2001, the salary schedules for confidential employees must be adjusted by adding a new pay step 4% greater than the current highest step and eliminating the first step, to provide similar and equitable treatment for confidential employees.

Sec. C-7. Employees whose salaries are subject to the Governor's adjustment or approval. The Governor is authorized to grant similar and equitable treatment consistent with this Part for those unclassified employees whose salaries are subject to the Governor's adjustment or approval.

Sec. C-8. Employees of the legislative branch. The Legislative Council may approve salary and benefit increases for employees within the legislative branch, including constitutional officers and the State Auditor, not subject to collective bargaining.

PART D

Sec. D-1. Transfer from the Salary Plan program and special account funding. The Salary Plan program in the Department of Administrative and Financial Services may be made available as needed through allotment by financial order, upon the recommendation of the State Budget Officer and approval of the Governor, to be used for the implementation of collective bargaining agreements for state employees and for other economic items contained in this Act in fiscal years 1999-00 and 2000-01. Positions supported from sources other than the General Fund and the Highway Fund must be funded whenever possible from those other sources.

Sec. D-2. Authorization for reimbursement of costs associated with contract resolution. The Department of Administrative and Financial Services may be reimbursed from the Salary Plan program for the costs of contract resolution, administration, implementation and other costs required by the process of collective bargaining and negotiation procedures.

PART E

Sec. E-1. 5 MRSA §8, as amended by PL 1997, c. 3, Pt. D, §1, is further amended to read:

§8. Mileage allowance

The State shall pay for the use of privately owned automobiles for travel by employees of the State in the business of the State such reimbursement as agreed to between the State and their certified or recognized bargaining agent. For employees and state officers and officials not subject to any such agreement, the State shall pay ~~22¢ per mile effective July 1, 1982, 23¢ per mile effective July 1, 1997 and 24¢ per mile effective July 1, 1998, 26¢ per mile effective January 1, 2000 and 28¢ per mile effective January 1, 2001~~ for miles actually traveled on state business. The Governor may suspend the operation of this section and require state officials and employees to travel in automobiles owned or controlled by the State, if such automobiles are available.

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

Effective June 9, 1999.

CHAPTER 455

S.P. 228 - L.D. 650

An Act to Amend the Crime of Theft by Deception to Include False Impressions as to Identity

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

Sec. 1. 17-A MRSA §354, sub-§2, ¶A, as enacted by PL 1975, c. 499, §1, is amended to read:

A. Creates or reinforces an impression ~~which~~ that is false and ~~which~~ that the person does not believe to be true, including false impressions as to identity, law, value, knowledge, opinion, intention or other state of mind. ~~Provided, however, except~~ that an intention not to perform a promise, or knowledge that a promise will not be performed, ~~shall~~ may not be inferred from the fact alone that the promise was not performed;

See title page for effective date.

CHAPTER 456

H.P. 825 - L.D. 1148

An Act to Amend the Maine Tort Claims Act

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

Sec. 1. 14 MRSA §8104-B, sub-§§6 and 7, as enacted by PL 1997, c. 740, §4, are amended to read:

6. Leasing of governmental property. The leasing of governmental property, including buildings, to other organizations; ~~and~~

7. Certain services. A decision not to provide communications, heat, light, water, electricity or solid or liquid waste collection, disposal or treatment services; ~~and~~

Sec. 2. 14 MRSA §8104-B, sub-§8 is enacted to read:

8. Failure or malfunction of computer. The direct or indirect failure or malfunction of computer hardware, computer software or any device containing a computer processor or chip that fails to accurately or properly recognize, calculate, display, sort or otherwise process dates or times as a result of the Year 2000 problem. This provision applies to failures or malfunctions occurring before January 2, 2001.

For purposes of this section, the "Year 2000 problem" means complications associated with using a 2-digit field to represent a year and its result on the year change from 1999 to 2000. These complications may include, but are not limited to:

- A. Erroneous date calculations;
- B. An ambiguous interpretation of the term "00";
- C. The failure to recognize the year 2000 as a leap year;
- D. The use of algorithms that use the term "99" or "00" as a flag for another function;
- E. Problems arising from the use of applications, software or hardware that are date sensitive; and
- F. The inability to distinguish between centuries.

See title page for effective date.