

# MAINE STATE LEGISLATURE

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

**AS PASSED BY THE**  
**ONE HUNDRED AND TWENTY-FIRST LEGISLATURE**

**FIRST SPECIAL SESSION**  
**August 21, 2003 to August 22, 2003**

**The General Effective Date For**  
**First Special Session**  
**Non-Emergency Laws Is**  
**November 22, 2003**

**SECOND REGULAR SESSION**  
**January 7, 2004 to January 30, 2004**

**The General Effective Date For**  
**Second Regular Session**  
**Non-Emergency Laws Is**  
**April 30, 2004**

**SECOND SPECIAL SESSION**  
**February 3, 2004 to April 30, 2004**

**The General Effective Date For**  
**Second Special Session**  
**Non-Emergency Laws Is**  
**July 30, 2004**

**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**  
**2004**

**3. Evidence of parentage; test requirements.** Evidence of parentage based on testing of deoxyribonucleic acid, DNA, that includes:

A. A notarized report of the results of the DNA testing; and

B. Notarized documentation of the chain of custody of the blood and tissue samples examined in the testing.

The testing must be of a type generally acknowledged as reliable by accreditation bodies designated by the federal Secretary of Health and Human Services, and it must be performed by a laboratory approved by an accreditation body designated by the federal Secretary of Health and Human Services.

See title page for effective date.

## CHAPTER 586

S.P. 694 - L.D. 1854

### An Act To Conform to Federal Law Regarding Electronically Printed Credit and Debit Card Receipts and To Delay Enforcement of Civil Penalties

**Emergency preamble.** Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

**Whereas,** Public Law 2001, chapter 527, enacted by the 120th Legislature in 2002, prohibits businesses from printing more than the last 5 numbers of a credit card or debit card account on an electronically produced receipt; and

**Whereas,** this law took effect on January 1, 2004; and

**Whereas,** many businesses are still in the process of converting their equipment to comply with the requirements of the law but are now subject to penalties up to \$1,000 for each violation; 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:**

**Sec. 1. 10 MRSA §1149, sub-§1,** as enacted by PL 2001, c. 527, §1, is amended to read:

**1. Electronically printed receipts.** Except as provided in this section, a person, firm, partnership, association, corporation or limited liability company that accepts credit cards or debit cards for the transaction of business may not print more than the last 5 digits of the credit card or debit card account number or ~~may not print~~ the expiration date of the credit card or debit card on a receipt provided to a cardholder at the point of sale of the transaction.

**Sec. 2. 10 MRSA §1149, sub-§3-A** is enacted to read:

**3-A. Absolved from forfeiture and civil penalty.** Until January 1, 2005, a person who violates this section is absolved from civil prosecution or forfeitures and civil penalties associated with any such violation occurring before that date.

**Sec. 3. Retroactivity.** This Act applies retroactively to January 1, 2004.

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

Effective March 30, 2004.

## CHAPTER 587

S.P. 685 - L.D. 1842

### An Act To Remove the Designation of the Lake Christopher Wildlife Management Area as a Wildlife Management Area

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

**Sec. 1. 12 MRSA §12708, sub-§1, ¶A,** as enacted by PL 2003, c. 414, Pt. A, §2 and affected by Pt. D, §7, is amended by repealing sub-¶(4).

See title page for effective date.

## CHAPTER 588

H.P. 1338 - L.D. 1816

### An Act Concerning Technical Changes to the Tax Laws

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

**Sec. 1. 36 MRSA §111, sub-§4,** as enacted by PL 1979, c. 378, §2, is amended to read:

**4. Return.** "Return" means any document, digital file or electronic data transmission containing information required by this Title to be reported to the State Tax Assessor.

**Sec. 2. 36 MRSA §135, sub-§2,** as amended by PL 1995, c. 281, §4 and PL 1997, c. 526, §14, is further amended to read:

**2. Bureau of Revenue Services.** Returns filed under this Title or microfilm reproductions or digital images of those returns must be preserved for 3 years and thereafter until the State Tax Assessor orders their destruction.

**Sec. 3. 36 MRSA §1752, sub-§11, ¶A,** as enacted by PL 1989, c. 871, §5, is amended to read:

A. "Retail sale" includes:

(1) Conditional sales, installment lease sales and any other transfer of tangible personal property when the title is retained as security for the payment of the purchase price and is intended to be transferred later; and

(2) Sale of products for internal human consumption to a person for resale through coin-operated vending machines when sold to a ~~retailer~~ person more than 50% of whose gross receipts from the retail sale of tangible personal property are derived through sales from sales through vending machines are more than 50% of the retailer's gross receipts. The tax must be paid by the retailer to the State.

**Sec. 4. 36 MRSA §1752, sub-§12-A** is enacted to read:

**12-A. Rural community health center.** "Rural community health center" means a person that delivers, or provides facilities for the delivery of, comprehensive primary health care in a place or territory that is classified as rural according to the most recent federal decennial census.

**Sec. 5. 36 MRSA §1752, sub-§14-E** is enacted to read:

**14-E. School.** "School" means a public or incorporated nonprofit primary, secondary or postsecondary educational institution that has a regular faculty, curriculum and organized body of pupils or students in attendance throughout the usual school year and that keeps and furnishes to students and others records required and accepted for entrance to schools of secondary, collegiate or graduate rank.

**Sec. 6. 36 MRSA §1760, sub-§16,** as amended by PL 1999, c. 708, §25, is further amended to read:

**16. Hospitals, research centers, churches and schools.** Sales to incorporated hospitals, incorporated nonprofit nursing homes licensed by the Department of Human Services, incorporated nonprofit residential care facilities licensed by the Department of Human Services, incorporated nonprofit home health agencies certified under the United States Social Security Act of 1965, Title XVIII, as amended, incorporated nonprofit rural community health centers ~~engaged in, or providing facilities for, the delivery of comprehensive primary health care,~~ incorporated nonprofit dental health centers, institutions incorporated as nonprofit corporations for the sole purpose of conducting medical research or for the purpose of establishing and maintaining laboratories for scientific study and investigation in the field of biology or ecology or operating educational television or radio stations, schools, incorporated nonprofit organizations or their affiliates whose purpose is to provide literacy assistance or free clinical assistance to children with dyslexia and regularly organized churches or houses of religious worship, excepting sales, storage or use in activities that are mainly commercial enterprises. "~~Schools~~" means ~~incorporated nonstock educational institutions, including institutions empowered to confer educational, literary or academic degrees, that have a regular faculty, curriculum and organized body of pupils or students in attendance throughout the usual school year and that keep and furnish to students and others records required and accepted for entrance to schools of secondary, collegiate or graduate rank, no part of the net earnings of which inures to the benefit of any individual.~~

**Sec. 7. 36 MRSA §1760, sub-§19** is amended to read:

**19. Schools.** Rental charged for living quarters, sleeping or housekeeping accommodations to any student necessitated by attendance at a school as ~~defined in subsection 16.~~

**Sec. 8. 36 MRSA §1760, sub-§58,** as enacted by PL 1987, c. 343, §5, is amended to read:

**58. Portable classrooms.** Sales of tangible personal property to be physically incorporated in and become a part of a portable ~~classrooms~~ classroom for lease to schools ~~entitled to exemption under subsection 16~~ a school. If the portable ~~classrooms~~ classroom is used for an otherwise taxable use within 2 years from the date of the first use, the lessor ~~shall become~~ is liable for the use tax based on the original sale price.

**Sec. 9. 36 MRSA §1760, sub-§61**, as amended by PL 1999, c. 414, §21, is further amended to read:

**61. Construction contracts with exempt organizations.** Sales to a construction contractor or its subcontractor of tangible personal property, ~~to a construction contractor~~, that ~~are~~ is to be physically incorporated in, and become a permanent part of, real property for sale to any organization or government agency provided exemption under this section, except as otherwise provided.

**Sec. 10. 36 MRSA §1760, sub-§64**, as amended by PL 1995, c. 462, Pt. B, §9, is further amended to read:

**64. Schools and school-sponsored organizations.** Sales of tangible personal property and taxable services by ~~public and private~~ elementary and secondary schools ~~that otherwise qualify as schools under subsection 16~~, and by student organizations sponsored by those schools, including booster clubs and student or parent-teacher organizations, as long as the profits from ~~such~~ the sales are used to benefit those schools or student organizations or are used for a charitable purpose.

**Sec. 11. 36 MRSA §1760, sub-§76**, as enacted by PL 1991, c. 317, is amended to read:

**76. Aircraft parts.** The sale or use in this State of replacement or repair parts of an aircraft ~~in this State when~~ used by a scheduled airline in the performance of service ~~under federal regulations of the Civil Aeronautics Board, Part 298 or under 49 United States Code, Section 1371~~ Subtitle VII and Federal Aviation Administration regulations.

**Sec. 12. 36 MRSA §2903, sub-§4**, as enacted by PL 1997, c. 738, §4, is amended to read:

**4. Exemptions.** ~~This subsection~~ The tax imposed by this section does not apply to internal combustion engine fuel:

- A. Sold wholly for exportation from this State;
- B. Brought into this State in the ordinary standardized equipment fuel tank attached to and a part of a motor vehicle and used in the operation of that vehicle in this State;
- C. Sold in bulk to any political subdivision of this State;
- D. Bought or used by any person to propel jet or turbojet engine aircraft in international flight flights;
- E. Brought into this State in the fuel tanks of an aircraft; or

F. On which the collection of the tax imposed by this section is precluded by federal law or regulation.

**Sec. 13. 36 MRSA §3204-A, sub-§7**, as amended by PL 1997, c. 738, §11, is further amended to read:

**7. Kerosene for retail sale.** Kerosene prepackaged for home use or delivered into a separate tank for retail sale, in which case the excise tax must be remitted by licensed users pursuant to section 3207, rather than by the supplier; and

**Sec. 14. 36 MRSA §5122, sub-§1, ¶N**, as repealed and replaced by PL 2003, c. 479, §2, is amended to read:

N. With respect to property placed in service during the taxable year, an amount equal to the net increase in depreciation or expensing attributable to:

(1) For taxable years beginning on or after January 1, 2002 but prior to January 1, ~~2005~~ 2006, a 30% bonus depreciation deduction claimed by the taxpayer pursuant to Section 101 of the federal Job Creation and Worker Assistance Act of 2002, Public Law 107-147 with respect to property placed in service during the taxable year;

(2) For taxable years beginning on or after January 1, 2002 but prior to January 1, 2006, a 50% bonus depreciation deduction claimed by the taxpayer pursuant to Section 201 of the federal Jobs and Growth Tax Relief Reconciliation Act of 2003, Public Law 108-27 with respect to property placed in service during the taxable year; and

(3) For taxable years beginning on or after January 1, 2003 but prior to January 1, 2006, the increase in aggregate cost claimed under Section 179 of the Code pursuant to Section 202 of the federal Jobs and Growth Tax Relief Reconciliation Act of 2003, Public Law 108-27;

**Sec. 15. 36 MRSA §5122, sub-§2, ¶H**, as amended by PL 2003, c. 390, §32 and affected by §53, is further amended to read:

H. For each taxable year subsequent to the year of the loss, an amount equal to the absolute value of the net operating loss arising from tax years beginning on or after January 1, 1989, but before January 1, 1993, for which federal adjusted gross income was increased in accordance with subsection 1, paragraph H, and the absolute value of the amount of any net operating loss arising from

tax years beginning on or after January 1, 2002, for which federal adjusted gross income was increased in accordance with subsection 1, paragraph H and that pursuant to the Code, Section 172 was carried back for federal income tax purposes, less the absolute value of loss used in the taxable year of loss to offset any addition modification required by subsection 1, but only to the extent that:

- (1) Maine taxable income is not reduced below zero;
- (2) The taxable year is within the allowable federal period for carry-over; and
- (3) The amount has not been previously used as a modification pursuant to this subsection;

**Sec. 16. 36 MRSA §5200-A, sub-§1, ¶N**, as repealed and replaced by PL 2003, c. 479, §5, is amended to read:

N. With respect to property placed in service during the taxable year, an amount equal to the net increase in depreciation or expensing attributable to:

- (1) For taxable years beginning on or after January 1, 2002 but prior to January 1, 2005 2006, a 30% bonus depreciation deduction claimed by the taxpayer pursuant to Section 101 of the federal Job Creation and Worker Assistance Act of 2002, Public Law 107-147 with respect to property placed in service during the taxable year;
- (2) For taxable years beginning on or after January 1, 2002 but prior to January 1, 2006, a 50% bonus depreciation deduction claimed by the taxpayer pursuant to Section 201 of the federal Jobs and Growth Tax Relief Reconciliation Act of 2003, Public Law 108-27 with respect to property placed in service during the taxable year; and
- (3) For taxable years beginning on or after January 1, 2003 but prior to January 1, 2006, the increase in aggregate cost claimed under Section 179 of the Code pursuant to Section 202 of the federal Jobs and Growth Tax Relief Reconciliation Act of 2003, Public Law 108-27;

**Sec. 17. 36 MRSA §5206-F**, as enacted by PL 1997, c. 746, §19 and affected by §24, is amended to read:

**§5206-F. Time for filing returns**

The franchise tax return required by section 5220, subsection 6 must be filed on or before the 15th day of the 3rd month following the end of the financial institution's fiscal year. ~~A financial institution required to make and file such a return shall, without assessment, notice or demand, pay any tax due to the State Tax Assessor on or before the date established by this section for filing the return.~~

**Sec. 18. 36 MRSA §5227**, as amended by PL 1997, c. 746, §22 and affected by §24, is further amended to read:

**§5227. Time for filing returns**

The income tax return required by this Part must be filed on or before the date a federal income tax return, without regard to extension, is due to be filed. ~~A taxpayer required to make and file such a return shall, without assessment, notice or demand, pay any tax due thereon to the assessor on or before the date fixed for filing such return determined without regard to any extension of time for filing the return.~~

**Sec. 19. 36 MRSA §5227-A** is enacted to read:

**§5227-A. Requirement to file amended Maine returns**

**1. Amended return required.** A taxpayer shall file an amended Maine return as required in this Part whenever the taxpayer files an amended federal return affecting the taxpayer's liability under this Part, whenever the Internal Revenue Service changes or corrects any item affecting the taxpayer's liability under this Part or whenever for any reason there is a change or correction affecting the taxpayer's liability under this Part.

**2. Amended return filed.** The amended Maine return must be filed within 90 days of the final determination of the change or correction or the filing of the federal amended return.

**3. Contents of amended return.** The amended Maine return must indicate the change or correction and the reason for that change or correction. The amended return constitutes an admission as to the correctness of the change unless the taxpayer includes with the return a written explanation of the reason the change or correction is erroneous. If the taxpayer files an amended federal return, a copy of the amended federal return must be attached to the amended Maine return.

**4. Additional requirements.** The State Tax Assessor may require additional information to be filed with the amended Maine return. The assessor may prescribe exceptions to the requirements of this section.

**Sec. 20.** 36 MRSA §5243, as repealed and replaced by PL 1991, c. 546, §35, is repealed.

**Sec. 21.** 36 MRSA §5278, sub-§4, as amended by PL 1989, c. 508, §24, is further amended to read:

**4. Notice of change or correction.** If a taxpayer is required by section ~~5243~~ 5227-A to file an amended Maine return, a claim for credit or refund of any resulting overpayment of the tax ~~shall~~ must be filed by the taxpayer within 2 years from the time the filing of the amended return was required. The amount of the credit or refund ~~shall~~ may not exceed the amount of the reduction in tax attributable to the federal amendment. This subsection ~~shall~~ does not affect the time within which or the amount for which a claim for credit or refund may be filed apart from this subsection.

**Sec. 22.** 36 MRSA §5311, sub-§3, as enacted by P&SL 1969, c. 154, §F, is repealed.

**Sec. 23.** 36 MRSA §5311, sub-§4, as enacted by PL 1977, c. 165, §7, is repealed.

See title page for effective date.

**CHAPTER 589**

**H.P. 1305 - L.D. 1783**

**An Act To Clarify Prequalification Criteria for Public Improvements**

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

**Sec. 1.** 5 MRSA §1747, sub-§3, as amended by PL 2001, c. 271, §2, is further amended to read:

**3. Insufficient resources.** If, in the opinion of the director, there is evidence the contractor does not have sufficient resources to successfully complete the work. The director may require additional information about the contractor's resources, including identification of major claims or litigation pending and whether the contractor has sought protection under the bankruptcy laws in the past 5 years. That information is confidential and not subject to disclosure under Title 1, chapter 13, subchapter ~~1~~ 1. In evaluating the resources of a contractor, the director may consider the contractor's prior experience, including any significant disparity between the size and type of prior projects and the project or projects under consideration;

See title page for effective date.

**CHAPTER 590**

**S.P. 622 - L.D. 1690**

**An Act To Authorize the STARBASE Program**

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

**Sec. 1.** 37-B MRSA §3, sub-§1, ¶D, as amended by PL 2003, c. 404, §2, is further amended by adding a new subparagraph (16) to read:

(16) The Adjutant General may establish a science, mathematics and technology education improvement program for schoolchildren known as the STARBASE Program. The Adjutant General may accept financial assistance and in-kind assistance, advances, grants, gifts, contributions and other forms of financial assistance from the Federal Government or other public body or from other sources, public or private, to implement the STARBASE Program. The Adjutant General may employ a director and other employees, permanent or temporary, to operate the STARBASE Program.

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

The following appropriations and allocations are made.

**DEFENSE, VETERANS AND EMERGENCY MANAGEMENT, DEPARTMENT OF**

**Military Training & Operations 0108**

Initiative: Allocates funds to establish one Clerk III position, 2 Teacher positions, one Teacher/Principal position and necessary operational costs to reflect the establishment of the STARBASE program.

Federal Expenditures Fund	2003-04	2004-05
Positions - Legislative Count	(0.000)	(4.000)
Personal Services	\$0	\$238,046
All Other	0	71,954
Federal Expenditures Fund Total	\$0	\$310,000

See title page for effective date.

**CHAPTER 591**

**S.P. 637 - L.D. 1705**

**An Act To Simplify the Maine Turnpike Authority's Enforcement Procedures for Toll Violations**

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