

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.

Penmor Lithographers
Lewiston, Maine
2004

CHAPTER 628

S.P. 661 - L.D. 1728

**An Act To Amend the Penalty
Provisions and Reporting Deadlines
of the Campaign Reports and
Finances Laws**

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

PART A

Sec. A-1. 21-A MRSA §1004-A is enacted
to read:

§1004-A. Penalties

The commission may assess the following penalties in addition to the other monetary sanctions authorized in this chapter.

1. Late campaign finance report. A person that files a late campaign finance report containing no contributions or expenditures may be assessed a penalty of no more than \$100.

2. Contribution in excess of limitations. A person that accepts or makes a contribution that exceeds the limitations set out in section 1015, subsections 1 and 2 may be assessed a penalty of no more than the amount by which the contribution exceeded the limitation.

3. Contribution in name of another person. A person that makes a contribution in the name of another person, or that knowingly accepts a contribution made by one person in the name of another person, may be assessed a penalty not to exceed \$5,000.

4. Substantial misreporting. A person that files a campaign finance report that substantially misreports contributions, expenditures or other campaign activity may be assessed a penalty not to exceed \$5,000.

5. Material false statements. A person that makes a material false statement in a document that is required to be submitted to the commission, or that is submitted in response to a request by the commission, may be assessed a penalty not to exceed \$5,000.

When the commission has reason to believe that a violation has occurred, the commission shall provide written notice to the candidate, political action committee, committee treasurer or other respondent and shall afford them an opportunity to appear before the commission before assessing any penalty. In determining any penalty under subsections 3, 4 and 5,

the commission shall consider, among other things, the level of intent to mislead, the penalty necessary to deter similar misconduct in the future and the harm suffered by the public from the incorrect disclosure.

Sec. A-2. 21-A MRSA §1017-A, sub-§4-B
is enacted to read:

4-B. Filing schedule for municipal, district and county party committees. Municipal, district and county party committees shall file reports according to the following schedule.

A. Reports filed during an election year must be filed with the commission on:

(1) July 15th and be complete as of June 30th;

(2) October 27th and be complete as of October 22nd; and

(3) January 15th and be complete as of December 31st.

B. Reports filed during a nonelection year must be filed on:

(1) July 15th and be complete as of June 30th; and

(2) January 15th and be complete as of December 31st.

C. Any contribution or expenditure of \$1,000 or more made after the 12th day before any election and more than 24 hours before that election must be reported within 24 hours of that contribution or expenditure or by noon of the first business day after the contribution or expenditure, whichever is later.

Sec. A-3. 21-A MRSA §1020-A, sub-§2, as amended by PL 1999, c. 729, §5, is further amended to read:

2. Campaign finance reports. A campaign finance report is not timely filed unless a properly signed copy of the report, substantially conforming to the disclosure requirements of this subchapter, is received by the commission before 5 p.m. on the date it is due. Except as provided in subsection 7, the commission shall determine whether a report satisfies the requirements for timely filing. The commission may waive a penalty if the commission determines that the penalty is disproportionate to the size of the candidate's campaign, the level of experience of the candidate, treasurer or campaign staff or the harm suffered by the public from the late disclosure. The commission may waive the penalty in whole or in part if the commission determines the failure to file a

timely report was due to mitigating circumstances. For purposes of this section, "mitigating circumstances" means:

- A. A valid emergency determined by the commission, in the interest of the sound administration of justice, to warrant the waiver of the penalty in whole or in part;
- B. An error by the commission staff;
- C. Failure to receive notice of the filing deadline; or
- D. Other circumstances determined by the commission that warrant mitigation of the penalty, based upon relevant evidence presented that a bona fide effort was made to file the report in accordance with the statutory requirements, including, but not limited to, unexplained delays in postal service.

Sec. A-4. 21-A MRSA §1020-A, sub-§5-A, ¶¶B to D, as amended by PL 2003, c. 302, §4, are further amended to read:

- B. Five thousand dollars for state party committee reports required under section 1017-A, subsection 4-A, paragraphs A, B, C and E ~~and section 1018, subsection 2~~;
- C. One thousand dollars for reports required under section 1017, subsection 2, paragraphs A and F; ~~and~~ section 1017, subsection 3-A, paragraphs A and E; ~~and state party committee reports required to be filed under section 1017-A, subsection 4-A, paragraph B~~;
- D. Five hundred dollars for municipal, district and county committees for reports required under section 1017-A, subsection ~~4-A and section 1018, subsection 2~~ 4-B; or

Sec. A-5. 21-A MRSA §1020-A, sub-§8, as enacted by PL 1995, c. 483, §15, is repealed and the following enacted in its place:

8. Failure to file report. The commission shall notify a candidate who has failed to file a report required by this subchapter, in writing, informing the candidate of the requirement to file a report. If a candidate fails to file a report after 3 written communications from the commission, the commission shall send up to 2 more written communications by certified mail informing the candidate of the requirement to file and that the matter may be referred to the Attorney General for criminal prosecution. A candidate who fails to file a report as required by this subchapter after the commission has sent the communications required by this subsection is guilty of a Class E crime.

Sec. A-6. 21-A MRSA §1020-A, sub-§8-A is enacted to read:

8-A. Penalties for failure to file report. The penalty for failure to file a report required under this subchapter may not exceed the maximum penalties as provided in subsection 5-A.

Sec. A-7. 21-A MRSA §1062-A, sub-§2, as amended by PL 1999, c. 729, §9, is further amended to read:

2. Campaign finance reports. A campaign finance report is not timely filed unless a properly signed copy of the report, substantially conforming to the disclosure requirements of this subchapter, is received by the commission before 5 p.m. on the date it is due. Except as provided in subsection 6, the commission shall determine whether a required report satisfies the requirements for timely filing. The commission may waive a penalty if it is disproportionate to the level of experience of the person filing the report or to the harm suffered by the public from the late disclosure. The commission may waive the penalty in whole or in part if the commission determines the failure to file a timely report was due to mitigating circumstances. For purposes of this section, "mitigating circumstances" means:

- A. A valid emergency of the committee treasurer determined by the commission, in the interest of the sound administration of justice, to warrant the waiver of the penalty in whole or in part;
- B. An error by the commission staff; or
- C. Other circumstances determined by the commission that warrant mitigation of the penalty, based upon relevant evidence presented that a bona fide effort was made to file the report in accordance with the statutory requirements, including, but not limited to, unexplained delays in postal service.

Sec. A-8. 21-A MRSA §1062-A, sub-§8, as enacted by PL 1995, c. 483, §21, is amended to read:

8. Failure to file. A person who fails to file a report as required by this subchapter within 30 days of the filing deadline is guilty of a Class E crime, except that, if a penalty pursuant to subsection 8-A is assessed and collected by the commission, the State may not prosecute a violation under this subsection.

Sec. A-9. 21-A MRSA §1062-A, sub-§8-A is enacted to read:

8-A. Penalties for failure to file report. The maximum penalty for failure to file a report required under section 1059, subsection 2, paragraph B, C or E is \$10,000. The maximum penalty for failure to file a

report required under section 1059, subsection 2, paragraph A is \$5,000.

PART B

Sec. B-1. 21-A MRSA §1017, sub-§2, ¶D, as amended by PL 1991, c. 839, §14 and affected by §34, is further amended to read:

D. Contributions aggregating \$1,000 or more from any one contributor or single expenditures of \$1,000 or more, made after the 12th day before the election, and more than ~~48~~ 24 hours before 5 p.m. on the day of the election, must be reported within ~~48~~ 24 hours of those contributions or expenditures or by noon of the first business day after the contributions or expenditures, whichever is later.

Sec. B-2. 21-A MRSA §1017, sub-§3-A, ¶C, as amended by PL 1991, c. 839, §15, is further amended to read:

C. Contributions aggregating \$1,000 or more from any one contributor or single expenditures of \$1,000 or more, made after the 12th day before any election and more than ~~48~~ 24 hours before 5 p.m. on the day of any election must be reported within ~~48~~ 24 hours of those contributions or expenditures, or by noon of the first business day after the contributions or expenditures, whichever is later.

Sec. B-3. 21-A MRSA §1017, sub-§3-B, ¶C, as enacted by PL 2001, c. 589, §2, is amended to read:

C. A candidate who is required to file a report under paragraph A must file with the commission an updated report that reports single expenditures in the following amounts that are made after the 14th day before an election and more than ~~48~~ 24 hours before 5:00 p.m. on the date of that election:

- (1) For a candidate for Governor, a single expenditure of \$1,000;
- (2) For a candidate for the state Senate, a single expenditure of \$750; and
- (3) For a candidate for the state House of Representatives, a single expenditure of \$500.

A report filed pursuant to this paragraph must be filed within ~~48~~ 24 hours of the expenditure.

Sec. B-4. 21-A MRSA §1017-A, sub-§4-A, ¶E, as enacted by PL 2003, c. 302, §3, is amended to read:

E. A state party committee shall report any expenditure of \$500 or more, made after the 12th day before the election and more than ~~48~~ 24 hours before 5:00 p.m. on the day of the election, within ~~48~~ 24 hours of that expenditure or by noon of the first business day after the expenditure, whichever is later.

Sec. B-5. 21-A MRSA §1059, sub-§2, ¶E, as repealed and replaced by PL 1989, c. 833, §20, is amended to read:

E. A committee shall report any expenditure of \$500 or more, made after the 12th day before the election and more than ~~48~~ 24 hours before 5 p.m. on the day of the election, within ~~48~~ 24 hours of that expenditure or by noon of the first business day after the expenditure, whichever is later.

See title page for effective date.

CHAPTER 629

H.P. 1312 - L.D. 1790

An Act To Reduce Contamination of Breast Milk and the Environment from the Release of Brominated Chemicals in Consumer Products

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

Sec. 1. 38 MRSA §1609 is enacted to read:

§1609. Restrictions on sale and distribution of brominated flame retardants

1. "Penta" mixture and "octa" mixture of polybrominated diphenyl ethers. Effective January 1, 2006, a person may not sell or offer to sell, or distribute for promotional purposes, a product containing more than 1% of the "penta" or "octa" mixtures of polybrominated diphenyl ethers.

2. Review; report. The department, with the Department of Human Services, Bureau of Health, shall review relevant risk assessments in connection with brominated flame retardants and relevant findings and rulings by the United States Environmental Protection Agency and the European Union. The department shall annually, no later than January 5th, submit a report regarding the regulation of brominated flame retardants to the joint standing committee of the Legislature having jurisdiction over natural resources matters. For purposes of this subsection, "brominated flame retardant" means any chemical containing the element bromine that may be added to a plastic, foam or textile to inhibit flame formation.