

# 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**

General Fund. The State Controller shall also transfer the equitable share of retiree health insurance savings to each participating fund by June 30, 2009. The fund transfers are to recognize retiree health insurance savings achieved through changes to be adopted by the State Employee Health Commission.

**Sec. B-3. Appropriations and allocations.** The following appropriations and allocations are made.

**ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF**

**Revenue Services - Bureau of 0002**

Initiative: Provides funding for 2 additional Revenue Agent positions assigned to the income and estate tax division to audit pass-through entity and corporate income tax returns. These new positions will increase budgeted gross tax revenue by \$1,000,000 in fiscal year 2008-09 and \$2,000,000 each year thereafter.

GENERAL FUND	2007-08	2008-09
POSITIONS - LEGISLATIVE COUNT	0.000	2.000
Personal Services	\$0	\$139,098
All Other	\$0	\$30,762
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GENERAL FUND TOTAL	\$0	\$169,860

mittees of the Legislature having jurisdiction over appropriations and financial affairs and over state and local government matters a report of the transferred amounts not later than January 15, 2009.

**Sec. C-4. Appropriations and allocations.** The following appropriations and allocations are made.

**ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF**

**Executive Branch Departments and Independent Agencies - Statewide 0017**

Initiative: Deappropriates funds from position vacancies identified in this Part.

GENERAL FUND	2007-08	2008-09
POSITIONS - LEGISLATIVE COUNT	0.000	(25.000)
Personal Services	\$0	(\$1,799,987)
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GENERAL FUND TOTAL	\$0	(\$1,799,987)

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

Effective April 18, 2008.

**PART C**

**Sec. C-1. PL 2007, c. 539, Pt. QQ** is repealed.

**Sec. C-2. Review of statewide vacancies.** The Commissioner of Administrative and Financial Services shall review vacant positions throughout State Government, regardless of funding source, and shall identify positions to be eliminated. The Commissioner of Administrative and Financial Services is authorized to identify savings to the General Fund from this review. Notwithstanding any other provision of law, the State Budget Officer shall eliminate positions and available balances by financial order upon approval of the Governor in order that a minimum of \$1,000,000 in General Fund savings is realized in fiscal year 2008-09.

**Sec. C-3. Calculation and transfer; General Fund savings through eliminating vacant positions.** Notwithstanding any other provision of law, the State Budget Officer shall calculate the amounts of savings from position eliminations that result from this Part that apply against each General Fund account and shall transfer the amounts by financial order upon approval of the Governor. These transfers are considered adjustments to appropriations and position counts in fiscal year 2008-09. The State Budget Officer shall provide the joint standing com-

**CHAPTER 654**

**H.P. 1431 - L.D. 2047**

**An Act To Shield Journalists' Confidential Sources**

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

**Sec. 1. 16 MRSA §61** is enacted to read:

**§61. Shielding journalist's confidential sources**

**1. Compelled disclosure prohibited.** A judicial, legislative, administrative or other body with the power to issue a subpoena may not compel a journalist to testify about, produce or otherwise disclose or adjudge the journalist in contempt for refusal to testify about, produce or disclose:

A. The identity of a confidential source of any information;

B. Any information that could be used to identify a confidential source; or

C. Any information obtained or received in confidence by the journalist acting in the journalistic capacity of gathering, receiving, transcribing or processing news or information for potential dissemination to the public.

**2. Exceptions allowing compelled disclosure.** A court may compel disclosure of the identity of a source or information described in subsection 1 if the court finds, after the journalist has been provided notice and the opportunity to be heard, that the party seeking the identity of the source or the information has established by a preponderance of the evidence:

A. In all matters, whether criminal or civil, that:

(1) The identity of the source or the information is material and relevant;

(2) The identity of the source or the information is critical or necessary to the maintenance of a party's claim, defense or proof of an issue material to the claim or defense;

(3) The identity of the source or the information is not obtainable from any alternative source or cannot be obtained by alternative means or remedies less destructive of First Amendment rights; and

(4) There is an overriding public interest in the disclosure; and

B. Based on information obtained from a source other than the journalist that:

(1) In a criminal investigation or prosecution, there are reasonable grounds to believe that a crime has occurred; or

(2) In a civil action or proceeding, there is a prima facie cause of action.

**3. Compelled disclosure from 3rd parties.** The protection from compelled disclosure contained in subsection 1 also applies with respect to any subpoena issued to, or other compulsory process against, a 3rd party that seeks records, information or other communications relating to business transactions between the 3rd party and the journalist for the purpose of discovering the identity of the source or obtaining information described in subsection 1. Whenever a subpoena is issued to, or other compulsory process is issued against, a 3rd party that seeks records, information or other communications on business transactions with the journalist, the affected journalist must be given reasonable and timely notice of the subpoena or compulsory process before it is executed or initiated and an opportunity to be heard. In the event that the subpoena issued to, or other compulsory process against, the 3rd party is in connection with a criminal investigation in which the journalist is the express target and advance notice as provided in this section would pose a clear and substantial threat to the integrity of the investigation, the governmental authority shall so certify to such a threat in court and notification of the subpoena or compulsory process must be given to the affected journalist as soon as it is determined that the notification will no longer pose a clear and substantial threat to the integrity of the investigation.

**4. Waiver.** A journalist waives the protection provided by this section if the journalist voluntarily discloses or consents to disclosure of the protected information described in subsection 1, paragraphs A and B.

See title page for effective date.

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## CHAPTER 655

### S.P. 809 - L.D. 2119

#### An Act To Amend Certain Laws Related to Environmental Protection

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

**Sec. 1. 38 MRSA §353, sub-§9,** as enacted by PL 2007, c. 187, §1, is amended to read:

**9. Finance charges.** In addition to other remedies specifically authorized in this Title, the department shall charge interest at a rate of 15% per annum, unless the commissioner finds the amount too small or the likelihood of recovery too uncertain, and may pursue enforcement, including, but not limited to, penalties pursuant to section 349 and suspension or revocation pursuant to section 341-D, subsection 3 for the failure of a licensee to pay any portion of licensing fees owed by the date due.

**Sec. 2. 38 MRSA §480-I, sub-§3,** as enacted by PL 1997, c. 230, §1, is repealed.

**Sec. 3. 38 MRSA §562-A, sub-§17, ¶E,** as enacted by PL 1993, c. 363, §7 and affected by §21, is amended to read:

E. With regard to sections 568, 568-A, 569-A and 570, persons described in paragraphs A to D with regard to aboveground oil storage facilities.

**Sec. 4. 38 MRSA §563, sub-§4,** as repealed and replaced by PL 1989, c. 865, §5, is amended to read:

**4. Registration fees.** The owner or operator of an underground oil storage facility shall pay ~~an annual~~ a fee to the department of ~~\$35~~ \$100 for each tank registered under this section located at the facility, except that single family homeowners are not required to pay a fee for a tank at their personal residence. ~~Annual payments~~ The fee must be paid ~~on or before January 1st of each calendar year~~ at the time the tank is first registered and every 3 years thereafter upon receipt of a bill from the department. The department may prorate the fee for new installations to put all tank owners and operators on the same billing cycle.

**Sec. 5. 38 MRSA §566-A, sub-§1-A,** as enacted by PL 1991, c. 763, §6, is amended to read: