

MAINE STATE LEGISLATURE

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1 SECOND REGULAR SESSION
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3 ONE HUNDRED AND TWELFTH LEGISLATURE
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5 Legislative Document

No. 1931

6 H.P. 1367

House of Representatives, January 21, 1986

7 Submitted by the Department of Labor pursuant to Joint Rule 24.

8 Reference to the Committee on Judiciary suggested and ordered printed.

9 EDWIN H. PERT, Clerk

10 Presented by Representative Cashman of Old Town.

Cosponsored by Senator Twitchell of Oxford, Representative Beaulieu of
Portland and Representative Kane of So. Portland.

11 STATE OF MAINE
12
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-SIX
16

17 AN ACT to Improve Tax Collection Procedures.
18

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

21 Sec. 1. 4 MRSA §807, first ¶, as amended by PL
22 1985, c. 124, §8, is further amended to read:

23 No person may practice law or hold himself out to
24 practice law within the State or before its courts,
25 or demand or receive any remuneration for those ser-
26 vices rendered in this State, unless he has been ad-
27 mitted to the bar of this State and has complied with
28 section 806-A, or unless he has been admitted to try
29 cases in the courts of this State under section 802.
30 Any person who practices law in violation of these
31 requirements is guilty of the unauthorized practice
32 of law, which is a Class E crime. This section shall
33 not be construed to apply to practice before any Fed-
34 eral Court by any person admitted to practice there-
35 in; nor to a person pleading or managing his own
36 cause in court; nor to the officer or employee of a

1 corporation, partnership, sole proprietorship or gov-
2 ernmental entity, who is not an attorney, but is ap-
3 pearing for that organization in an action cognizable
4 as a small claim under Title 14, chapter 738; nor to
5 a person who is not an attorney, but is representing
6 a municipality under Title 12, section 4812-C, sub-
7 section 2; Title 30, section 3222, subsection 2; or
8 Title 30, section 4966, subsection 1; nor to a person
9 who is not an attorney, but is representing the De-
10 partment of Environmental Protection under Title 38,
11 section 342, subsection 7; nor to a person who is not
12 an attorney, but is representing the Bureau of Em-
13 ployment Security under Title 26, section 1082, sub-
14 section 1; or representing the Bureau of Taxation un-
15 der Title 36, section 112, subsection 9. In all pro-
16 ceedings, the fact, as shown by the records of the
17 Board of Overseers of the Bar, that that person is
18 not recorded as a member of the bar shall be prima
19 facie evidence that he is not a member of the bar li-
20 censed to practice law in the State.

21 Sec. 2. 26 MRSA §1082, sub-§1, is repealed and
22 replaced by PL 1983, c. 816, Pt. A, §21, is amended
23 to read:

24 1. Powers and duties of the commissioner. Ex-
25 cept as otherwise provided, it shall be the duty of
26 the Commissioner of Labor to administer this chapter,
27 through an organization to be known as the Bureau of
28 Employment Security. The commissioner shall appoint
29 a Director of Employment Security to serve at his
30 pleasure. The commissioner may employ such persons,
31 make such expenditures, require such reports, make
32 such investigations and take such other actions as he
33 deems necessary or suitable to that end. The commis-
34 sioner shall be responsible and shall possess the
35 necessary authority for the operation and management
36 of the Bureau of Employment Security. The commis-
37 sioner shall determine methods of operational proce-
38 dures in accordance with the provisions of this chap-
39 ter. The commissioner may adopt rules in accordance
40 with the Maine Administrative Procedure Act, Title 5,
41 chapter 375, to achieve this purpose, except rules
42 pertaining to unemployment insurance as provided in
43 subsection 2. The commissioner shall determine meth-
44 ods of operational procedures in accordance with the
45 provisions of this chapter and by the Maine Adminis-

1 trative Procedure Act, Title 5, chapter 375. The
2 commissioner shall make such recommendations for
3 amendments to this chapter as he deems proper. When-
4 ever the commissioner believes that a change in con-
5 tribution or benefit rates will become necessary to
6 protect the solvency of the fund, he shall promptly
7 so inform the Governor and the Legislature and make
8 recommendations with respect thereto. The commissioner
9 may authorize employees of the Bureau of Employ-
10 ment Security to serve civil process and represent
11 the bureau in District Court in disclosure proceed-
12 ings pursuant to Title 14, chapter 502, ancillary to
13 the collection of taxes and overpayments for which
14 warrants have been issued pursuant to this chapter.

15 Sec. 3. 36 MRSA §112, sub-§9 is enacted to read:

16 9. Representation in court. The State Tax Asses-
17 sor may authorize employees of the Bureau of Taxation
18 to serve civil process and represent the bureau in
19 District Court in disclosure proceedings pursuant to
20 Title 14, chapter 502, ancillary to the collection of
21 taxes for which warrants have been issued pursuant to
22 this Title. Employees of the bureau may also be au-
23 thorized to represent the State Tax Assessor in ar-
24 raignment proceedings in District Court in cases in
25 which a criminal complaint has been filed alleging
26 violation of section 2113, 3234 or 5332. The State
27 Tax Assessor shall establish standards and a program
28 to certify employees as being familiar with court
29 procedures.

30 STATEMENT OF FACT

31 Section 1 allows employees of the Bureau of Em-
32 ployment Security and the Bureau of Taxation to
33 represent their respective bureau even though they
34 are not attorneys in certain tax proceedings.

35 Section 2 authorizes field advisors of the Bureau
36 of Employment Security to represent the Department of
37 Labor in civil disclosure hearings.

38 Section 3 provides statutory authorization for
39 Bureau of Taxation employees to appear as representa-

1 tives of the State in civil disclosure hearings. Al-
2 so, it authorizes Bureau of Taxation employees to ap-
3 pear as representatives of the State in arraignment
4 proceedings concerning violations of sales, motor fu-
5 el and income tax law.

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