

# MAINE STATE LEGISLATURE

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# 120th MAINE LEGISLATURE

## SECOND REGULAR SESSION-2002

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Legislative Document

No. 2216

H.P. 1741

House of Representatives, April 24, 2002

**An Act to Correct Recently Enacted Legislation.**

(EMERGENCY)

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Reference to the Committee on Judiciary suggested and ordered printed.

*Millicent M. MacFarland*

MILLICENT M. MacFARLAND, Clerk

Presented by Representative LaVERDIERE of Wilton. (GOVERNOR'S BILL)  
Cosponsored by Senator RAND of Cumberland.

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

4           **Whereas,** certain legislation enacted or passed into law  
6 during the Second Regular Session of the 120th Legislature must  
be immediately corrected or clarified in order to effectuate  
8 legislative intent; and

10           **Whereas,** in the judgment of the Legislature, these facts  
create an emergency within the meaning of the Constitution of  
12 Maine and require the following legislation as immediately  
necessary for the preservation of the public peace, health and  
14 safety; now, therefore,

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

18           **Sec. 1. 1 MRSA §71, sub-§11,** as amended by PL 1973, c. 788,  
§1, is further amended to read:

20           **11. Statutory references.** Wherever in the Revised Statutes  
22 the word "Title" or "chapter" or "subchapter" appears without  
definite reference, it refers to the Title or chapter or  
24 subchapter in which the word "Title" or "chapter" or "subchapter"  
appears; if the chapter or subchapter is given a number without  
26 reference to a numbered Title, it refers to the chapter or  
subchapter of the Title in which the numbered chapter or  
28 subchapter appears. Wherever in the Revised Statutes a numbered  
section appears without reference to a numbered Title, it refers  
30 to the section of the Title in which the numbered section  
appears.

32           Wherever in the Revised Statutes or any legislative Act a  
34 reference is made to several sections, subsections, paragraphs,  
subparagraphs, divisions, subdivisions or sentences, the section,  
36 subsection, paragraph, subparagraph, division, subdivision or  
sentence numbers given in the reference are connected by the word  
38 "to," the reference includes both the sections, subsections,  
paragraphs, subparagraphs, divisions, subdivisions or sentences  
40 whose numbers are given and all intervening sections,  
subsections, paragraphs, subparagraphs, divisions, subdivisions  
42 and sentences.

44           Wherever in the Revised Statutes the designation of a division of  
the statutes larger than a section is numbered with the use of a  
46 Roman numeral, it may be known and cited by its Arabic equivalent.

48           **Sec. 2. 5 MRSA §13070-J, sub-§1, ¶D,** as amended by PL 2001, c.  
642, §1 and affected by §12 and c. 652, §2, is repealed and the  
50 following enacted in its place:

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D. "Economic development incentive" means:

- (1) Assistance from Maine Quality Centers under Title 20-A, chapter 431-A;
- (2) The Governor's Training Initiative Program under Title 26, chapter 25, subchapter IV;
- (3) Municipal tax increment financing under Title 30-A, chapter 207;
- (4) The jobs and investment tax credit under Title 36, section 5215;
- (5) The research expense tax credit under Title 36, section 5219-K;
- (6) Reimbursement for taxes paid on certain business property under Title 36, chapter 915;
- (7) Employment tax increment financing under Title 36, chapter 917;
- (8) The shipbuilding facility credit under Title 36, chapter 919; or
- (9) The credit for seed capital investment under Title 36, section 5216-B.

**Sec. 3. 5 MRSA §13070-J, sub-§3**, as amended by PL 2001, c. 642, §2 and affected by §12, is further amended to read:

**3. Report.** Annually, a business receiving an economic development incentive described in subsection 1, paragraph D, subparagraphs (1) to ~~(7)~~ (8), the value of which exceeds \$10,000 in one year, shall submit a written report to the commissioner no later than August 1st of the following year containing but not limited to the following information:

- A. The amount of assistance received by the business in the preceding year from each economic development incentive and the uses to which that assistance has been put;
- B. The total amount of assistance received from all economic assistance programs;
- C. The number, type and wage level of jobs created or retained as a result of an economic development incentive;

2 D. Current employment levels for the business for all  
operations within the State, the number of employees in each  
4 job classification and the average wages and benefits for  
each classification;

6 E. Any changes in employment levels that have occurred over  
the preceding year; and

8 F. An assessment of how the business has performed with  
10 respect to the public purpose identified in subsection 2,  
paragraph A, if applicable.

12 The department shall mail report forms by May 15th of each year  
14 to every business required to file a report under this  
subsection. Reports filed under this subsection are public  
16 records for purposes of Title 1, chapter 13.

18 **Sec. 4. Effective date.** Those sections of this Act that amend  
the Maine Revised Statutes, Title 5, section 13070-J, subsection  
20 1, paragraph D and subsection 3 take effect 90 days after  
adjournment of the Second Regular Session of the 120th  
22 Legislature.

24 **Sec. 5. 7 MRSA §3910-A, sub-§2,** as enacted by PL 2001, c. 617,  
§6, is amended to read:

26 **2. Surcharge imposed.** A surcharge of \$10 must be added to  
28 every fine, forfeiture or penalty imposed by any court in this  
State for a violation of this Part ~~or Title 17, chapter 42~~. The  
30 surcharge, for the purposes of collection and collection  
procedures, is considered a part of the fine, forfeiture or  
32 penalty. All funds collected as a result of this surcharge must  
be deposited monthly in the Animal Welfare Fund established under  
34 section 3906-B, subsection 2.

36 **Sec. 6. Effective date.** That section of this Act that amends  
the Maine Revised Statutes, Title 7, section 3910-A, subsection 2  
38 takes effect 90 days after adjournment of the Second Regular  
Session of the 120th Legislature.

40 **Sec. 7. 20-A MRSA §12722, sub-§8, ¶B,** as enacted by PL 2001,  
42 c. 545, §1, is amended to read:

44 B. An employee of the Maine Technical College System hired  
on or after August 31, 1998 or on or after the last day of  
46 the month in which authorization pursuant to subsection 1  
occurs, whichever is later, and who elected to participate  
48 in the defined contribution plan may elect to terminate  
participation in the defined contribution plan and to  
50 participate in the Maine State Retirement System by

2 notifying the Maine State Retirement System in writing no  
later than January 1, 2003.

4 (1) An employee of the Maine Technical College System  
electing the option provided in this paragraph may also  
6 ~~elect to~~ purchase service credit under the Maine State  
Retirement System for all or part of the time that the  
8 employee participated in the defined contribution  
plan. ~~The election must be made in writing to the  
10 Maine State Retirement System no later than January 1,  
2003.~~ Purchase of service credit under this  
12 subparagraph consists of payment of an amount that,  
together with regular interest as defined in Title 5,  
14 section 17001, subsection 31 on that amount, is the  
actuarial equivalent, at the effective date of the  
16 retirement benefit, of the portion of the retirement  
benefit based on the additional creditable service.

18 **Sec. 8. Effective date.** That section of this Act that amends  
20 the Maine Revised Statutes, Title 20-A, section 12722, subsection  
8, paragraph B takes effect 90 days after adjournment of the  
22 Second Regular Session of the 120th Legislature.

24 **Sec. 9. 25 MRSA §2801-B, sub-§1,** as amended by PL 2001, c.  
559, Pt. KK, §1; c. 604, §21; and c. 697, Pt. B, §1, is repealed  
26 and the following enacted in its place:

28 1. Exemption. The training standards and requirements of  
this chapter do not apply to a person defined by this chapter as  
30 a law enforcement officer who is:

32 A. An employee of the Department of Corrections with a duty  
to perform probation functions or to perform intensive  
34 supervision functions;

36 B. An agent or a representative of the Department of  
Conservation, Bureau of Parks and Lands whose law  
38 enforcement powers are limited to those specified in Title  
12, section 1806;

40 C. An agent or a representative of the Department of  
Conservation, Bureau of Forestry whose law enforcement  
42 powers are limited to those specified by Title 12, section  
44 8901, subsection 3;

46 E. A harbor master;

48 F. A municipal shellfish conservation warden;

2           G. A security officer appointed by the Commissioner of  
3           Public Safety pursuant to section 2908;

4           H. The State Fire Marshal; or

6           I. The Chief of the Bureau of Liquor Enforcement within the  
7           Department of Public Safety.

8  
9           This exemption does not include training requirements set out in  
10          this chapter that are specific to the positions identified in  
11          this subsection.

12           **Sec. 10. Effective date.** That section of this Act that repeals  
14          and replaces the Maine Revised Statutes, Title 25, section  
15          2801-B, subsection 1 takes effect 90 days after adjournment of  
16          the Second Regular Session of the 120th Legislature.

18           **Sec. 11. 29-A MRSA §1304, sub-§1, ¶E,** as amended by PL 2001,  
19          c. 671, §25 and c. 687, §15, is repealed and the following  
20          enacted in its place:

22           E. Unless the permittee is operating a motorcycle or  
23           motor-driven cycle, the permit requires the permittee to be  
24           accompanied by a licensed operator who:

26                   (1) Has held a valid license for the immediately  
27                   preceding 2 consecutive years;

28                   (2) Is at least 20 years of age;

30                   (3) Is occupying a seat beside the driver; and

32                   (4) Is licensed to operate the class vehicle operated  
34                   by the permittee.

36           The accompanying operator must adhere to all restrictions  
37           applied to the license when functioning as the permittee's  
38           accompanying operator. A person who meets the conditions of  
39           subparagraphs (2), (3) and (4) whose license was canceled or  
40           suspended for physical, mental or emotional reasons within  
41           the immediately preceding 2 consecutive years may act as an  
42           accompanying operator pursuant to this paragraph with the  
43           approval of the Secretary of State.

44           **Sec. 12. Effective date.** That section of this Act that repeals  
46          and replaces the Maine Revised Statutes, Title 29-A, section  
47          1304, subsection 1, paragraph E takes effect 90 days after  
48          adjournment of the Second Regular Session of the 120th  
            Legislature.

2           **Sec. 13. 29-A MRSA §2081, sub-§3, ¶B**, as enacted by PL 2001,  
c. 585, §3, is amended to read:

4  
6           B. The operator shall ensure that a child who is less than  
18 years of age ~~but more than~~ and at least 8 years of age or  
8           who is less than 18 years of age and more than 4 feet, 7  
10           inches in height is properly secured in a seat belt unless  
that child is required to be secured in a federally approved  
child restraint system pursuant to this subsection or in a  
child safety seat pursuant to subsection 2.

12           **Sec. 14. Effective date.** That section of this Act that amends  
14           the Maine Revised Statutes, Title 29-A, section 2081, subsection  
3, paragraph B takes effect January 1, 2003.

16           **Sec. 15. 39-A MRSA §102, sub-§11, ¶A**, as amended by PL 2001,  
18           c. 518, §1, is further amended by amending subparagraph (5) to  
read:

20           (5) Except for persons engaged in harvesting of forest  
22           products, the parent, spouse or child of a sole  
proprietor who is employed by that sole proprietor or  
24           the parent, spouse or child of a partner who is  
employed by the partnership of that partner or the  
26           parent, spouse or child of a member of a limited  
liability company who is employed by that limited  
28           liability company may state, in writing, that the  
parent, spouse or child waives all the benefits and  
30           privileges provided by the workers' compensation laws  
if the board finds that the waiver is not a  
32           prerequisite condition to employment;

34           **Sec. 16. Effective date.** That section of this Act that amends  
the Maine Revised Statutes, Title 39-A, section 102, subsection  
36           11, paragraph A, subparagraph (5) takes effect 90 days after  
adjournment of the Second Regular Session of the 120th  
38           Legislature.

40           **Sec. 17. PL 2001, c. 559, Pt. BB, §5** is amended to read:

42           **Sec. BB-5. Transition.** During the transition of the  
consumer-directed personal care assistance services program from  
44           the Department of Human Services, Bureau of Medical Elder and  
Adult Services to the Department of Labor, Bureau of  
46           Rehabilitation Services, all rules and procedures pertaining to  
the program that were in effect on April 1, 2002 remain in effect  
48           until rules regarding the program are adopted by the Bureau of  
Rehabilitation Services.

50





2 criminal violations, part of Title 17, was intended to be 10% of  
the fine. The surcharges collected are deposited in the Animal  
4 Welfare Fund. Public Law 2001, chapter 617 erroneously included  
a cross-reference to the criminal animal welfare statutes in  
6 addition to the civil violations for which a \$10 surcharge is to  
be imposed. These sections correct that error by deleting the  
8 cross-reference in the Title 7 surcharge section to the Title 17  
chapter on animal welfare and providing the appropriate effective  
date.

10  
12 Sections 7 and 8 correct language added by Public Law 2001,  
chapter 545 concerning service credit purchases by employees of  
the Maine Technical College System by taking out the reference to  
14 electing to purchase service credits. That deletion is  
consistent with other provisions in chapter 545. The appropriate  
16 effective date is provided.

18 Sections 9 and 10 correct a conflict created by Public Law  
2001, chapter 559, Part KK; chapter 604 and chapter 697, Part B,  
20 which amended the law enforcement training standards exemptions  
and add an appropriate effective date. Chapter 697 added the  
22 State Fire Marshal and the Chief of the Bureau of Liquor  
Enforcement as exempt from the training standards. Chapter 559,  
24 Part KK also added the State Fire Marshal and the Chief of the  
Bureau of Liquor Enforcement, but also deleted the repeal of the  
26 exemption for capitol security officers. Chapter 559 includes  
training standards for capitol security officers.

28  
30 Sections 11 and 12 correct a conflict created by Public Law  
2001, chapters 671 and 687 that amended the same section of law  
with different wording concerning who may accompany a person  
32 holding a motor vehicle instruction permit. Chapter 671 provided  
that a person who met the requirements of the Maine Revised  
34 Statutes, Title 29-A, section 1304, subsection 1, paragraph E,  
including holding a valid license for the immediately preceding 2  
36 consecutive years, could serve as an accompanying operator, even  
if that person's own license was cancelled for physical, mental  
38 or emotional reasons pursuant to Title 29-A, section 1259, as  
long as the Secretary of State approved. Chapter 687 provided  
40 that a person who held a valid license for the immediately  
preceding 2 consecutive years who met the requirements of  
42 paragraph E, could serve as an accompanying operator, even though  
that person's own license was cancelled for physical, mental or  
44 emotional reasons, with the Secretary of State's approval, if the  
license had been cancelled within the previous 2 consecutive  
46 years, without referring to Title 29-A, section 1259. The  
Secretary of State has authority under rules to cancel licenses  
48 for physical, mental and emotional reasons, so a license could be  
cancelled for those reasons without the cancellation occurring  
50 under Title 29-A, section 1259.

2 Section 11 repeals Title 29-A, section 1304, subsection 1,  
paragraph E and reenacts it using the chapter 687 version.  
4 Section 12 provides the appropriate effective date.

6 Public Law 2001, chapter 518 clarifies that members of  
limited liability companies, LLC, are treated the same as  
8 partners in a partnership for certain purposes under the workers'  
compensation law. It allows a member of an LLC to elect to be  
10 personally covered by the law and it allows certain family  
members of LLC members to waive coverage under the law.

12 Sections 13 clarifies the law concerning seat belts and  
14 child safety seats to ensure that children who are 8 years of age  
are required to be properly secured in a seat belt.

16 Section 15 clarifies the language in the definition of  
18 "employee" in the workers' compensation laws concerning family  
members of members of limited liability companies who are also  
20 employed by that LLC. The corrected language parallels similar  
language relating to sole proprietorships and partnerships.  
22 Section 14 provides the appropriate effective date.

24 Section 17 corrects a reference to the Bureau of Elder and  
Adult Services within the Department of Human Services, that  
26 administers the consumer-directed personal care assistance  
services program.

28 Section 18 corrects the description of funds to be provided  
30 to shelters in Bangor, Lewiston and Portland as appropriated in  
Public Law 2001, chapter 559. The appropriation is for a total  
32 of \$315,000. The initiative was not corrected when the total  
amount was reduced from \$375,000 and therefore indicates that  
34 each municipality will receive \$125,000. The correct portion for  
each municipality is \$105,000.

36 Section 19 corrects an error in listing the qualifying year  
38 for sea urchin draggers who were inadvertently excluded from  
obtaining a 2002 sea urchin dragging license under Resolve 2001,  
40 chapter 112. Section 20 makes this correction retroactive to  
April 9, 2002.