

MAINE STATE LEGISLATURE

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124th MAINE LEGISLATURE

FIRST REGULAR SESSION-2009

Legislative Document

No. 479

S.P. 182

In Senate, February 10, 2009

An Act To Recognize Maine Youth Camps

Reference to the Committee on Health and Human Services suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator BRANNIGAN of Cumberland.
Cosponsored by Representative PIOTTI of Unity and
Senator: HASTINGS of Oxford, Representative: SARTY of Denmark.

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

2 PART A

3 Sec. A-1. 22 MRSA §2491, sub-§7, as amended by PL 1979, c. 672, Pt. A, §59,
4 is further amended to read:

5 7. **Eating establishment.** "Eating establishment" means any place where food or
6 drink is prepared and served, or served to the public for consumption on the premises, or
7 catering establishments, or establishments dispensing food from vending machines, or
8 establishments preparing foods for vending machines dispensing foods other than in
9 original sealed packages, such as hotels, motels, boarding homes, restaurants, mobile
10 eating places, coffee shops, cafeterias, short order cafes, luncheonettes, grills, tearooms,
11 sandwich shops, soda fountains, bars, cocktail lounges, night clubs, roadside stands,
12 industrial feeding establishments, private or public institutions routinely serving foods,
13 retail frozen dairy product establishments, airports, parks, theaters, ~~vacation~~ recreational
14 camps, youth camps or any other catering or nonalcoholic drinking establishments or
15 operations where food is prepared and served or served for consumption on the premises,
16 or catering establishments where food is prepared, or where foods are prepared for
17 vending machines dispensing food other than in original sealed packages.

18 Sec. A-2. 22 MRSA §2491, sub-§11, as enacted by PL 1975, c. 496, §3, is
19 amended to read:

20 11. **Recreational camp.** "Recreational camp" means and includes ~~day camps, boys'~~
21 ~~and girls'~~, family, hunting, fishing and similar camps.

22 Sec. A-3. 22 MRSA §2491, sub-§16 is enacted to read:

23 16. Youth camp. "Youth camp" means a combination of program and facilities
24 established for the primary purpose of providing an outdoor group living experience for
25 children with social, recreational, spiritual and educational objectives and operated and
26 used for 5 or more consecutive days during one or more seasons of the year. "Youth
27 camp" includes day camps, residential camps and trip and travel camps.

28 Sec. A-4. 22 MRSA §2492, sub-§1, ¶D, as enacted by PL 2003, c. 452, Pt. K,
29 §20 and affected by Pt. X, §2, is amended to read:

30 D. A recreational camp; or

31 Sec. A-5. 22 MRSA §2492, sub-§1, ¶E, as enacted by PL 2003, c. 452, Pt. K,
32 §20 and affected by Pt. X, §2, is amended to read:

33 E. A camping area; or

34 Sec. A-6. 22 MRSA §2492, sub-§1, ¶F is enacted to read:

35 F. A youth camp.

1 **Sec. A-7. 22 MRSA §2494, first ¶**, as amended by PL 2007, c. 539, Pt. F, §1, is
2 further amended to read:

3 Each application for, or for renewal of, a license to operate an eating establishment,
4 eating and lodging place, lodging place, recreational camp, youth camp or camping area
5 within the meaning of this chapter must be accompanied by a fee, appropriate to the size
6 of the establishment, place, camp or area of the licensee, determined by the department
7 and not to exceed the fees listed below. All fees collected by the department must be
8 deposited into a special revenue account established for this purpose. No such fee may be
9 refunded. No license may be assignable or transferable. The fees may not exceed:

10 **Sec. A-8. 22 MRSA §2495, first ¶**, as amended by PL 1983, c. 553, §21, is
11 further amended to read:

12 The department shall, within 30 days following receipt of application, issue an annual
13 license to operate any eating establishment, eating and lodging place, lodging place,
14 recreational camp, youth camp or camping area ~~which that~~ is found to comply with this
15 chapter and the ~~regulations~~ rules adopted by the department.

16 **Sec. A-9. 22 MRSA §2496, sub-§2**, as enacted by PL 2005, c. 140, §1, is
17 amended to read:

18 **2. Youth camps; emergency medication.** A ~~recreational~~ youth camp ~~for boys or~~
19 ~~girls~~ must have a written policy authorizing campers to self-administer emergency
20 medication, including, but not limited to, an asthma inhaler or an epinephrine pen. The
21 written policy must include the following requirements:

22 A. A camper who self-administers emergency medication must have the prior written
23 approval of the camper's primary health care provider and the camper's parent or
24 guardian;

25 B. The camper's parent or guardian must submit written verification to the youth
26 camp from the camper's primary health care provider confirming that the camper has
27 the knowledge and the skills to safely self-administer the emergency medication in
28 camp;

29 C. The youth camp health staff must evaluate the camper's technique to ensure
30 proper and effective use of the emergency medication in camp; and

31 D. The emergency medication must be readily available to the camper.

32 **Sec. A-10. 22 MRSA §2498, sub-§1, ¶A**, as amended by PL 2003, c. 673, Pt. X,
33 §3, is further amended to read:

34 A. The department may impose penalties for violations of this chapter, or the rules
35 ~~enacted~~ adopted pursuant to this chapter, on any eating establishment, eating and
36 lodging place, lodging place, recreational camp, youth camp or camping area. The
37 penalties may not be greater than \$100 for each violation. Each day that the violation
38 remains uncorrected may be counted as a separate offense. Penalties may be imposed
39 for each violation of the rules.

- 1 (3) At least one member representing a statewide organization of campground
2 owners;
- 3 (4) At least one member representing the retail sector in the State;
- 4 (5) At least one member representing the motorcoach industry;
- 5 (6) At least one member representing the air transportation industry;
- 6 (7) At least one member representing arts and cultural organizations; and
- 7 (8) At least one member representing a statewide organization of children's
8 youth camps; and

9 **Sec. B-3. 12 MRSA §1806, sub-§4, ¶H,** as corrected by RR 2003, c. 2, §15, is
10 amended to read:

11 H. Violates the requirements for a youth camp trip leader permit issued under section
12 12860; or

13 **Sec. B-4. 12 MRSA §9001-A, sub-§1,** as enacted by PL 1995, c. 586, §3, is
14 amended to read:

15 **1. Licensed camping facility.** "Licensed camping facility" means a recreational
16 camp, youth camp or camping area licensed under Title 22, ~~chapter 562~~ section 2495.

17 **Sec. B-5. 12 MRSA §10154,** as enacted by PL 2003, c. 414, Pt. A, §2 and
18 affected by c. 614, §9 and amended by c. 689, Pt. B, §6, is further amended to read:

19 **§10154. Junior Maine Guides and Youth Camp Trip Leaders Curriculum Advisory**
20 **Board**

21 **1. Board established.** The commissioner shall appoint a board of 5 members to be
22 known as the "Junior Maine Guides and Youth Camp Trip Leaders Curriculum Advisory
23 Board" and referred to in this section as "the board," as established by Title 5, section
24 12004-I, subsection 24.

25 **2. Membership.** The board consists of one member from the department, one
26 member from the Department of Health and Human Services and 3 members of the
27 public, one of whom must be a Maine youth camp director. Appointments to the board
28 are for 3 years or until successors are appointed.

29 **3. Duties.** The board has the duty to advise the commissioner on the adoption of a
30 youth camp trip leader safety course curriculum and on the adoption of rules for the
31 administration of this section and sections 12859 and 12860.

32 **4. Compensation.** The public members of the board are entitled to compensation as
33 provided in Title 5, chapter 379.

34 **Sec. B-6. 12 MRSA §10910, sub-§2,** as enacted by PL 2003, c. 414, Pt. A, §2
35 and affected by c. 614, §9 and amended by c. 689, Pt. B, §6, is further amended to read:

1 **2. Exception.** This section does not apply to any person who operates a watercraft
2 in connection with a ~~boys or girls~~ youth camp located in this State and licensed by the
3 Department of Health and Human Services or located in another state and licensed in a
4 similar manner in that state.

5 **Sec. B-7. 12 MRSA §12502**, as amended by PL 2003, c. 655, Pt. B, §248 and
6 affected by §422, is further amended to read:

7 **§12502. Youth camp fishing license**

8 **1. Issuance of youth camp fishing license.** Upon application, the commissioner
9 shall issue to a ~~boys or girls~~ youth camp licensed under Title 22, section 2495 a youth
10 camp fishing license that will permit any of the ~~boys or girls~~ campers, under 16 years of
11 age, to fish in the lake or pond adjacent to the main location of the youth camp. The fee
12 for this permit is \$75. Persons who fish under a youth camp fishing license, as provided
13 in this subsection, are subject to this Part.

14 **2. Penalties.** The following penalties apply to violations of this section.

15 A. A person who violates the terms of a special privilege under this section commits
16 a civil violation for which a fine of not less than \$100 nor more than \$500 may be
17 adjudged.

18 B. A person who violates the terms of a special privilege under this section after
19 having been adjudicated as having committed 3 or more civil violations under this
20 Part within the previous 5-year period commits a Class E crime.

21 Each day a person violates the terms of a special privilege under this section is a separate
22 offense.

23 **Sec. B-8. 12 MRSA §12852, first ¶**, as affected by PL 2003, c. 614, §9 and
24 repealed and replaced by c. 655, Pt. B, §315 and affected by §422, is amended to read:

25 The following penalties apply to violations of rules regulating licensed guides or
26 youth camp trip leaders and course instructor certificates.

27 **Sec. B-9. 12 MRSA §12852, sub-§1**, as enacted by PL 2003, c. 655, Pt. B, §315
28 and affected by §422, is amended to read:

29 **1. Civil.** Notwithstanding section 10650, a person who violates a rule regulating
30 licensed guides or youth camp trip leaders and course instructor certificates commits a
31 civil violation for which a fine of not less than \$100 nor more than \$500 may be
32 adjudged.

33 **Sec. B-10. 12 MRSA §12852, sub-§2**, as enacted by PL 2003, c. 655, Pt. B, §315
34 and affected by §422, is amended to read:

35 **2. Criminal.** A person who violates a rule regulating licensed guides or youth camp
36 trip leaders and course instructor certificates after having been adjudicated as having
37 committed 3 or more civil violations under this Part within the previous 5-year period
38 commits a Class E crime.

1 **Sec. B-11. 12 MRSA §12853**, as amended by PL 2005, c. 12, Pt. III, §30, is
2 further amended to read:

3 **§12853. License, fees and requirements; youth camp trip leader exception**

4 **1. Prohibition.** Except as provided in subsection 7, a person may not act as a guide
5 without a valid license issued under this chapter.

6 **2. Penalty.** A person who violates subsection 1 commits a Class D crime for which
7 the court shall impose a sentencing alternative involving a term of imprisonment of 3
8 days, none of which may be suspended. The court shall also impose a fine of \$1,000,
9 none of which may be suspended. A person violates subsection 1 each day that person
10 acts as a guide without a valid license issued under this chapter.

11 **3. New applications.** A person wishing to be licensed as a guide shall submit an
12 application to the commissioner.

13 A. The commissioner shall provide application forms that request all relevant
14 information the commissioner considers necessary.

15 B. Failure or refusal to satisfactorily answer any question in the application is a basis
16 for the commissioner not to accept the application.

17 C. The commissioner shall decide whether the application is acceptable within 5
18 working days of receipt.

19 D. The commissioner shall notify each applicant at least 2 weeks prior to the
20 examination required under section 12855.

21 **4. Qualifications.** In order to qualify for a guide license, a person must:

22 A. Be at least 18 years of age;

23 B. Pass the guide examination in accordance with section 12855;

24 C. If a first-time applicant, be currently certified in first aid through completion of
25 any standard first aid course that meets the criteria established by rule of the
26 commissioner;

27 D. If not a first-time applicant, submit satisfactory evidence, as determined by the
28 commissioner, of having held a guide license in this State; and

29 E. Meet all requirements established by rules of the commissioner.

30 For purposes of this subsection, "first-time applicant" means an applicant who has not
31 previously been issued a guide license in this State.

32 **5. Fee.** The fee for a 3-year guide license is \$81.

33 **6. Term of license.** A guide license entitles a person to act as a guide through
34 December 31st of the 2nd complete year following the year of issuance.

35 **7. Exception.** A person holding a youth camp trip leader permit under section 12860
36 may, without a guide license, conduct trips including adults under the auspices of the

1 boys and girls youth camp that employs those adults, subject to all the requirements of
2 section 12860.

3 **Sec. B-12. 12 MRSA §12860**, as amended by PL 2005, c. 12, Pt. III, §31, is
4 further amended to read:

5 **§12860. Youth camp trip leader permit**

6 **1. When permit required.** ~~Boys and girls~~ Youth camps licensed by the Department
7 of Health and Human Services under Title 22, section 2495, or located in another state
8 and licensed in a similar manner, if the laws of the other state so require, conducting trip
9 camping shall:

10 A. Provide at least one staff member over 18 years of age for each 6 campers; and

11 B. Ensure that the staff member in charge of the trip holds a valid youth camp trip
12 leader permit.

13 **1-A. Prohibition.** A person may not conduct trip camping under subsection 1
14 without a youth camp trip leader permit issued under this section. Each day a person
15 violates this subsection, that person commits a Class E crime for which a minimum fine
16 of \$50 and an amount equal to twice the applicable license fee must be imposed.

17 **2. Application.** A person wishing a youth camp trip leader permit ~~shall~~ must submit
18 an application on forms provided by the commissioner and ~~shall~~ pay the application fee.

19 **3. Qualifications.** To qualify initially for a youth camp trip leader permit, an
20 applicant must:

21 A. Show successful completion of an approved youth camp trip leader safety course
22 or complete an application provided by the commissioner outlining in detail the
23 applicant's experience and training as a youth camp trip leader; and

24 B. Meet any other requirements established by rule by the commissioner.

25 **4. Special waiver.** Waiver of the course requirement by the commissioner on the
26 basis of the applicant's experience and payment of the application fee qualifies the
27 applicant for a youth camp trip leader permit.

28 **5. Curriculum.** With the advice of the Junior Maine Guides and Youth Camp Trip
29 Leaders Curriculum Advisory Board, the commissioner shall review and adopt a youth
30 camp trip leader safety course curriculum that includes, but is not limited to:

31 A. Training in first aid;

32 B. Training in water safety, including lifesaving techniques as appropriate; and

33 C. ~~Trip~~ Youth camp trip leader qualifications and required experience for the special
34 waiver procedure in subsection 4.

35 The commissioner shall publish the curriculum adopted or approved by the Junior Maine
36 Guides and Youth Camp Trip Leaders Curriculum Advisory Board and a current list of
37 courses, with the approved curriculum, by name and address.

1 6. **Fee.** The initial qualifying fee for a youth camp trip leader permit is \$20. The
2 permit may be renewed upon payment of \$15 if requirements of the department are met.

3 7. **Enforcement.** Wardens of the department, the rangers of the Bureau of Forestry
4 and rangers of the Department of Conservation, Bureau of Parks and Lands may enforce
5 this section and may terminate any trip that is considered unsafe or in violation of this
6 section. The commissioner shall adopt standards for what is considered an unsafe trip.
7 The commissioner shall consider previous violations of this section when issuing or
8 reissuing youth camp trip leader permits.

9 **Sec. B-13. 12 MRSA §12904**, as enacted by PL 2003, c. 414, Pt. A, §2 and
10 affected by Pt. D, §7 and c. 614, §9, is further amended to read:

11 **§12904. Exceptions**

12 This chapter does not apply to the operation of canoes or kayaks. This chapter does
13 not apply to guides or youth camp trip leaders licensed under chapter 927 or motorboat
14 operators licensed under chapter 935, unless those persons are in the business of
15 conducting commercial white-collar trips.

16 **Sec. B-14. 12 MRSA §13068-A, sub-§4, ¶B**, as amended by PL 2003, c. 689,
17 Pt. B, §6, is further amended to read:

18 B. Notwithstanding paragraph A:

19 (1) Canoes, owned by a ~~boys or girls summer~~ youth camp located upon internal
20 waters in the State and duly licensed by the Department of Health and Human
21 Services and utilized by campers under the direction and supervision of a youth
22 camp counselor at least 18 years of age or older during training and instruction
23 periods on waters adjacent to the main location of the youth camp within a
24 distance of 500 feet from the shoreline of that camp, are exempt from this
25 subsection; and

26 (2) Log rafts, carrying not more than 2 persons and used on ponds or lakes or
27 internal waters of less than 50 acres in area, are exempt from carrying personal
28 flotation devices.

29 **Sec. B-15. 17-A MRSA §253, sub-§2, ¶G**, as amended by PL 2001, c. 383, §15
30 and affected by §156, is further amended to read:

31 G. The other person, not the actor's spouse, has not attained the age of 18 years and
32 is a resident in or attending a children's home, day care facility, residential child care
33 facility, drug treatment center, youth camp licensed under Title 22, section 2495 or
34 similar school, facility or institution regularly providing care or services for children,
35 and the actor is a teacher, employee or other person having instructional, supervisory
36 or disciplinary authority over the other person. Violation of this paragraph is a Class
37 C crime;

38 **Sec. B-16. 17-A MRSA §261, sub-§4**, as enacted by PL 2007, c. 393, §1, is
39 amended to read:

1 4. For purposes of this section, "sex offender restricted zone" means the real property
2 comprising a public or private elementary or middle school; the real property comprising
3 a child care center, a child care facility, a day care operated by a family child care
4 provider, a nursery school or a small child care facility as defined under Title 22, section
5 8301-A; or an athletic field, park, playground, recreational facility, ~~children's youth camp~~
6 licensed under Title 22, section 2495 or other place where children are the primary users.

7 **Sec. B-17. 22 MRSA §1711-C, sub-§6, ¶M**, as enacted by PL 1999, c. 512, Pt.
8 A, §5 and affected by §7, is amended to read:

9 M. To schools, educational institutions, youth camps licensed under section 2495,
10 correctional facilities, health care practitioners and facilities, providers of emergency
11 services or a branch of federal or state military forces, information regarding
12 immunization of an individual;

13 **Sec. B-18. 22 MRSA §4011-A, sub-§1, ¶A**, as amended by PL 2007, c. 577, §6,
14 is further amended to read:

15 A. When acting in a professional capacity:

- 16 (1) An allopathic or osteopathic physician, resident or intern;
- 17 (2) An emergency medical services person;
- 18 (3) A medical examiner;
- 19 (4) A physician's assistant;
- 20 (5) A dentist;
- 21 (6) A dental hygienist;
- 22 (7) A dental assistant;
- 23 (8) A chiropractor;
- 24 (9) A podiatrist;
- 25 (10) A registered or licensed practical nurse;
- 26 (11) A teacher;
- 27 (12) A guidance counselor;
- 28 (13) A school official;
- 29 (14) A ~~children's summer~~ youth camp administrator or counselor;
- 30 (15) A social worker;
- 31 (16) A court-appointed special advocate or guardian ad litem for the child;
- 32 (17) A homemaker;
- 33 (18) A home health aide;
- 34 (19) A medical or social service worker;
- 35 (20) A psychologist;

- 1 (21) Child care personnel;
- 2 (22) A mental health professional;
- 3 (23) A law enforcement official;
- 4 (24) A state or municipal fire inspector;
- 5 (25) A municipal code enforcement official;
- 6 (26) A commercial film and photographic print processor;
- 7 (27) A clergy member acquiring the information as a result of clerical
- 8 professional work except for information received during confidential
- 9 communications;
- 10 (28) A chair of a professional licensing board that has jurisdiction over mandated
- 11 reporters;
- 12 (29) A humane agent employed by the Department of Agriculture, Food and
- 13 Rural Resources;
- 14 (30) A sexual assault counselor; and
- 15 (31) A family or domestic violence victim advocate;

16 **Sec. B-19. 22 MRSA §8101, sub-§1, ¶B**, as enacted by PL 1981, c. 260, §4, is
17 amended to read:

18 B. A ~~children's youth~~ camp established ~~solely for recreational and educational~~
19 ~~purposes licensed under section 2495~~; or

20 **Sec. B-20. 22 MRSA §8301-A, sub-§1-A, ¶B**, as amended by PL 2007, c. 324,
21 §16, is further amended to read:

22 B. "Child care facility" means a child care center, small child care facility or nursery
23 school. "Child care facility" does not include a facility operated by a family child
24 care provider, a ~~summer youth~~ camp established ~~solely for recreational and~~
25 ~~educational purposes licensed under section 2495~~, programs offering instruction to
26 children for the purpose of teaching a skill such as karate, dance or basketball, a
27 formal public or private school in the nature of a kindergarten or elementary or
28 secondary school approved by the Commissioner of Education in accordance with
29 Title 20-A or a private school recognized by the Department of Education as a
30 provider of equivalent instruction for the purpose of compulsory school attendance.
31 Any program for children under 5 years of age that is located in a private school and
32 programs that contract with one or more Child Development Services System sites
33 are required to be licensed as a child care facility.

34 **Sec. B-21. 22 MRSA §8301-A, sub-§1-A, ¶D**, as enacted by PL 2001, c. 645,
35 §6, is amended to read:

36 D. "Nursery school" means a house or other place in which a person or combination
37 of persons maintains or otherwise carries out for consideration during the day a
38 regular program that provides care for 3 or more children 33 months of age or older
39 and under 8 years of age, provided that:

- 1 (1) No session conducted for the children is longer than 3 1/2 hours in length;
- 2 (2) No more than 2 sessions are conducted per day;
- 3 (3) Each child in attendance at the nursery school attends only one session per
- 4 day; and
- 5 (4) No hot meal is served to the children.

6 "Nursery school" does not include any facility operated as a child care center or small
7 child care facility licensed under subsection 2, a ~~summer youth camp established~~
8 ~~solely for recreational and educational purposes~~ licensed under section 2495 or a
9 public or private school in the nature of a kindergarten approved by the
10 Commissioner of Education, in accordance with Title 20-A.

11 **Sec. B-22. 26 MRSA §663, sub-§3, ¶F**, as repealed and replaced by PL 1975, c.
12 92, is amended to read:

13 F. Those employees who are ~~counsellors~~ counselors or junior ~~counsellors~~ counselors
14 at ~~summer youth camps for boys and girls~~ licensed under Title 22, section 2495; and
15 employees who are under the age of 19 and are regularly enrolled in an educational
16 institution or are on vacation therefrom, and who are employees of ~~summer youth~~
17 camps licensed under Title 22, section 2495 operated by or belonging to corporations
18 or associations existing under the provisions of Title 13, Part 2;

19 **Sec. B-23. 26 MRSA §771**, as amended by PL 1991, c. 544, §4, is further
20 amended to read:

21 **§771. Minors under 14 years of age**

22 A minor under 14 years of age may not be employed, permitted or suffered to work
23 in, about or in connection with agriculture, except for the planting, cultivating or
24 harvesting of field crops or other agricultural employment not in direct contact with
25 hazardous machinery or hazardous substances, any eating place, automatic laundries,
26 retail establishment where frozen dairy products are manufactured on the premises,
27 sporting or overnight youth camp licensed under Title 22, section 2495, mercantile
28 establishment or in outdoor occupations on the grounds of a hotel, and a minor between
29 the ages of 14 and 16 years may not be so employed when the distance between the work
30 place and the home of the minor, or any other factor, necessitates the minor's remaining
31 away from home overnight. This section does not apply to any such minor who is
32 employed directly by, with or under the supervision of either or both of the minor's
33 parents; or to any such minor employed in school lunch programs, if limited to serving
34 food and cleaning up dining rooms.

35 **Sec. B-24. 26 MRSA §774, sub-§4**, as amended by PL 1993, c. 434, §5, is
36 further amended to read:

37 **4. Exemptions.** Work performed in the planting, cultivating or harvesting of field
38 crops or other agricultural employment, including the initial processing of farm crops, not
39 in direct contact with hazardous machinery or hazardous substances, work performed as
40 an employed or in-training theatrical actor or film actor or work performed as a summer

1 camp employee in a children's youth camp licensed under Title 22, section 2495 is
2 exempt from this section, provided a minor under 16 years of age has been excused by
3 the local superintendent of schools in accordance with the policy established by the
4 Commissioner of Education and the Director of the Bureau of Labor Standards. Work
5 performed in the taking or catching of lobsters, fish or other marine organisms by any
6 methods or means, or in the operating of ferries or excursion boats, is exempt from
7 subsection 1, paragraphs A and C.

8 **Sec. B-25. 26 MRSA §1043, sub-§11, ¶F**, as amended by PL 2007, c. 230, §1,
9 is further amended to read:

10 F. The term "employment" does not include:

11 (1) Service performed in the employ of this State, or of any political subdivision
12 thereof, or of any instrumentality of this State or its political subdivisions, except
13 as provided by this subsection;

14 (2) Service performed in the employ of the United States Government or an
15 instrumentality of the United States immune under the Constitution of the United
16 States from the contributions imposed by this chapter, except that on and after
17 January 1, 1940 to the extent that the Congress of the United States has permitted
18 states to require any instrumentalities of the United States to make payments into
19 an unemployment compensation fund under a state unemployment compensation
20 or employment security law, all of the provisions of this chapter are applicable to
21 such instrumentalities and to services performed for such instrumentalities in the
22 same manner, to the same extent and on the same terms as to all other employers,
23 employing units, individuals and services. If this State is not certified for any
24 year by the Secretary of Labor under section 3304 of the Federal Internal
25 Revenue Code, the payments required of such instrumentalities with respect to
26 that year must be refunded by the commissioner from the fund in the same
27 manner and within the same period as is provided in section 1225, subsection 5,
28 with respect to contributions erroneously collected;

29 (3) Service with respect to which unemployment compensation is payable under
30 an unemployment compensation system or employment security system
31 established by an Act of Congress. The commissioner is authorized and directed
32 to enter into agreements with the proper agencies under such an Act of Congress,
33 which agreements become effective 10 days after publication thereof in the
34 manner provided in section 1082, subsection 2, for regulations, to provide
35 reciprocal treatment to individuals who have, after acquiring potential rights to
36 benefits under this chapter, acquired rights to unemployment compensation under
37 such an Act of Congress, or who have, after acquiring potential rights to
38 unemployment compensation under such an Act of Congress, acquired rights to
39 benefits under this chapter;

40 (4) Agricultural labor as defined in subsection 1, except as provided in paragraph
41 A-2;

42 (4-1) Agricultural labor, if performed by an individual who is an alien, other than
43 a citizen of a contiguous country with which the United States has an agreement
44 with respect to unemployment compensation, admitted to the United States to

1 perform agricultural labor pursuant to the United States Immigration and
2 Nationality Act, Sections 214(c) and 101(a) (15) (H);

3 (5) Domestic service in a private home, except as provided in paragraph A-3;

4 (6) Service performed by an individual in the employ of that individual's son,
5 daughter or spouse and service performed by a child under the age of 18 in the
6 employ of that child's father or mother, except for periods of such service for
7 which unemployment insurance contributions are paid;

8 (6-1) Services performed by a student attending an elementary, secondary or
9 postsecondary school while participating in a cooperative program of education
10 and occupational training or on-the-job training that is part of the school
11 curriculum;

12 (9) Service performed with respect to which unemployment compensation is
13 payable under the Railroad Unemployment Insurance Act (52 Stat. 1094);

14 (10) Services performed in the employ of any other state, or any political
15 subdivision thereof, or any instrumentality of any one or more of the foregoing
16 that is wholly owned by one or more states or political subdivisions and any
17 services performed in the employ of any instrumentality of one or more other
18 states or their political subdivisions to the extent that the instrumentality is, with
19 respect to such a service, immune under the Constitution of the United States
20 from the tax imposed by section 3301 of the Federal Internal Revenue Code,
21 except as provided in paragraph A-1, subparagraph (1);

22 (11) Service performed in any calendar quarter in the employ of any
23 organization exempt from income tax under section 501(a) of the Federal Internal
24 Revenue Code other than an organization described in section 401(a) or under
25 section 521 of the Code, if the remuneration for such service is less than \$150;

26 (16) Service performed in the employ of a foreign government, including service
27 as a consular or other officer or employee or a nondiplomatic representative;

28 (17) Service performed in the employ of an instrumentality wholly owned by a
29 foreign government:

30 (a) If the service is of a character similar to that performed in foreign
31 countries by employees of the United States Government or an
32 instrumentality thereof; and

33 (b) If the commissioner finds that the United States Secretary of State has
34 certified to the United States Secretary of the Treasury that the foreign
35 government, with respect to whose instrumentality exemption is claimed,
36 grants an equivalent exemption with respect to similar service performed in
37 the foreign country by employees of the United States Government and of
38 instrumentalities thereof;

39 (18) Service performed as a student nurse in the employ of a hospital or a nurses'
40 training school by an individual who is enrolled and is regularly attending classes
41 in a nurses' training school chartered or approved pursuant to state law and
42 service performed as an intern in the employ of a hospital by an individual who

- 1 has completed a 4 years' course in a medical school chartered or approved
2 pursuant to state law;
- 3 (19) Service performed by an individual for a person as a real estate broker, a
4 real estate sales representative, an insurance agent or an insurance solicitor, if all
5 such service performed by that individual for that person is performed for
6 remuneration solely by way of commission;
- 7 (20) Service performed by an individual under the age of 18 in the delivery or
8 distribution of newspapers or shopping news except delivery or distribution to
9 any point for subsequent delivery or distribution;
- 10 (21) Service performed in the employ of any organization that is excluded from
11 the term "employment" as defined in the Federal Unemployment Tax Act solely
12 by reason of section 3306(c)(7) or (8) if:
- 13 (a) Service is performed in the employ of a church or convention or
14 association of churches or an organization that is operated primarily for
15 religious purposes and that is operated, supervised, controlled or principally
16 supported by a church or convention or association of churches;
- 17 (b) Service is performed by a duly ordained, commissioned or licensed
18 minister of a church in the exercise of that minister's ministry or by a member
19 of a religious order in the exercise of duties required by that order;
- 20 (c) Prior to January 1, 1978, service is performed in the employ of a school
21 primarily operated as an elementary, secondary or preparatory school for
22 higher education that is not an institution of higher education;
- 23 (d) Service is performed in a facility conducted for the purpose of carrying
24 out a program of rehabilitation for individuals whose earning capacity is
25 impaired by age or physical or mental deficiency or injury or providing
26 remunerative work for individuals who, because of their impaired physical or
27 mental capacity, cannot be readily absorbed in the competitive labor market
28 by an individual receiving such rehabilitation or remunerative work;
- 29 (e) Service is performed as part of an unemployment work-relief or work-
30 training program assisted or financed in whole or in part by any federal
31 agency or an agency of a state or political subdivision thereof by an
32 individual receiving that work-relief or work-training;
- 33 (f) Service is performed in the employ of a hospital as defined in subsection
34 26 by a patient of that hospital;
- 35 (g) Services are performed prior to January 1, 1978 for a hospital in a state
36 prison or other state correctional institution by an inmate of that prison or
37 correctional institution and after December 31, 1977 by an inmate of a
38 custodial or penal institution;
- 39 (h) Service is performed in the employ of a school, college or university if
40 that service is performed by a student who is enrolled and is regularly
41 attending classes at such a school, college or university; or

- 1 (i) Prior to January 1, 1978, service is performed in the employ of a school
- 2 that is not an institution of higher education and after December 31, 1977,
- 3 service is performed in the employ of a governmental entity referred to in
- 4 paragraph A-1, subparagraph (1) if that service is performed by an individual
- 5 in the exercise of duties:
- 6 (i) As an elected official;
- 7 (ii) As a member of a legislative body or a member of the judiciary of a
- 8 state or political subdivision of a state;
- 9 (iii) As a member of the State National Guard or Air National Guard;
- 10 (iv) As an employee serving on a temporary basis in case of fire, storm,
- 11 snow, earthquake, flood or similar emergency;
- 12 (v) In a position that, under or pursuant to the laws of this State, is
- 13 designated as a major nontenured policymaking or advisory position or a
- 14 policymaking or advisory position the performance of the duties of which
- 15 ordinarily does not require more than 8 hours per week; or
- 16 (vi) As an election official or election worker if the amount of
- 17 remuneration received by the individual during the calendar year for
- 18 services as an election official or election worker is less than \$1,000;
- 19 (29) Services performed by a hairdresser who holds a booth license and operates
- 20 within another hairdressing establishment if operated under a booth rental
- 21 agreement or other rental agreement;
- 22 (30) Services performed by a barber who holds a booth license and operates
- 23 within another barbering establishment if operated under a booth rental
- 24 agreement or other rental agreement;
- 25 (31) Services performed by a contract interviewer engaged in marketing research
- 26 or public opinion interviewing when such interviewing is conducted in the field
- 27 or over the telephone on premises not used or controlled by the person for whom
- 28 such contract services are being provided;
- 29 (32) After December 31, 1981, services performed by an individual on a boat
- 30 engaged in catching fish or other forms of aquatic animal life, unless those
- 31 services would be included in the definition of "employment" for federal
- 32 unemployment tax purposes under the Federal Unemployment Act, United States
- 33 Code, Title 26, Section 3306(c), as it may be amended. Also included in this
- 34 exemption are services performed in harvesting shellfish for depuration from
- 35 designated areas as authorized by Title 12, section 6856;
- 36 (33) Services performed by a member or leader of a musical group, band or
- 37 orchestra or an entertainer when the services are performed under terms of a
- 38 contract entered into by the leader or an agent of the musical group, band,
- 39 orchestra or entertainer with an employing unit for whom the services are being
- 40 performed, provided the leader or agent is not an employer by reason of
- 41 subsection 9 or of section 1222, subsection 3;

- 1 (34) Services performed in the delivery or distribution of newspapers or
2 magazines to the ultimate consumer by an individual who is compensated by
3 receiving or retaining a commission or profit on the sale of the newspaper or
4 magazine;
- 5 (35) Services performed by a homemaker in the knitted outerwear industry as
6 those terms are defined, on the effective date of this subparagraph, in 29 Code of
7 Federal Regulations, Part 530, Section 530.1;
- 8 (36) Service performed by a full-time student, as defined in subsection 30, in the
9 employ of ~~an organized~~ a youth camp licensed under Title 22, section 2495 if the
10 full-time student performed services in the employ of the camp for less than 13
11 calendar weeks in the calendar year and the camp:
- 12 (a) Did not operate for more than 7 months in the calendar year and did not
13 operate for more than 7 months in the preceding calendar year; or
- 14 (b) Had average gross receipts for any 6 months in the preceding calendar
15 year that were not more than 33 1/3% of its average gross receipts for the
16 other 6 months in the preceding calendar year;
- 17 (37) Services performed by an individual as a home stitcher as long as that
18 employment is not subject to federal unemployment tax;
- 19 (38) Services performed by a person licensed as a guide as required by Title 12,
20 section 12853, as long as that employment is not subject to federal
21 unemployment tax;
- 22 (39) Services performed by a direct seller as defined in 26 United States Code,
23 Section 3508, Subsection (b), Paragraph (2). This subparagraph does not include
24 a person selling major improvements or renovations to the structure of a home,
25 business or property;
- 26 (40) Services performed by lessees of taxicabs, as long as that employment is not
27 subject to federal unemployment tax. This subparagraph may not be construed to
28 affect a determination regarding a lessee's status as an independent contractor for
29 workers' compensation purposes;
- 30 (41) Services provided by a dance instructor to students of a dance studio when
31 there is a contract between the instructor and the studio under which the
32 instructor's services are not offered exclusively to the studio, the studio does not
33 control the scheduling of the days and times of classes other than beginning and
34 end dates, the instructor is paid by the class and not on an hourly or salary basis,
35 the compensation rate is the result of negotiation between the instructor and the
36 studio and the instructor is given the freedom to develop the curriculum;
- 37 (42) Services performed by participants enrolled in programs or projects under
38 the national service laws including the federal National and Community Service
39 Act of 1990, as amended, 42 United States Code, Section 12501 et seq., and the
40 federal Domestic Volunteer Service Act, as amended, 42 United States Code,
41 Section 4950 et seq.;
- 42 (43) Services of an author in furnishing text or other material to a publisher who:

- 1 (a) Does not control the author's work except to propose topics or to edit
2 material submitted;
- 3 (b) Does not restrict the author from publishing elsewhere;
- 4 (c) Furnishes neither a place of employment nor equipment for the author's
5 use;
- 6 (d) Does not direct or control the time devoted to the work; and
- 7 (e) Pays only for material that is accepted for publication.

8 This exception does not apply if the employment is subject to federal
9 unemployment tax; and

10 (44) Services provided by an owner-operator of a truck or truck tractor while it is
11 leased to a motor carrier, as defined in 49 Code of Federal Regulations, 390.5
12 (2000), as long as that employment is not subject to federal unemployment tax.

13 **Sec. B-26. 26 MRSA §1251, sub-§3, ¶A**, as amended by PL 1997, c. 293, §9, is
14 further amended to read:

15 A. Any hotel, motel, inn, variety store, trading post, sporting camp or other lodging
16 facility, including youth camps operated for boys and girls licensed under Title 22,
17 section 2495, restaurants and other eating establishments, which customarily
18 conducts operations that are primarily related to the production of characteristic
19 goods or services for a regularly recurring period or periods of less than 26 weeks in
20 any one calendar year is deemed seasonal.

21 **Sec. B-27. 32 MRSA §82, sub-§2, ¶E**, as amended by PL 1993, c. 130, §1, is
22 further amended to read:

23 E. A person serving as an industrial nurse or safety officer, a school or youth camp
24 nurse, a life guard, a member of a ski patrol, a nurse or technician in a hospital or a
25 physician's office, or other similar occupation in which the person provides on-site
26 emergency treatment at a single facility to the patrons or employees of that facility;

27 **Sec. B-28. 32 MRSA §2575**, as amended by PL 2001, c. 492, §4, is further
28 amended to read:

29 **§2575. Youth camp physicians**

30 An osteopathic physician who is a graduate of a school or college of osteopathic
31 medicine approved by the American Osteopathic Association and who is of good repute
32 may, at the discretion of the board, make application for a temporary license to practice
33 as a youth camp physician at a specified youth camp licensed under Title 22, section
34 2495. Such an osteopathic physician is entitled to practice only on the patients at the
35 youth camp. The license must be obtained each year. Applications for such a temporary
36 license must be made in the same manner as for regular licenses. An examination may
37 not be exacted from applicants for temporary licenses. The fee may not be more than
38 \$600.

1 **Sec. B-29. 32 MRSA §3277**, as amended by PL 2005, c. 162, §5, is further
2 amended to read:

3 **§3277. Youth camp physicians**

4 A physician who is qualified under section 3275 may, at the discretion of the board,
5 be temporarily licensed as a youth camp physician so that the physician may care for the
6 campers in that particular youth camp licensed under Title 22, section 2495 for which the
7 physician was hired and retained as a youth camp physician. That physician is entitled to
8 practice only on patients in the youth camp. The temporary license must be obtained
9 each year. Application for this temporary license must be made in the same form and
10 manner as for regular licensure. An examination may not be exacted from applicants for
11 these temporary licenses. The fee for temporary licensure may not be more than \$400
12 annually.

13 **Sec. B-30. 32 MRSA §14203, sub-§2, ¶B**, as enacted by PL 1991, c. 397, §6, is
14 amended to read:

15 B. On residents of ~~summer~~ youth camps;

16 **Sec. B-31. 36 MRSA §1760, sub-§6, ¶F**, as enacted by PL 2007, c. 529, §3, is
17 amended to read:

18 F. Served by youth camps licensed by the Department of Health and Human Services
19 and defined in rules adopted by the Department of Health and Human Services as a
20 combination of program and facilities established for the primary purpose of
21 providing an outdoor group living experience with social, recreational, spiritual and
22 educational objectives for children and operated and used for 5 or more consecutive
23 days during one or more seasons of the year, including day camps, residential camps
24 and trip and travel camps and defined in Title 22, section 2491, subsection 16.

25 **Sec. B-32. 36 MRSA §1760, sub-§59**, as amended by PL 1989, c. 700, Pt. A,
26 §169, is further amended to read:

27 **59. Sales to certain incorporated nonprofit educational organizations.**
28 Incorporated nonprofit educational organizations ~~which~~ that are receiving, or have
29 received, funding from the Department of Education, and ~~which~~ that provide educational
30 programs specifically designed for teaching young people how to make decisions about
31 drugs, alcohol and interpersonal relationships at a residential youth camp setting.

32 **Sec. B-33. 36 MRSA §2557, sub-§19**, as enacted by PL 2003, c. 673, Pt. V, §25
33 and affected by §29, is amended to read:

34 **19. Certain incorporated nonprofit educational organizations.** Sales to
35 incorporated nonprofit educational organizations that are receiving, or have received,
36 funding from the Department of Education and that provide educational programs
37 specifically designed for teaching young people how to make decisions about drugs,
38 alcohol and interpersonal relationships at a residential youth camp setting;

