

MAINE STATE LEGISLATURE

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L.D. 1841

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Date: 4/16/14

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STATE OF MAINE

6

HOUSE OF REPRESENTATIVES

7

126TH LEGISLATURE

8

SECOND REGULAR SESSION

9

COMMITTEE AMENDMENT "A" to H.P. 1323, L.D. 1841, Bill, "An Act To
10 Correct Errors and Inconsistencies in the Laws of Maine"

11

Amend the bill in Part A by striking out all of sections 5, 9, 10, 12 to 16, 23, 24, 33,
12 34, 36, 37, 41 to 48, 58 to 66, 68, 77 and 81.

13

Amend the bill in Part B by striking out all of section 4.

14

Amend the bill in Part C by striking out all of sections 12 and 13.

15

Amend the bill by inserting after Part C the following:

16

'PART D

17

Sec. D-1. 10 MRSA §9721, sub-§1-A, as amended by PL 2013, c. 120, §13, is
18 further amended to read:

19

1-A. Building code. "Building code" means any part or portion of any edition of a
20 code that regulates the construction of a building, including codes published by the
21 International Code Council or Building Officials and Code Administrators International,
22 Inc. or the International Existing Building Code adopted pursuant to ~~Title 10~~, former
23 section 9702, but does not include the fire and life safety codes in Title 25, section 2452.

24

Sec. D-2. 10 MRSA §9724, sub-§2, as amended by PL 2009, c. 261, Pt. A, §8, is
25 further amended to read:

26

2. Prior statewide codes and standards. Effective December 1, 2010, the Maine
27 Uniform Building and Energy Code adopted pursuant to this chapter replaces, and is
28 intended to be the successor to, the Model Energy Code established in Title 35-A, former
29 section 121 and the Maine model radon standard for new residential construction set forth
30 in Title 25, former section 2466.

31

Sec. D-3. 22 MRSA §2423-A, sub-§2, ¶J, as amended by PL 2013, c. 498, §1,
32 is further amended to read:

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1 J. Use a pesticide in the cultivation of marijuana if the pesticide is used consistent
 2 with federal labeling requirements, is registered with the Department of Agriculture,
 3 Conservation and Forestry, Board of Pesticides Control pursuant to Title 7, section
 4 607 and is used consistent with best management practices for pest management
 5 approved by the Commissioner of Agriculture, Conservation and Forestry. A
 6 registered primary caregiver may not in the cultivation of marijuana use a pesticide
 7 unless the registered primary caregiver or the registered primary caregiver's employee
 8 is certified in the application of the pesticide pursuant to section 1471-D and any
 9 employee who has direct contact with treated plants has completed safety training
 10 pursuant to 40 Code of Federal Regulations, Section 170.130. An employee of the
 11 registered primary caregiver who is not certified pursuant to section 1471-D and who
 12 is involved in the application of the pesticide or handling of the pesticide or
 13 equipment must first complete safety training described in 40 Code of Federal
 14 Regulations, Section 170.230; and

15 **Sec. D-4. 22 MRSA §3763, sub-§1**, as amended by PL 2011, c. 380, Pt. PP, §3,
 16 is further amended to read:

17 **1. Family contract.** During the TANF orientation process, a representative of the
 18 department and the TANF recipient shall enter into a family contract. The family
 19 contract must state the responsibilities of the parties to the agreement including, but not
 20 limited to, cooperation in child support enforcement and determination of paternity, the
 21 requirements of the ASPIRE-TANF program and referral to parenting activities and
 22 health care services. Except as provided in section 3762, subsection 4, refusal to sign the
 23 family contract or to abide by the provisions of the contract, except for referral to
 24 parenting activities and health care services, will result in termination of benefits under
 25 ~~section~~ subsection 1-A. Failure to comply with referrals to parenting activities or health
 26 care services without good cause will result in a review and evaluation of the reason for
 27 noncompliance by the representative of the department and may result in sanctions.
 28 Written copies of the family contract and a notice of the right to a fair hearing must be
 29 given to the individual. The family contract must be amended in accordance with section
 30 3788 when a participant enters the ASPIRE-TANF program and when participation
 31 review occurs.

32 Benefits that have been terminated under ~~this subsection 1-A~~ must be restored once the
 33 adult recipient signs a new family contract ~~under subsection 1~~ and complies with the its
 34 ~~provisions of the family contract.~~

35 **Sec. D-5. 24-A MRSA §2211, sub-§1, ¶A**, as enacted by PL 1997, c. 677, §3
 36 and affected by §5, is amended to read:

37 A. In the case of recorded personal information contained within a consumer report,
 38 provide the consumer with the name and address of the consumer reporting agency
 39 that furnished the report and notify the consumer of the rights under ~~Title 10, section~~
 40 1317 15 United States Code, Section 1681i governing the correction of inaccurate
 41 personal information contained in a consumer report; or

42 **Sec. D-6. 24-A MRSA §2212, sub-§1, ¶A**, as enacted by PL 1997, c. 677, §3
 43 and affected by §5, is amended to read:

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1 A. Comply with ~~Title 10, section 1320, subsection 1-B~~ the federal Fair Credit
2 Reporting Act, 15 United States Code, Section 1681m if the decision is based in
3 whole or in part on any information contained in a consumer report;

4 **PART E**

5 **Sec. E-1. 3 MRSA §959, sub-§1, ¶C**, as amended by PL 2013, c. 505, §1, is
6 further amended to read:

7 C. The joint standing committee of the Legislature having jurisdiction over business,
8 research and economic development matters shall use the following list as a guideline
9 for scheduling reviews:

- 10 (1) Maine Development Foundation in 2021;
- 11 (5) Department of Professional and Financial Regulation, in conjunction with the
- 12 joint standing committee of the Legislature having jurisdiction over ~~banking and~~
- 13 insurance and financial services matters, in ~~2021~~ 2015;
- 14 (19) Department of Economic and Community Development in 2021;
- 15 (23) Maine State Housing Authority in 2015;
- 16 (32) Finance Authority of Maine in 2017;
- 17 (36) Board of Dental Examiners in 2019;
- 18 (37) Board of Osteopathic Licensure in 2019;
- 19 (38) Board of Licensure in Medicine in 2019;
- 20 (41) State Board of Nursing in 2019;
- 21 (42) State Board of Optometry in 2019; and
- 22 (45) State Board of Registration for Professional Engineers in 2019.

23 **Sec. E-2. Effective date.** That section of this Part that amends the Maine Revised
24 Statutes, Title 3, section 959, subsection 1, paragraph C takes effect 90 days after the
25 adjournment of the Second Regular Session of the 126th Legislature.

26 **Sec. E-3. 5 MRSA §18407, sub-§7, ¶E**, as enacted by PL 2013, c. 391, §8, is
27 amended to read:

28 E. Notwithstanding any other provision of this section, the amount of annual
29 retirement benefit otherwise payable under this Part may not be less than the
30 ~~retirement~~ retired member received on the effective date of retirement or on July 1,
31 1977, whichever amount is greater.

32 **Sec. E-4. 5 MRSA §18451-A, sub-§2**, as enacted by PL 2013, c. 391, §10, is
33 amended to read:

1 **2. Members after June 30, 2014.** ~~After June 30, 2014, qualification~~ Qualification
 2 for a service retirement benefit for a member who ~~was not~~ is first covered under chapter
 3 427 ~~after June 30, 2014~~ is governed as follows.

4 A. A member who is in service when reaching 65 years of age, or is in service after
 5 reaching 65 years of age, qualifies for a service retirement benefit if the member:

6 (1) Retires upon or after reaching 65 years of age and has been in service for a
 7 minimum of one year immediately before retirement; ~~and~~ or

8 (2) Has at least 5 years of creditable service, which, for the purposes of
 9 determining completion of the 5-year requirement, may include creditable service
 10 as a member of the Legislative Retirement Program.

11 B. A member who is not in service when reaching 65 years of age qualifies for a
 12 service retirement benefit if the member:

13 (1) Retires upon or after reaching 65 years of age; and

14 (2) Has at least 5 years of creditable service, which, for the purposes of
 15 determining completion of the 5-year requirement, may include creditable service
 16 as a member of the Legislative Retirement Program.

17 C. A member, whether or not in service at retirement, who has completed 25 or more
 18 years of creditable service qualifies for a service retirement benefit if the member
 19 retires at any time after completing 25 years of service, which may include, for the
 20 purpose of meeting eligibility requirements, creditable service as a member of the
 21 Legislative Retirement Program.

22 **Sec. E-5. 12 MRSA §6302-A, sub-§3, ¶E,** as amended by PL 2013, c. 8, §1 and
 23 repealed and replaced by c. 9, §1, is repealed and the following enacted in its place:

24 E. The Penobscot Nation may not issue to members of the nation commercial
 25 licenses for the taking of elvers in any calendar year that exceed the following limits:

26 (1) Eight licenses that allow the taking of elvers with 2 pieces of gear, consisting
 27 of an elver fyke net and a dip net, or 2 fyke nets; and

28 (2) Forty licenses that allow the taking of elvers with one piece of gear only,
 29 consisting of either an elver fyke net or a dip net.

30 The commissioner shall by rule allow the Penobscot Nation to issue additional
 31 commercial licenses to members of the nation for the taking of elvers if the
 32 commissioner and the Penobscot Nation determine that elver resources are sufficient
 33 to permit the issuance of new licenses;

34 **Sec. E-6. 12 MRSA §13104, sub-§16** is enacted to read:

35 16. Reciprocity. The commissioner may allow a nonresident to operate in this State
 36 a snowmobile that is not registered in this State during one 3-consecutive-day period, 2
 37 days of which are weekend days, annually if:

38 A. The nonresident's snowmobile has a valid registration from another state; and

1 B. The nonresident's state of residency allows a snowmobile registered in Maine to
 2 be operated in that state for a period of time of at least 3 consecutive days without
 3 being registered in that state.

4 This subsection may not be construed to authorize the operation of a snowmobile in a
 5 manner contrary to this chapter except as provided in this subsection.

6 **Sec. E-7. Effective date.** That section of this Part that enacts the Maine Revised
 7 Statutes, Title 12, section 13104, subsection 16 applies retroactively to October 1, 2013.

8 **Sec. E-8. 16 MRSA §53-A, sub-§1, ¶¶C and D** are enacted to read:

9 C. "Confidential criminal history record information" has the same meaning as in
 10 section 703, subsection 2.

11 D. "Criminal justice agency" has the same meaning as in section 703, subsection 4.

12 **Sec. E-9. 16 MRSA §53-A, sub-§3** is enacted to read:

13 **3. Confidential criminal history record information.** A Maine criminal justice
 14 agency, whether directly or through any intermediary, may disseminate confidential
 15 criminal history record information to a sexual assault counselor for the purpose of
 16 planning for the safety of a victim of sexual assault. A sexual assault counselor who
 17 receives confidential criminal history record information pursuant to this subsection shall
 18 use it solely for the purpose authorized by this subsection and may not further
 19 disseminate the information.

20 **Sec. E-10. 16 MRSA §53-B, sub-§1-A**, as enacted by PL 2013, c. 478, §6, is
 21 amended to read:

22 **1-A. Confidential criminal history record information.** A Maine criminal justice
 23 agency, whether directly or through any intermediary, may disseminate confidential
 24 criminal history record information to an advocate for the purpose of planning for the
 25 safety of a victim of domestic violence ~~or a victim of sexual assault~~. An advocate who
 26 receives confidential criminal history record information pursuant to this subsection shall
 27 use it solely for the purpose authorized by this subsection and may not further
 28 disseminate the information.

29 **Sec. E-11. 36 MRSA §1811, first ¶**, as amended by PL 2013, c. 368, Pt. M, §2
 30 and Pt. N, §2, is repealed and the following enacted in its place:

31 A tax is imposed on the value of all tangible personal property, products transferred
 32 electronically and taxable services sold at retail in this State. The rate of tax is 7% on the
 33 value of liquor sold in licensed establishments as defined in Title 28-A, section 2,
 34 subsection 15, in accordance with Title 28-A, chapter 43; 7% on the value of rental of
 35 living quarters in any hotel, rooming house or tourist or trailer camp; 10% on the value of
 36 rental for a period of less than one year of an automobile, of a pickup truck or van with a
 37 gross vehicle weight of less than 26,000 pounds rented from a person primarily engaged
 38 in the business of renting automobiles or of a loaner vehicle that is provided other than to
 39 a motor vehicle dealer's service customers pursuant to a manufacturer's or dealer's
 40 warranty; 7% on the value of prepared food; and 5% on the value of all other tangible
 41 personal property and taxable services and products transferred electronically.
 42 Notwithstanding the other provisions of this section, from October 1, 2013 to June 30,

1 2015, the rate of tax is 8% on the value of rental of living quarters in any hotel, rooming
 2 house or tourist or trailer camp; 8% on the value of prepared food; 8% on the value of
 3 liquor sold in licensed establishments as defined in Title 28-A, section 2, subsection 15,
 4 in accordance with Title 28-A, chapter 43; and 5.5% on the value of all other tangible
 5 personal property and taxable services and products transferred electronically. Value is
 6 measured by the sale price, except as otherwise provided. The value of rental for a period
 7 of less than one year of an automobile or of a pickup truck or van with a gross vehicle
 8 weight of less than 26,000 pounds rented from a person primarily engaged in the business
 9 of renting automobiles is the total rental charged to the lessee and includes, but is not
 10 limited to, maintenance and service contracts, drop-off or pick-up fees, airport
 11 surcharges, mileage fees and any separately itemized charges on the rental agreement to
 12 recover the owner's estimated costs of the charges imposed by government authority for
 13 title fees, inspection fees, local excise tax and agent fees on all vehicles in its rental fleet
 14 registered in the State. All fees must be disclosed when an estimated quote is provided to
 15 the lessee.'

16 Amend the bill by relettering or renumbering any nonconsecutive Part letter or
 17 section number to read consecutively.

18 **SUMMARY**

19 **PART A**

20 Sections 5, 36 and 37 are deleted because the sections amended include cross-
 21 references to repealed sections of law. Deleting these sections from the bill gives the
 22 Department of Health and Human Services an opportunity to determine if the terms used
 23 should cross-reference existing definitions or be defined where the terms are used.

24 Sections 9 and 10 are deleted from Part A but included in amended form in Part D to
 25 correct references.

26 Sections 12 to 15 are deleted because they address the organization of the Department
 27 of Agriculture, Conservation and Forestry in ways that conflict with other provisions of
 28 existing law.

29 Section 16 is deleted but included in amended form in Part D.

30 Sections 23 and 24 are deleted because the conflicts are addressed in Public Law
 31 2013, chapter 538.

32 Section 33 is deleted because the conflict is addressed in Public Law 2013, chapter
 33 497.

34 Section 34 is deleted because the conflict is addressed in Public Law 2013, chapter
 35 457.

36 Section 41 is deleted but included in amended form in Part D.

37 Sections 42 to 47, concerning poultry production and slaughter, are deleted because
 38 the corrections of the conflicts need additional review.

39 Section 48 is deleted but included in amended form in Part D.

1 Sections 58 to 65 are deleted because the conflicts are addressed in Public Law 2013,
2 chapter 476.

3 Section 66 is deleted because the conflict is addressed in Public Law 2013, chapter
4 531.

5 Section 68 is deleted because the conflict is addressed in Public Law 2013, chapter
6 496.

7 Section 77 is deleted because the proposed cross-reference change, concerning
8 municipal property tax abatement procedures, is not correct.

9 Section 81 is deleted because the same section is repealed and replaced in L.D. 1751.

10 PART B

11 Section 4 is deleted because the correction is addressed in Public Law 2013, chapter
12 476.

13 PART C

14 Sections 12 and 13 are deleted but included in amended form in Part D.

15 PART D

16 Part D consists of sections deleted from the bill because amendments to the text are
17 necessary.

18 Section 1 amends the text included as Part A, section 9 in the bill to delete the
19 unnecessary reference to the Maine Revised Statutes, Title 10.

20 Section 2 amends the text included as Part A, section 10 in the bill to clarify that the
21 cross-reference is to a former section of law.

22 Section 3 amends the Maine Revised Statutes, Title 22, section 2423-A, subsection 2,
23 paragraph J, as amended by Public Law 2013, chapter 498, to correct a conflict that was
24 addressed in Part A, section 41 but not addressed in chapter 498.

25 Section 4 corrects cross-references and wording concerning family contracts and the
26 termination and reinstatement of TANF benefits.

27 Section 5 amends text included as Part C, section 12 to correct the punctuation and
28 update a cross-reference to federal law.

29 Section 6 amends text included as Part C, section 13 to update a cross-reference to
30 federal law.

31 PART E

32 Part E contains corrections not included in the bill. Some of the corrections may be
33 considered substantive.

34 Section 1 amends the scheduling of reviews under the State Government Evaluation
35 Act to make the reviews of the Department of Professional and Financial Regulation be
36 conducted by 2 different joint standing committees of the Legislature in 2015. It also
37 updates the description of the joint standing committee of the Legislature having
38 jurisdiction over insurance and financial services matters. Public Law 2013, chapter 505
39 enacted different years for review. Section 2 makes the changes in section 1 take effect at

1 the same time as chapter 505 will take effect, which is 90 days after the adjournment of
2 the Second Regular Session of the 126th Legislature. Sections 1 and 2 make a
3 substantive change that is supported by the Joint Standing Committee on State and Local
4 Government.

5 Section 3 corrects a clerical error in Public Law 2013, chapter 391 by deleting the
6 word "retirement" and inserting the word "retired" to maintain consistency with other
7 retirement statutes. This is a technical change.

8 Section 4 corrects the wording to clearly state that the different scenarios under which
9 a member qualifies for a service retirement benefit apply when the member is first
10 covered under the participating local district consolidated plan under the Maine Revised
11 Statutes, Title 5, chapter 427 after June 30, 2014. This is a technical change.

12 Section 5 amends the language proposed in the bill as Part A, section 16 pertaining to
13 the issuance of elver licenses by the Penobscot Nation. Public Law 2013, chapter 604
14 provided for 8 licenses to authorize the use of 2 pieces of gear, specifically an elver fyke
15 net and a dip net. Section 5 codifies the current practice of allowing the holders of the 8
16 licenses to use 2 fyke nets. This is a substantive change supported by the Joint Standing
17 Committee on Marine Resources.

18 Section 6 corrects an error that occurred when an existing sunset repealed the Maine
19 Revised Statutes, Title 12, section 13104, subsection 15 on October 1, 2013, before
20 Public Law 2013, chapter 386, enacted during the First Regular Session of the 126th
21 Legislature, which repealed the sunset provision regarding weekend snowmobile
22 registration reciprocity, took effect on October 9, 2013. The purpose of this amendment is
23 to restore, in accordance with the intent of the Legislature, the reciprocal agreement
24 between Maine and other states regarding a snowmobile weekend registration and to
25 make that provision permanent as intended in chapter 386. Section 7 makes section 6
26 take effect retroactively to the date the sunset took effect. Sections 6 and 7 make a
27 substantive change that is supported by the Joint Standing Committee on Inland Fisheries
28 and Wildlife.

29 Sections 8 and 9 correct inadvertent omissions in the Committee Amendment of the
30 Joint Standing Committee on Criminal Justice and Public Safety to L.D. 1656, An Act to
31 Increase Safety for Victims of Domestic Violence, which is now Public Law 2013,
32 chapter 478. L.D. 1656 allowed law enforcement agencies to share confidential criminal
33 history record information with family violence advocates for the sole purpose of
34 planning for the safety of a victim of domestic violence. The committee amended the bill
35 to also authorize the sharing of that information with sexual assault counselors for the
36 sole purpose of planning for the safety of a victim of sexual assault. Sections 8 and 9
37 enact the language that was inadvertently omitted. Section 10 deletes from the family
38 violence advocates' statute the unnecessary reference to sexual assault victims. These
39 changes are substantive changes, supported by the Joint Standing Committee on Criminal
40 Justice and Public Safety.

41 Section 11 corrects a conflict in the sales tax laws when Part M and Part N of Public
42 Law 2013, chapter 368 amended the same section without reference to each other. Part
43 M increased the general sales tax temporarily. Part N clarified that the general sales tax
44 applies to products transferred electronically. Section 11 corrects the conflict and

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COMMITTEE AMENDMENT "A" to H.P. 1323, L.D. 1841

1 expressly clarifies that the general sales tax applies to products transferred electronically.
2 This is a technical change.

COMMITTEE AMENDMENT