

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

LAWS
OF THE
STATE OF MAINE
AS PASSED BY THE

ONE HUNDRED AND EIGHTH LEGISLATURE

FIRST REGULAR SESSION

January 5, 1977 to July 25, 1977

PUBLISHED BY THE DIRECTOR OF LEGISLATIVE RESEARCH IN
ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 164, SUBSECTION 6.

PORTLAND LITHOGRAPH COMPANY
PORTLAND, MAINE
1977

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION

of the
ONE HUNDRED AND EIGHTH LEGISLATURE

1977

CHAPTER 565

AN ACT to Amend the Maine Human Rights Act.

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

5 MRSA § 4572, sub-§ 1, ¶ C, as repealed and replaced by PL 1975, c. 770, § 33, is amended to read:

C. For any labor organization to exclude from apprenticeship or membership, or to deny full and equal membership rights, to any applicant for membership, because of race or color, sex, physical or mental handicap, religion, age, ancestry or national origin, or because of any such reason to deny a member full and equal membership rights, expel from membership, penalize or otherwise discriminate in any manner with respect to hire, tenure, promotion, transfer, compensation, terms, conditions or privileges of employment, representation, grievances or any other matter directly or indirectly related to membership or employment, whether or not authorized or required by the constitution or bylaws of such labor organization or by a collective labor agreement or other contract, or to fail or refuse to classify properly or refer for employment, or otherwise to discriminate against any member because of race or color, sex, physical or mental handicap, religion, age, ancestry or national origin or to cause or attempt to cause an employer to discriminate against an individual in violation of this section, **except that it shall be lawful for labor organizations and employers to adopt a maximum age limitation in apprenticeship programs;**

Effective October 24, 1977

CHAPTER 566

AN ACT to Provide for Legislative Review and Automatic Termination of State Agency Rules.

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

5 MRSA c. 308 is enacted to read:

CHAPTER 308

STATE AGENCY RULES

§ 2501. Statement of intent

The intent of this chapter is to institute a system which will require that all rules promulgated by any state agency of the Executive Department shall automatically expire within a period of not to exceed 5 years, as set out in this chapter, unless such rules are renewed by statute.

§ 2502. Definitions

As used in this chapter, unless the context otherwise indicates, the following words shall have the following meanings.

1. Administering agency. "Administering agency" for a rule shall mean the state agency responsible for promulgating such rule, and shall include any body of State Government authorized by law to adopt rules, including, but not limited to, every authority, board, bureau, commission, department or officer of the State Government so authorized; but the term shall not include the Legislature, the Governor, the courts, including the Administrative Court, the University of Maine, the Maine Maritime Academy, school districts, special purpose districts or municipalities, counties or other political subdivisions of the State.

2. Committee report. "Committee report" shall mean the report prepared by a joint standing committee pursuant to this chapter. At a minimum, such report shall include the text of the rule and a brief description of it; an evaluation of the rule, treating the criteria defined in subsection 3 and other arguments for and against termination and the committee's recommendations and the reasons therefor.

3. Criteria. "Criteria" shall be the variables by which a joint standing committee shall evaluate and recommend to the Legislature whether a rule shall automatically terminate. At a minimum, such criteria shall include the following:

A. Whether the rule is consistent with and necessary to the intent of the legislation which authorized its promulgation;

B. Are the effects of the rule suitable, including its benefits and costs, including costs of compliance and of administration; and

C. Whether circumstances have changed since either the promulgation of the rule or the passage of the legislation which authorized its promulgation, which changed circumstances may, in the joint committee's view, suggest that a change be made in that legislation or in the methods of accomplishing its purposes, including the appropriateness of using a rule to accomplish that purpose.

4. Rule.

A. "Rule" means the whole or any part of every regulation, standard, code, statement of policy, or other agency statement of general applicability, including the amendment, suspension or repeal of any prior rule, that:

(1) Has the force of law, or the violation of which may result in the imposition of sanctions; and

(2) Implements, interprets or makes specific the law administered by the agency, or describes the procedures or practices of the agency.

B. The term does not include:

(1) Policies or memoranda concerning only the internal management

of an agency and not affecting the rights of or procedures available to any person; or

(2) Decisions issued in adjudicatory proceedings;

(3) Any form, instruction, opinion or explanatory statement of policy which in itself does not have force of law, or the violation of which is not punishable by any sanction, and which is intended solely as advice to assist persons in determining, exercising or complying with their legal rights, duties or privileges.

5. Standing committee. "Standing committee" shall mean a joint standing committee of the Legislature as identified in the Joint Rules of the Legislature.

§ 2503. Assignment of rules to standing committees

Not later than January 15, 1978, every administering agency shall submit to the Legislature a copy of each rule promulgated by it which is in effect on January 1, 1978, a list identifying each rule by title or descriptive phrase and a brief description of each rule, including a reference to the Title and section of the law which is the authority for the rule.

Each rule in effect on January 1, 1978, or taking effect on a subsequent date, shall be assigned by joint order of the Legislature to be reviewed by a joint standing committee of the Legislature. The assignment may be done by identifying classes of rules on some reasonable basis, such as administering organization, or object or person regulated.

Every standing committee shall recommend to the Legislature an expiration schedule for all rules in effect on January 1, 1978, which are assigned to it pursuant to this section. The expiration schedule shall provide for the expiration of every such rule not later than January 1, 1983. The expiration schedule shall, to the extent possible, schedule the expiration date of such rules so as to provide an equal workload for committee review in each of the 5 years between January 1, 1978 and January 1, 1983.

The Legislature shall approve by statute an expiration schedule for each rule in effect on January 1, 1978. The expiration schedule shall provide for the expiration of every rule not later than January 1, 1983.

§ 2504. Automatic expiration of rules

Every rule in effect on January 1, 1978, shall expire January 1, 1983, unless terminated earlier by the administering agency or by statute.

Every rule taking effect after January 1, 1978, shall expire on January 1st of the 5th year of its operation unless terminated earlier by the administering agency or by statute.

Any rule shall continue in effect for 5 years past its expiration date, or for a shorter period specified by statute, when its continuation is authorized by law.

No rule shall be terminated and promulgated again in the same or similar form, or with the same or similar purpose or effect, where the purpose or effect of such termination and promulgation is to avoid automatic or statutory termination of such rule. The Attorney General shall sue to stop such promulgation.

A grace period shall extend for a period of one year past the expiration date of each rule. During that period the administering agency is authorized to conduct any reasonable activities, including the obligation and expenditure of funds, which are necessary to terminate the rule as expeditiously as possible while minimizing any adverse effects on the public. The administering agency shall give timely written notice, in advance of the grace period, to the Legislative Administrative Director of the details of any planned grace period.

§ 2505. Joint legislative committee review of rules

A joint standing committee shall hold a public hearing on every rule assigned to it for review under section 2503. At least 7 days and not more than 21 days before public hearing, the committee shall publish notice in a newspaper of general circulation in the area of the State affected. Notice shall refer to the statutory authority under which the rule was adopted, identify the rule by title or brief descriptive phrase, describe the purpose of the hearing and state the time and place of the public hearing and the manner in which oral or written testimony may be submitted.

A committee report shall be submitted to the Legislature for each rule reviewed. Any members of the joint standing committee shall have the opportunity to prepare a minority report, which shall be made a part of the committee report.

§ 2506. Administering and other agencies to cooperate

All state agencies shall cooperate in the conduct of this chapter. Such cooperation shall include, but not be limited to, the providing of information, assistance, including evaluation, and advice to the joint standing committees, as is requested.

§ 2507. Legislative Administrative Director to cooperate

The Legislative Administrative Director shall determine the amount of staff and other support required for the purposes of this chapter, and shall provide it, subject to the approval of the Legislative Council. The director shall submit a written evaluation of the operation of this chapter from time to time, but not less often than February 1st of the even-numbered years.

§ 2508. Savings clause

The provisions of this chapter shall not apply to any rule where such application would prevent the administering agency or another state agency from participating in any cash or in-kind grant-in-aid program of the Federal Government. The Legislature may, by statute, suspend the operation of this section for such a rule.

Each administering agency shall conduct a continuing review of its rules and its participation in such federal grant-in-aid programs to determine whether such participation will be affected by this chapter. Each such agency shall give timely notification, in writing, to the Legislature of the nature of such effect.

Effective October 24, 1977

CHAPTER 567

AN ACT to Raise the Christmas Tree Transportation Registration Fee.

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

Sec. 1. 32 MRSA § 4451, 3rd sentence, as last amended by PL 1973, c. 460, § 18, is further amended to read:

The annual fee for such registration, when obtained from the Forestry Bureau, shall be ~~\$7~~ \$11 payable to the Treasurer of State and credited to the General Fund; and if such registration is obtained from any municipal clerk, the annual fee shall be ~~\$7.25~~ \$12, ~~\$7~~ \$11 of which shall be payable to the Treasurer of State and credited to the General Fund, and ~~25c~~ \$1 shall be retained by the clerk for the service of issuing the certificates of registration.

Sec. 2. Christmas tree inspection; appropriation. There is appropriated from the General Fund to the Department of Conservation for fiscal year 1977-78 the sum of \$7,000 and for fiscal year 1978-79 the sum of \$7,000 to be used for the purpose of administering this chapter and for providing 2 forest rangers for roving patrol for Christmas tree inspections for an 8-week period beginning the first week in November and extending through the 3rd week in December. One ranger shall cover the east coastal area and the other ranger shall cover the central interior and south coastal area. Both rangers shall engage in inspection of cutting operations and shall conduct road checks. The breakdown shall be as follows:

	1977-78	1978-79
CONSERVATION, DEPARTMENT OF		
Christmas tree inspection		
Personal Services	(2) \$5,000	(2) \$5,000
All Other	2,000	2,000

Effective October 24, 1977