

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE
AS PASSED BY THE

ONE HUNDRED AND TENTH LEGISLATURE

SECOND SPECIAL SESSION

September 25, 1981

AND

THIRD SPECIAL SESSION

December 9, 1981

AND

SECOND REGULAR SESSION

January 6, 1982 to April 13, 1982

AND AT THE

FOURTH SPECIAL SESSION

April 28, 1982 to April 29, 1982

AND AT THE

FIFTH SPECIAL SESSION

May 13, 1982

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

J.S. McCarthy Co.
Augusta, Maine
1981

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
SECOND AND THIRD SPECIAL SESSIONS

and

SECOND REGULAR SESSION

and

FOURTH AND FIFTH SPECIAL SESSIONS

of the

ONE HUNDRED AND TENTH LEGISLATURE

1981

Director of the Bureau of Employment Security for the purpose of providing job services or job service facilities, or both.

2. Liability of the State. Notwithstanding any other provision of law or agreement to the contrary, for the purposes of this section, the municipality shall be considered an agent of the State and the municipal officials and employees shall be considered to be acting on behalf of the State in its official capacity. The State shall indemnify, hold harmless and, with the consent of the municipality or its officials or employees, defend the municipality and its officials and employees against any claim which arises out of an act or omission occurring within the course or scope of employment for purposes of performing the duties within the purview of this section. If the defense of the municipality or its officials or employees creates a conflict of interest between the State and the municipality, official or employee, the State need not assume the defense; however, the State shall be liable for reasonable attorney's fees and court costs of the municipality, official or employee.

This subsection shall not apply if the municipality, official or employee settles the claim without the consent of the State, or if the municipality, official or employee does not notify the State within 30 days after receiving actual written notice of the claim against him or within 15 days after the service of the summons and complaint upon him and if the State is prejudiced thereby.

Effective July 13, 1982.

CHAPTER 649

H.P. 1734 - L.D. 1719

AN ACT Relating to Emergency Closure of Contaminated Shellfish Areas.

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

Whereas, bacterial infection and paralytic shellfish poisoning in contaminated shellfish can pose a grave and

immediate threat to the public health and safety; and

Whereas, under present provisions it may take the Department of Marine Resources up to 4 days to adopt emergency rules closing contaminated shellfish areas; and

Whereas, while that department is adopting rules to close contaminated areas the public may be exposed to dangerous levels of pollution; and

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

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

Sec. 1. 12 MRSA §6172, sub-§3, as enacted by PL 1977, c. 661, §5, is amended by adding at the end the following:

The commissioner shall use emergency regulatory procedures to open areas or waters that have been closed under emergency procedures of this section.

Sec. 2. 12 MRSA §6192, sub-§4, as enacted by PL 1977, c. 661, §5, is repealed and the following enacted in its place:

4. Effective date. Except as provided in this subsection, emergency regulations shall become effective immediately upon publication in a newspaper of general circulation in the area of the State affected, provided it is submitted to the Attorney General and filed with the Secretary of State as required under the Maine Administrative Procedure Act, Title 5, chapter 375, within the next business day following publication.

Notwithstanding any provisions of the Maine Administrative Procedure Act, an emergency regulation authorized by section 6172, subsection 2 or 3 shall be effective immediately upon signature by the commissioner or his authorized designee. Upon promulgation of such an emergency regulation, the commissioner shall give oral notice of the emergency closure to local governmental authorities and shall publish notice of the closure as soon as possible in a newspaper of general circulation in the area of the State affected. Marine patrol officers shall take action to prevent taking of shellfish from that area, including the embargo of contami-

nated shellfish under section 6856, subsection 6 and the arrest of any person violating the emergency regulation.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

Effective April 8, 1982.

CHAPTER 650

H.P. 2072 - L.D. 2020

AN ACT to Revise the Military Laws of the State.

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

Sec. 1. 37-A MRSA §938, as enacted by PL 1971, c. 580, §1, is amended by adding after the first sentence a new sentence to read:

For purposes of Title 39, section 62, federal pay and benefits received by the member as a result of any such wound, injury or disease shall be considered to be derived from the employer and will constitute a setoff to compensation derived as a result of this section.

Sec. 2. 37-A MRSA §1320, sub-§2, as reallocated by PL 1971, c. 580, §3, is amended to read:

2. Qualifications. A military judge shall be a commissioned officer of the National Guard, reserve component or a retired officer of the Armed Forces of the United States who is a member of the bar of the Supreme Judicial Court of Maine and who is certified to be qualified for such duty by the State Judge Advocate.

Sec. 3. 37-A MRSA §1405, first sentence, as enacted by PL 1977, c. 562, §1, is amended to read:

Veterans desiring admission to the home shall make application on forms prescribed by the administrator and admission will be made by the administrator only to veterans who were residents of Maine at the time of their entry into