

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND ELEVENTH LEGISLATURE

FIRST REGULAR SESSION
December 1, 1982 to June 24, 1983
Chapters 453-End

AND AT THE

FIRST SPECIAL SESSION
September 6, 1983 to September 7, 1983
Chapters 583-588

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

J.S. McCarthy Co., Inc.
Augusta, Maine
1983

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION

CONTINUED

and

FIRST SPECIAL SESSION

of the

ONE HUNDRED AND ELEVENTH LEGISLATURE

1983

Radiological Response Plan for the Emergency Planning Zone;

2. Exercise reports. Timely reports on any exercise of the plan, including:

A. A preliminary report within 2 months on the evaluation of the exercise;

B. A report within 4 months of the exercise on any planned corrective action; and

C. A progress report on that corrective action 4 months later;

3. Ingestion Pathway Zone. Development of protective action plans for the Ingestion Pathway Zone; and

4. Sunset. When the Legislature finds that final approval of the plan has been given by the appropriate federal agencies, including the Federal Emergency Management Agency and the United States Nuclear Regulatory Commission, the specific reports required by subsections 1, 2 and 3 shall be replaced by an annual report to the Legislature, due by February 1st, on the state of readiness of the Emergency Radiological Response Plan and any recommendations relating to it.

Sec. 6. Legislative intent. If Title 37-A is repealed as part of the recodification of the State Military Laws, it is the intent of the Legislature that the provisions of this Act not be repealed and that they continue in effect as part of the recodification.

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

Effective June 17, 1983.

CHAPTER 473

S.P. 602 - L.D. 1728

AN ACT to Limit Payments to Health Care Institutions which Engage Persons to Defeat the Organization of Collective Bargaining Units.

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

22 MRSA c. 405-B is enacted to read:

CHAPTER 405-B

LIMITATION ON PAYMENTS TO HEALTH CARE INSTITUTIONS

§1861. Limitation on payments to health care institutions

The Legislature is concerned that certain health care institutions have engaged persons with the intent to interfere with, inhibit or disrupt the free exercise of the right of all employees to organize and choose representatives for the purpose of negotiating the terms and conditions of their employment or other mutual aid or protection as provided in Title 26, section 911. The Legislature declares that it is consistent with public policy to prohibit the use of funds received from the State for the purpose of engaging those persons. The Legislature acknowledges the right of employers to communicate with employees concerning the issue of unionization and further recognizes that employers may obtain counsel for advice and assistance.

§1862. Definitions

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

1. Disallowed expenditure. "Disallowed expenditure" means an amount paid to any person for those acts or services rendered, which result in:

A. The commission of an unfair labor practice or prohibited practice as determined by:

(1) The National Labor Relations Board pursuant to the United States Code, Title 29, Section 158;

(2) The Maine Labor Relations Board pursuant to Title 26, chapter 7, 9, 9-A or 9-B; or

(3) A court of competent jurisdiction pursuant to Title 26, section 911; and

B. Influencing employees respecting unionization, when costs for these activities are disallowed for reimbursement pursuant to Medicare law and regulation.

2. Health care institution. "Health care institution" means any person, partnership, association or corporation, including county or local government

unit, required to obtain a license pursuant to chapter 405.

3. Person. "Person" means any person, partnership, association or corporation engaged or employed by a health care institution.

4. Proportional share. "Proportional share" means the revenue received from the State during the previous 12 months, divided by the sum of revenue received from the State, 3rd party payors and patients during the corresponding 12 months.

§1863. Recovery of state funds

Upon notification that a health care institution has paid an amount for a disallowed expenditure, the department shall make a determination as to the amount of the disallowed expenditure. The department shall withhold an amount equal to a proportional share of the amount of the disallowed expenditure, according to a schedule determined by the department, from future payments of medical assistance reimbursements to be received by the health care institution. If that agency or court determination of a violation is under appeal, the withholding shall be stayed pending a final adverse decision against the institution.

§1864. Expenditures not included

To the extent consistent with Medicare and Medicaid law and regulation, disallowed expenditures shall not include amounts paid to any person for services rendered as follows:

1. Unfair labor practice. In the commission of any unfair labor practice out of necessity to obtain judicial review of a unit determination finding;

2. Contract negotiations. Reasonable expenses for contract negotiations or preparations therefor;

3. Disputes concerning contracts. Reasonable expenses associated with disputes concerning the interpretation of contracts;

4. Attorneys' fees. Expenses for attorneys' fees arising out of a court or agency proceeding or appeal or in preparation therefor; or

5. Educational instruction. Reasonable expenses for educational instruction of supervisors or management employees concerning state or federal labor laws.

§1865. Reporting requirement

1. Report. Each health care institution which receives funds from the department shall annually report to the department the amount paid to any person for the purpose of influencing its employees, respecting unionization, or attempts to coerce employees to otherwise interfere with or restrain the exercise of employee rights to organize and choose representatives for the purpose of negotiating the terms and conditions of their employment or other mutual aid or protection.

2. Violation. Violation of this section shall result in an administrative fine of up to \$500 for each offense, as determined pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375.

§1866. Rules

The Commissioner of Human Services shall adopt rules in order to implement this chapter, pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375.

Effective September 23, 1983.

CHAPTER 474

S.P. 604 - L.D. 1731

AN ACT Relating to the Transportation of Hazardous Material and Waste.

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

Sec. 1. 25 MRSA §2104, sub-§2, as enacted by PL 1977, c. 622, is repealed and the following enacted in its place:

2. Shipping papers. Shipping papers are prepared in accordance with 49 Code of Federal Regulations, Subpart C, Sections 172.200 to 172.204 and accompany the hazardous material in accordance with 49 Code of Federal Regulations, Subpart C, Section 177.817. This requirement shall apply to both intrastate and interstate carriers.

Sec. 2. 25 MRSA §2104, sub-§3 is enacted to read:

3. Interstate tank carriers. Interstate car-