

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWELFTH LEGISLATURE

FIRST REGULAR SESSION

December 5, 1984 to June 20, 1985

Chapters 1-384

PUBLISHED BY THE REVISOR OF STATUTES IN ACCORDANCE WITH
MAINE REVISED STATUTES ANNOTATED, TITLE 3, SECTION 163-A,
SUBSECTION 4.

J.S. McCarthy Co., Inc.
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PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION

of the
ONE HUNDRED AND TWELFTH LEGISLATURE

1985

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

Sec. 1. 20-A MRSA §5001-A, sub-§2, ¶¶B and C, as enacted by PL 1983, c. 806, §49, are amended to read:

B. A person who has:

(1) Reached the age of 15 years or completed the 9th grade;

(2) Permission to leave school from that person's parent;

(3) Permission to leave school from the school board or its designee; and

(4) Agreed in writing with that person's parent and the school board or its designee to meet annually until that person's 17th birthday to review that person's educational needs. When the request to be excused from school has been denied pursuant to this paragraph, the student's parent may appeal to the commissioner; ~~or~~

C. A person whose absence is excused under section 5051. The parent of an habitual truant who has been denied a waiver of this paragraph, may appeal to the commissioner in accordance with section 5051, subsection 2, paragraph E; or

Sec. 2. 20-A MRSA §5001-A, sub-§2, ¶D is enacted to read:

D. A person who has matriculated and is attending an accredited, post-secondary, degree-granting institution as a full-time student. An exception to attendance in public school under this paragraph must be approved by the commissioner.

Effective September 19, 1985.

CHAPTER 124

S.P. 220 - L.D. 579

AN ACT to Amend the Laws Relating to
Admission to the Bar.

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

Sec. 1. 4 MRSA §801, first ¶, as amended by PL 1983, c. 812, §12, is further amended to read:

The Board of Examiners for the Examination of Applicants for Admission to the Bar, as established by Title 5, section 12004, subsection 1, and in this chapter called the "board," shall be composed of 7 lawyers of the State and one representative of the public, each of whom shall hold office for a term of 5 years beginning on the first day of ~~September~~ January of the year of appointment and ending on the last day of ~~August~~ December of the year of expiration of the appointment. As terms expire, lawyer members of the board shall be appointed ~~annually~~ by the Governor on the recommendation of the Supreme Judicial Court and the public member shall be appointed by the Governor. Vacancies occurring from death, resignation, removal or inability to act shall be filled in like manner for the unexpired term. The board shall hold at least 2 sessions annually at such times and places in the State as the board shall determine and the Supreme Judicial Court shall approve for the purpose of examining all applicants for admission to the bar, as to their legal learning and general qualifications to practice in the several courts of the State as attorneys and counselors at law and solicitors and counselors in chancery. Upon such examination being had, the board shall issue to each applicant who shall pass the required examinations and satisfy all other requirements of this chapter a certificate of qualification stating the standing of the applicant and recommending his admission to the bar. The members of the board shall elect from their number a secretary and a chairman who may, but need not, be the same person and shall make such rules and regulations relative to the performance of the duties of the board and to the examinations which the board conducts as to them may seem proper. Four members of said board shall constitute a quorum for the transaction of business. All rules and regulations adopted by the board shall be promulgated in the manner provided by the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II subject to the approval of the Supreme Judicial Court.

Sec. 2. 4 MRSA §802, as amended by PL 1973, c. 550, §1, is further amended to read:

§802. Attorneys from other states

Practicing attorneys whose domiciles are in other states and territories or from foreign countries At-

torneys who are practicing law in other states, territories or foreign countries may be admitted on motion to try cases in any of the courts of this State by such those courts, but shall not be admitted to the general practice of law in this State without complying with section 803 805-A.

Sec. 3. 4 MRSA §803, as amended by PL 1975, c. 66, §2, is repealed and the following enacted in its place:

§803. Qualifications for taking bar examination

1. Evidence of graduation. Before taking the examination for admission to the bar of the State, each applicant shall produce to the board satisfactory evidence that he graduated with a bachelor's degree from an accredited college or university or that he successfully completed at least 2 years' work as a candidate for that degree at an accredited college or university.

2. Further qualifications. Each applicant shall produce to the board satisfactory evidence that he:

A. Graduated from a law school accredited by the American Bar Association;

B. Graduated from a law school accredited by the United States jurisdiction in which it is located, that he has been admitted to practice by examination in one or more jurisdictions within the United States and has been in active practice there for at least 3 years;

C. Graduated from a foreign law school with a legal education which, in the board's opinion, is equivalent to that provided in those law schools accredited by the American Bar Association; or

D. Successfully completed 2/3 of the requirements for graduation from a law school accredited by the American Bar Association and then pursued the study of law in the office of an attorney within the State for at least one year.

3. Eligibility for examination. When an applicant has satisfied the board that these requirements have been fulfilled and has paid a fee fixed by the board and approved by the Supreme Judicial Court, he is eligible to take the examinations prepared or adopted by the board to determine if he has the qualifications required by this chapter for admission to the bar.

Sec. 4. 4 MRSA §804, as amended by PL 1983, c. 247, is repealed.

Sec. 5. 4 MRSA §805, as repealed and replaced by PL 1975, c. 66, §4, is repealed and the following enacted in its place:

§805. Reexamination

Any applicant who fails to pass an examination required by the board for admission to practice shall be notified by the board. In accordance with the board's rules, he may reapply to take another examination and he shall pay the same fee then required of an original applicant.

Sec. 6. 4 MRSA §805-A is enacted to read:

§805-A. Qualifications for admission to practice

1. Certificate of qualification; admission. Any person who produces a certificate of qualification from the board recommending his admission to the bar may be admitted to practice as an attorney in the courts of this State on motion in open court. No person may be denied the opportunity to qualify for admission because of race, creed, color, national origin or sex.

2. Issuance of certificate of qualification. The board shall issue a certificate of qualification stating that the applicant is a person of good moral character and possesses sufficient learning in the law to practice as an attorney in the courts of this State to each applicant who:

A. Produces satisfactory evidence of good moral character;

B. Attains the passing grades established by the board on those examinations required by the board; and

C. Establishes that he attended and observed any legal proceedings required by the board.

3. Admission within one year of passing bar examination. The applicant must be admitted to practice within one year from the time that he has been notified of his passing of the bar examination. This one-year period may be enlarged by successive one-year periods by a Justice of the Supreme Judicial Court on motion for good cause shown during the period.

Sec. 7. 4 MRSA §806-A is enacted to read:

§806-A. License to practice subject to condition

Each person who is admitted to practice as an attorney in this State must complete, within 18 months after his license is issued, any practical skills course approved by the board. This period may be enlarged by a Justice of the Supreme Judicial Court on motion for good cause shown during that period.

If an attorney fails to complete this course within the time allowed, the board shall notify the Supreme Judicial Court and the Board of Overseers of the Bar that the attorney's license is invalid and continued practice of law is unauthorized under section 807.

An attorney who loses his license under this section shall be readmitted after notifying the Supreme Judicial Court and the Board of Overseers of the Bar of his later compliance with this section.

Sec. 8. 4 MRSA §807, as amended by PL 1983, c. 796, §2, is further amended to read:

§807. Unauthorized practice of law

Unless duly admitted to the bar of this State, no person may practice law or any branch thereof, or hold himself out to practice law or any branch thereof, within the State or before any court therein, or demand or receive any remuneration for these services rendered in this State. Whoever, not being duly admitted to the bar of this State, shall practice law or any branch thereof, or hold himself out to practice law or any branch thereof, within the State or before any court therein, or demand or receive any remuneration for these services rendered in this State, shall be guilty of a Class E crime. No person may practice law or hold himself out to practice law within the State or before its courts, or demand or receive any remuneration for those services rendered in this State, unless he has been admitted to the bar of this State and has complied with section 806-A, or unless he has been admitted to try cases in the courts of this State under section 802. Any person who practices law in violation of these requirements is guilty of the unauthorized practice of law, which is a Class E crime. This section shall not be construed to apply to practice before any Federal Court by any person duly admitted to practice therein; nor to a person pleading or managing his own cause in court; nor to the officer or employee of a corpora-

tion, partnership, sole proprietorship or governmental entity, who is not an attorney, but is appearing for that organization in an action cognizable as a small claim under Title 14, chapter 738; nor to a person who is not an attorney, but is representing a municipality under Title 12, section 4812-C, subsection 2; Title 30, section 3222, subsection 2; or Title 30, section 4966, subsection 1; nor to a person who is not an attorney, but is representing the Department of Environmental Protection under Title 38, section 342, subsection 7. In all proceedings, the fact, as shown by the records of the Board of Overseers of the Bar, that that person is not recorded as a member of the bar shall be prima facie evidence that he is not a member of the bar licensed to practice law in the State.

Notwithstanding any of the other provisions of this chapter and under such terms, conditions, limitations, qualifications and supervision as the Supreme Judicial Court shall by rule require, a senior law student in a law school in this State approved by the American Bar Association or a senior law student who is a Maine resident and who is enrolled in a law school which is in another state and which is approved by the American Bar Association, may appear in the courts of the State on behalf of the State or an agency thereof, or under the supervision of an organization providing legal services to the indigent approved by the Supreme Judicial Court on behalf of an individual receiving services through such organization.

Sec. 9. Transition. The members of the Board of Examiners for the Examination of Applicants for Admission to the Bar shall continue to serve until their successors are appointed.

The applicants for the July 1986 bar examination shall be the first applicants subject to the requirements of the Maine Revised Statutes, Title 4, section 805-A, subsection 2, paragraph C, and section 806-A.

Effective September 19, 1985.

CHAPTER 125

H.P. 417 - L.D. 583

AN ACT to Increase the Annual Public
Utilities Commission Regulatory Fund
Assessment and to Clarify the Current
Statutes.