

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND TWELFTH LEGISLATURE

SECOND REGULAR SESSION
January 8, 1986 to April 16, 1986

SECOND SPECIAL SESSION
May 28, 1986 to May 30, 1986

AND AT THE

THIRD SPECIAL SESSION
October 17, 1986

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

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

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
SECOND REGULAR SESSION
of the
ONE HUNDRED AND TWELFTH LEGISLATURE
1985

practices or unlawful representation, whether or not by way of advertising, perpetrated by a seller in connection with the offer or sale of any business opportunity. The liability of the surety shall not exceed the amount of the bond.

Sec. 5. 32 MRSA §4700-A, as enacted by PL 1979, c. 571, is amended to read:

§4700-A. Service of process

The Department of Business Regulation Superintendent of Banking or any person designated by the superintendent shall be an agent of each seller who sells, offers for sale, advertises or promotes business opportunities in this State for service of any process, notice or demand required or permitted by law to be served and this service shall be binding upon the seller. Service of any such process, notice or demand shall be made as provided for service upon the Secretary of State under the Maine Rules of Civil Procedure, Rule 4(d)(8).

Effective July 16, 1986.

CHAPTER 598

H.P. 1521 - L.D. 2141

AN ACT to Permit the Supreme Judicial Court to Authorize Employees of the Bureau of Taxation and of the Bureau of Employment Security to Participate in Court Proceedings.

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

Sec. 1. 4 MRSA §807, first ¶, as amended by PL 1985, c. 124, §8, is further amended to read:

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 admitted to practice therein; nor to a person pleading or managing his own cause in court; nor to the officer or employee of a corporation, 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; nor to a person who is not an attorney, but is representing the Bureau of Employment Security or the Bureau of Taxation under section 807-A. 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.

Sec. 2. 4 MRSA §807-A is enacted to read:

§807-A. Representation by Bureau of Employment Security or Bureau of Taxation employees

Upon the promulgation of and in accordance with rules adopted by the Supreme Judicial Court, employees of the Bureau of Employment Security may serve civil process and represent the bureau in District Court in disclosure proceedings pursuant to Title 14, chapter 502, ancillary to the collection of taxes and overpayments for which warrants have been issued pursuant to Title 26, chapter 13.

Upon promulgation of and in accordance with rules adopted by the Supreme Judicial Court, employees of the Bureau of Taxation may serve civil process and represent the bureau in District Court in disclosure proceedings pursuant to Title 14, chapter 502, ancillary to the collection of taxes for which warrants have been issued pursuant to Title 26, and may represent the State Tax Assessor in arraignment proceedings in District Court in cases in which a criminal complaint has been filed alleging violation of Title 36, section 2113, 3234 or 5332.

If the Supreme Judicial Court adopts rules under this section, the rules shall include the establishment of standards and a method to certify employees of the Bureau of Employment Security and the Bureau

of Taxation who may represent the State in court under this section as being familiar with court procedures.

This section is repealed on April 1, 1988.

Effective July 16, 1986.

CHAPTER 599

H.P. 1522 - L.D. 2142

AN ACT to Clarify the Applicability of the
Maine Tort Claims Act and to Limit the
Personal Liability of Governmental
Entity Employees.

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

Whereas, misunderstanding exists as to application of certain procedural provisions of the Maine Tort Claims Act to suits against governmental entity employees in certain circumstances; and

Whereas, this misunderstanding poses difficulties for governmental entity employees who may be sued and for claimants seeking to sue these employees; and

Whereas, immediately clarifying the applicability of these procedural provisions will benefit all potentially involved in suits against governmental entity employees; 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. 14 MRSA §8102, sub-§2-A is enacted to read:

2-A. Permitted by this chapter or permitted under this chapter. "Permitted by this chapter" or "permitted under this chapter," as applied to claims