

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND THIRTEENTH LEGISLATURE
FIRST REGULAR SESSION

December 3, 1986 to June 30, 1987

Chapters 1-542

PUBLISHED BY THE REVISOR OF STATUTES
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Twin City Printery
Lewiston, Maine
1987

PUBLIC LAWS

OF THE

STATE OF MAINE

AS PASSED AT THE
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1987

Whereas, many restaurants have not had sufficient time to comply with the law; 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Sec. 1. 22 MRSA c. 270-A, as enacted by PL 1985, c. 171, is repealed.

Sec. 2. 22 MRSA c. 270-B is enacted to read:

CHAPTER 270-B

PUBLIC REST ROOM FACILITIES IN EATING PLACES

§1685. Definitions

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

1. Eating establishment. "Eating establishment" means an eating establishment licensed by the Department of Human Services under chapter 562 which prepares and serves food to the public for consumption inside the premises. "Eating establishment" does not include catering establishments, establishments dispensing food solely from vending machines, pushcarts and mobile eating places, roadside stands, retail frozen dairy product establishments or any other such places where customers do not consume food inside the building where the food is prepared and served.

§1686. Rest room facilities required

An eating establishment shall provide at least one toilet facility for the use of its customers. The toilets provided shall be clearly marked, maintained in a sanitary condition and in good repair. There shall be no charge for their use. Lavatory facilities shall be located within or immediately adjacent to all toilet rooms or vestibules.

§1687. Rules

The Department of Human Services may adopt, in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, rules to administer this chapter and thereby protect the public health.

§1688. Enforcement

This chapter shall be enforced by the Division of Health Engineering. Anyone violating this chapter or rules under this chapter commits a civil violation for which a forfeiture of not more than \$200 may be ad-

judged. Each day of violation shall be considered a separate offense.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved, except that section 2 of the Act shall take effect July 1, 1987.

Effective February 19, 1987, unless otherwise indicated.

CHAPTER 9

H.P. 307 — L.D. 393

AN ACT to Clarify the Authority of the Executive Department with Respect to Unclassified Employees.

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

Whereas, Acts of the previous Legislature have resulted in uncertainties and confusion regarding legislative intent; and

Whereas, certain provisions of Public Law 1985, c. 785, "AN ACT to Reorganize the Department of Finance and Administration and the Department of Personnel," create an uncertainty regarding the job status of certain unclassified employees; and

Whereas, it is vitally necessary that these uncertainties and this confusion be resolved in order to prevent any injustice or hardship to the citizens of the State; 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. 5 MRSA §931, sub-§1, ¶K is enacted to read:

K. All major policy-influencing positions listed in sections 932 to 953;

Sec. 2. 5 MRSA §931, sub-§1, ¶M, as enacted by PL 1985, c. 785, Pt. A, §44, is amended to read:

M. Other positions in the Executive Branch made unclassified by law which fall within a bargaining unit.

Sec. 3. 5 MRSA §7051, sub-§7, as enacted by PL 1985, c. 785, Pt. B, §38, is amended to read:

7. Dismissal and disciplinary action. An appointing authority may dismiss, suspend or otherwise discipline

an employee in the classified service for cause. This right is subject to the right of appeal and arbitration of grievances set forth in the applicable labor contract, in sections 7081 to 7084 or by civil service rule; and sections 7081 to 7084 shall apply to any employee who has satisfactorily completed an initial probationary period. This subsection does not apply to unclassified employees listed in section 931, nor does this subsection in any way limit the collective bargaining rights of classified and unclassified employees. This subsection does not apply to an employee appointed to a major policy-influencing position listed in sections 932 to 953.

Notwithstanding any other provision of law, the head of any institution under the control of the Department of Mental Health and Mental Retardation as the appointing authority may suspend with pay any employee who is charged by indictment with the commission of a criminal offense involving acts alleged to have been perpetrated upon any resident or residents of any such institution. Any suspension with pay may be authorized by the appointing authority only when to permit the employee to remain on duty at the institution would be against the best interest of any one or more of the residents of the institution, and authorization for suspension with pay shall apply only during the pendency of the criminal proceedings in the trial court, but not longer than 30 working days. Sections 7081 to 7084 shall not apply to suspension with pay ordered by the appointing authority under this paragraph.

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

Effective February 20, 1987.

CHAPTER 10

H.P. 26 — L.D. 23

AN ACT to Extend Immunity from Civil Liability for the Unlawful Cutting of Trees to Municipal Employees Acting within the Course and Scope of their Employment.

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

17 MRSA §2510, sub-§1, ¶C, as enacted by PL 1981, c. 355, is amended to read:

C. ~~Licensed arborists in removing street trees or property line trees under contract with a municipality or private individual; or in removing blowdown trees in emergencies~~ municipal employees acting within the course and scope of their employment, in removing street trees or property line trees under ordinary circumstances or blown down trees in emergencies; and

Effective September 29, 1987.

CHAPTER 11

H.P. 65 — L.D. 68

AN ACT Relating to the Maine Veterans' Homes.

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

Sec. 1. 14 MRSA §8102, sub-§4, as amended by PL 1985, c. 695, §9, is further amended to read:

4. State. "State" means the State of Maine or any office, department, agency, authority, commission, board, institution, hospital or other instrumentality thereof, including the Maine Turnpike Authority, the Maine Port Authority, the Maine Vocational-Technical Institute System, the Maine Veterans' Homes and all such other state entities.

Sec. 2. 37-B MRSA §604, sub-§8 is enacted to read:

8. Assistance. Every department and agency of the State, when requested, may furnish such assistance, counsel or advice as the board may require in the discharge of its duties.

Effective September 29, 1987.

CHAPTER 12

S.P. 74 — L.D. 157

AN ACT Concerning Enhancement of Theft Penalties Based on Prior Convictions.

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

17-A MRSA §362, sub-§3-A, as enacted by PL 1985, c. 239, §2, is amended to read:

3-A. Theft, or any attempt at theft, is a Class C crime if the actor has 2 prior Maine convictions for any combination of theft, any violation of section 702, 703 or 708 or any violation of section 401 in which the crime intended to be committed inside the structure is theft, any violation of section 651 or attempts thereat. For purposes of this subsection, the dates of both of the prior convictions must precede the commission of the offense being enhanced by no more than 10 years, although both prior convictions may have occurred on the same day. This subsection does not apply if the commission of the 2 prior offenses occurred within a 3-day period. The date of a conviction shall be deemed the date that sentence is imposed, even though an appeal was taken. The date of a commission of prior offenses shall be presumed to be that stated in the complaint, information or indictment, notwithstanding the use of the words "on or about" or the equivalent.