

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

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Chapters 1-542

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PUBLIC LAWS

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and Program Review for review. These records must include an estimate of the fair market value of items seized.

6. Preliminary order. At the request of the State ex parte, the court may issue any preliminary order or process necessary to seize or secure the property for which forfeiture is sought and provide for its custody.

A. Process for seizure of the property shall issue only upon a showing of probable cause. The application for process for seizure of the property and the issuance, execution and return of the process shall be subject to the provisions of applicable Maine law.

B. Any property subject to forfeiture under this section may be seized upon process, except that seizure without process may be made when:

(1) The seizure is incident to:

(a) An arrest with probable cause;

(b) A search under a valid search warrant; or

(c) An inspection under a valid administrative inspection warrant;

(2) The property subject to seizure has been the subject of a prior judgment in favor of the State in a forfeiture proceeding under this section;

(3) There is probable cause to believe that the property is directly or indirectly dangerous to health or safety; or

(4) There is probable cause to believe the property has been used or is intended to be used in violation of this Title.

Sec. 129. 28-A MRSA §2222, as enacted by PL 1987, c. 45, Pt. A, §4, is repealed.

Sec. 130. 28-A MRSA §2223, as enacted by PL 1987, c. 45, Pt. A, §4, is repealed and the following enacted in its place:

§2223. Dumping of evidence; prima facie evidence

1. Destruction of liquor is prima facie evidence that liquor was intended for illegal sale. The pouring out or other destruction of fluids by any person on or about the premises which are about to be or are being searched, for the purpose of preventing the seizure of those fluids by officers authorized to make the search and seizure, is prima facie evidence that the fluids poured out or destroyed were liquor intended for illegal sale.

2. Penalties. Any person who violates this section commits a Class E crime.

Sec. 131. 28-A MRSA §§2224 to 2227, as enacted by

PL 1987, c. 45, Pt. A, §4, are repealed.

Effective September 29, 1987.

CHAPTER 343

H.P. 1362 — L.D. 1864

AN ACT Relating to Tax Exemptions.

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

Whereas, changes in state law are necessary in order to improve the fairness of the state tax system; and

Whereas, it is necessary to enact these changes without delay in order to avoid continuation of unnecessary inequities; 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. 8 MRSA §367, as enacted by PL 1973, c. 570, §1, is repealed.

Sec. 2. 8 MRSA §423, as enacted by PL 1983, c. 732, §1, is repealed.

Sec. 3. 36 MRSA §1752, sub-§7-C is enacted to read:

7-C. Nonprofit. "Nonprofit" means an organization which has been determined to be exempt from taxation under the United States Internal Revenue Code, Section 501(c).

Sec. 4. 36 MRSA §1760, sub-§16, as amended by PL 1983, c. 560, §§2 and 6, is further amended to read:

16. Hospitals, research centers, churches and schools. Sales to incorporated hospitals, incorporated nonprofit nursing homes licensed by the Department of Human Services, incorporated nonprofit boarding care facilities licensed by the Department of Human Services, incorporated nonprofit home health care agencies certified under the United States Social Security Act of 1965, Title XVIII, as amended, incorporated nonprofit rural community health centers engaged in, or providing facilities for, the delivery of comprehensive primary health care, incorporated nonprofit dental health centers, institutions incorporated as nonprofit corporations for the sole purpose of conducting medical research or for the purpose of establishing and maintaining laboratories for scientific study and investigation in the field of biology or ecolo-

gy or operating educational television or radio stations, schools and regularly organized churches or houses of religious worship, excepting sales, storage or use in activities which are mainly commercial enterprises. "Schools" mean means incorporated nonstock educational institutions, including institutions empowered to confer educational, literary or academic degrees, which have a regular faculty, curriculum and organized body of pupils or students in attendance throughout the usual school year, which keep and furnish to students and others records required and accepted for entrance to schools of secondary, collegiate or graduate rank, no part of the net earnings of which inures to the benefit of any individual.

Sec. 5. 36 MRSA §1760, sub-§§56 to 59 are enacted to read:

56. Nonprofit youth organizations. Sales to nonprofit youth organizations whose primary purpose is to provide athletic instruction in a nonresidential setting.

57. Self-help literature on alcoholism. Sales of self-help literature relating to alcoholism to alcoholics anonymous groups.

58. Portable classrooms. Sales of tangible personal property to be physically incorporated in and become a part of portable classrooms for lease to schools entitled to exemption under subsection 16. If the portable classrooms are used for an otherwise taxable use within 2 years from the date of the first use, the lessor shall become liable for the use tax based on the original sale price.

59. Sales to certain incorporated nonprofit educational organizations. Incorporated nonprofit educational organizations which are receiving, or have received, funding from the Department of Educational and Cultural Services, and which provide educational programs specifically designed for teaching young people how to make decisions about drugs, alcohol and interpersonal relationships at a residential camp setting.

Sec. 6. 36 MRSA §1760, sub-§60 is enacted to read:

60. Sales to incorporated nonprofit animal shelters. Sales of materials and items used in the operation and maintenance of incorporated nonprofit animal shelters and maintenance and care of any animal housed in those shelters.

Sec. 7. 36 MRSA §2514, as amended by PL 1985, c. 783, §12, is further amended to read:

§2514. Applicability of provisions

Sections 2512 and 2513 shall not apply to the taxation of any annuity consideration on any annuity contract issued prior to August 1, 1943. Sections 2512 and 2513 shall not apply to any premium from an insurance contract, which premium is received prior to October 1, 1969, or any consideration, regardless of when received, from any

retirement annuity contracts issued by an insurance or annuity company organized and operated without profit to any private shareholder or individual exclusively for the purpose of aiding nonproprietary educational and scientific institutions pursuant to a retirement program established under section 403 (b) of the United States Internal Revenue Code, Section 403 (b). Premiums or considerations received from life insurance policies or annuity contracts issued in connection with the funding of a deferred compensation plan described under the United States Internal Revenue Code, Section 457, a pension, annuity or profit-sharing plan or individual retirement account or annuity qualified or exempt under sections 401, 402, 404, 408 or 501 of the United States Internal Revenue Code, Section 401, 403, 404, 408 or 501, as now or hereafter amended or renumbered from time to time, shall be exempt from tax.

Sec. 8. 36 MRSA §2524 is enacted to read:

§2524. Credit for employer-assisted day care

1. Credit allowed. A taxpayer under this chapter constituting an employing unit is allowed a credit against the tax imposed by this section for each taxable year equal to the lowest of:

A. Five thousand dollars;

B. Twenty percent of the costs incurred by the taxpayer in providing day care service for children of employees of the taxpayer; or

C. One hundred dollars for each child of an employee of the taxpayer enrolled on a full-time basis, or each full-time equivalent, throughout the taxable year in day care service provided by the taxpayer or in the first year that the taxpayer provides day care services, for each child enrolled on a full-time basis, or each full-time equivalent, on the last day of the year.

2. Definitions. As used in this section, unless the context indicates otherwise, the following terms have the following meanings.

A. "Employing unit" has the same meaning as in Title 26, section 1043.

B. "Providing day care services" means expending funds to build, furnish, license, staff, operate or subsidize a day care center licensed by the Department of Human Services to provide day care services to children of employees of the taxpayer at no profit to the taxpayer or to contract with a day care facility licensed by or registered with the department to provide day care services to children of the employees of the taxpayer. "Providing day care services" also includes the provision of day care resource and referral services to employees and the provision of vouchers by an employer to an employee for purposes of paying for day care services for children of the employee.

3. Carryover; carry back. The amount of the credit that may be used by a taxpayer for a taxable year may not exceed the amount of tax otherwise due under this section. Any unused credit may be carried over to the following year or years for a period not to exceed 15 years or it may be carried back for a period not to exceed 3 years.

Sec. 9. 36 MRSA c. 704-A is enacted to read:

CHAPTER 704-A

ILLEGAL DRUGS

§4421. Definitions

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

1. Dealer. "Dealer" means a person, who in violation of state law, manufactures, produces, ships, transports or imports into the State or in any manner acquires or possesses more than 42-1/2 grams of marijuana, 7 or more grams of any scheduled drug or 10 or more dosage units of any scheduled drug which is not sold by weight.

2. Marijuana. "Marijuana" has the same meaning as that provided in Title 17-A, chapter 45.

3. Scheduled drug. "Scheduled drug" has the same meaning as that provided in Title 17-A, chapter 45, except that it does not include marijuana.

§4422. Administration

The State Tax Assessor shall adopt a uniform system of providing, affixing and displaying official stamps, official labels or other official indicia for marijuana and scheduled drugs on which a tax is imposed.

§4423. Tax payment required for possession

No dealer may possess any marijuana or scheduled drug upon which a tax is imposed by this chapter, unless the tax has been paid on the marijuana or other scheduled drug as evidenced by a stamp or other official indicia.

§4424. No immunity

Nothing in this chapter may in any manner provide immunity for a dealer from criminal prosecution under state law.

§4425. Pharmaceuticals

Nothing in this chapter requires persons registered under Title 32, chapter 41, or otherwise lawfully in possession of marijuana or a scheduled drug to pay the tax required under this chapter.

§4426. Tax rate

A tax is imposed on marijuana and scheduled drugs at the following rates:

A. On each gram or portion of a gram of marijuana, \$3.50; and

B. On each gram of scheduled drug, or portion of a gram, \$200; or

C. On each 50 dosage units of a scheduled drug that is not sold by weight, or portion of those dosage units, \$2,000.

§4427. Penalties for violation

1. Tax penalty. Any dealer violating this chapter is subject to a penalty of 100% of the tax in addition to the tax imposed by this chapter.

2. Criminal penalty. A dealer distributing or possessing marijuana or scheduled drugs without affixing the appropriate stamps, labels or other indicia is guilty of a Class C crime.

§4428. Stamps

The State Tax Assessor shall make available stamps, labels or other indicia to be affixed to all marijuana or scheduled drugs. The purchaser shall pay 100% of face value for each stamp, label or other indicia at the time of the purchase.

§4429. Reports

Any law enforcement agency which seizes or confiscates marijuana or scheduled drugs shall file a report with the State Tax Assessor on a form prescribed by the State Tax Assessor. The report shall include the dealer's name, address and social security number, an inventory of the contraband and other information required by the State Tax Assessor. The report shall be filed within 30 days of the seizure or confiscation of the property.

§4430. Payment due

1. Stamps affixed. When a dealer purchases, acquires, transports or imports into this State marijuana or scheduled drugs on which a tax is imposed by this chapter, and if the indicia evidencing the payment of the tax have not already been affixed, the dealer shall have them permanently affixed to the packaging of all marijuana or scheduled drug immediately after receiving the substance. Each stamp or other official indicia may be used only once.

2. Payable on possession. Taxes imposed upon marijuana or scheduled drugs by this chapter are due and payable immediately upon acquisition or possession in this State by a dealer.

§4431. Burden of proof

The tax and penalties assessed by the State Tax Assessor are presumed to be valid and correctly determined and assessed. The burden is upon the taxpayer to show their incorrectness or invalidity.

§4432. Confidentiality

No information contained in a report or return required by this chapter may be used against the dealer in any criminal proceeding, unless independently obtained, except in connection with a proceeding involving taxes due under this chapter from the taxpayer making the return.

Sec. 10. 36 MRSA §5127, sub-§2, as repealed and replaced by PL 1985, c. 766, §1, is amended to read:

2. Income tax credit for child and dependent care expenses. A resident individual shall be allowed a credit against the tax otherwise due under this Part in the amount of 16% of the federal tax credit allowable for child care expenses in tax year 1986; 20% of the federal tax credit allowable for child and dependent care expenses in tax year 1987; and 25% of the federal tax credit allowable for child and dependent care expenses thereafter. In no case will may this credit reduce the Maine income tax to less than zero.

Sec. 11. 36 MRSA §5217 is enacted to read:

§5217. Employer-assisted day care

1. Credit allowed. A taxpayer constituting an employing unit is allowed a credit against the tax imposed by this Part for each taxable year equal to the lowest of:

A. Five thousand dollars;

B. Twenty percent of the costs incurred by the taxpayer in providing day care service for children of employees of the taxpayer; or

C. One hundred dollars for each child of an employee of the taxpayer enrolled on a full-time basis, or each full-time equivalent, throughout the taxable year in day care service provided by the taxpayer or in the first year that the taxpayer provides day care services, for each child enrolled on a full-time basis, or each full-time equivalent, on the last day of the year.

2. Definitions. As used in this section, unless the context indicates otherwise, the following terms have the following meanings.

A. "Employing unit" has the same meaning as in Title 26, section 1043.

B. "Providing day care services" means expending funds to build, furnish, license, staff, operate or subsidize a day care center licensed by the Department of

Human Services to provide day care services to children of employees of the taxpayer at no profit to the taxpayer or to contract with a day care facility licensed by or registered with the department to provide day care services to children of the employees of the taxpayer. "Providing day care services" also includes the provision of day care resource and referral services to employees and the provision of vouchers by an employer to an employee for purposes of paying for day care services for children of the employee.

3. Carryover; carry back. The amount of the credit that may be used by a taxpayer for a taxable year may not exceed the amount of tax otherwise due under this section. Any unused credit may be carried over to the following year or years for a period not to exceed 15 years or it may be carried back for a period not to exceed 3 years.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect July 1, 1987, except that section 6 takes effect October 1, 1988. Sections 1, 2, 7 and 10 apply to tax years beginning on or after January 1, 1987. Sections 8 and 11 apply to tax years beginning on or after January 1, 1988.

Effective July 1, 1987, unless otherwise indicated.

CHAPTER 344

H.P. 1159 — L.D. 1585

AN ACT to Clarify the Requirements for the Payment of Insurance Claims.

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

24-A MRSA §2436, as repealed and replaced by PL 1977, c. 357, is repealed and the following enacted in its place:

§2436. Late payment

1. A claim for payment of benefits under a policy of insurance against loss delivered or issued for delivery within this State is payable within 30 days after proof of loss is received by the insurer and ascertainment of the loss is made either by written agreement between the insurer and the insured or by filing with the insured of an award by arbitrators as provided for in the policy, and a claim which is neither disputed nor paid within 30 days is overdue, provided that if during the 30 days the insurer, in writing, notifies the insured that reasonable additional information is required, the undisputed claim shall not be overdue until 30 days following receipt by the insurer of the additional required information; except that the time period applicable to a standard fire policy and to that portion of a policy providing a combination of coverages, as described in section 3003, insuring against the peril of fire shall be 60 days, as provided in section 3002.