

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND FOURTEENTH LEGISLATURE
FIRST SPECIAL SESSION

August 21, 1989 to August 22, 1989

and

SECOND REGULAR SESSION

January 3, 1990 to April 14, 1990

THE GENERAL EFFECTIVE DATE FOR
NON-EMERGENCY LAWS IS
July 14, 1990

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

J.S. McCarthy Company
Augusta, Maine
1990

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
SECOND REGULAR SESSION

of the
ONE HUNDRED AND FOURTEENTH LEGISLATURE

January 3, 1990 to April 14, 1990

CHAPTER 604

S.P. 837 - L.D. 2145

An Act to Amend the Implementation Date
of the Drug Testing Laws

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

Whereas, under the provisions of Public Law 1989, chapter 536, employee assistance programs must be certified and elements of substance abuse testing programs must be approved by the Department of Human Services under rules promulgated by the department; and

Whereas, under that Act, the Department of Labor must review and approve elements of employer-implemented substance abuse testing programs under rules promulgated by the department; and

Whereas, in order to ensure that the purposes of the drug testing law are fulfilled and that the programs developed under the Act are in compliance, it is necessary that the implementing date of January 1, 1990, be amended to provide adequate time for a full and complete review of the programs proposed by employers; 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. 26 MRSA §683, sub-§3, as enacted by PL 1989, c. 536, §§1 and 2, is amended to read:

3. Copies to employees and applicants. The employer shall provide each employee with a copy of the written policy approved by the Department of Labor under section 686 and a copy of this subchapter at least 60 days before any portion of the written policy applicable to employees takes effect. The employer shall provide each employee with a copy of any change in a written policy approved by the Department of Labor under section 686 at least 60 days before any portion of the change applicable to employees takes effect. If applicants are subject to testing under the written policy, the employer shall provide each applicant with a copy of the written policy under subsection 2 and a copy of this subchapter before administering a substance abuse test to the applicant. The 60-day notice period provided for employees under this subsection does not apply to applicants.

Sec. 2. PL 1989, c. 536, §2 is amended to read:

Sec. 2. Transition. No An employer may not commence a workplace substance abuse testing program after

the effective date of this Act until January 1, 1990, when the substance abuse testing program must comply with this Act and rules adopted under this Act. All workplace substance abuse testing programs in existence on the effective date of this Act may continue operation until January 1, 1990. All workplace substance abuse testing programs must comply fully with this Act and rules adopted under this Act on January 1, 1990.

All workplace substance abuse testing programs in existence on the effective date of this Act that include the testing of applicants may continue testing applicants as provided in that program until March 1, 1990, except that if the employer submits a written policy for approval by the Department of Labor, any applicant testing must be conducted pursuant to the submitted policy, whether or not the policy has been approved by the Department of Labor.

If the employer submits a written policy for approval by the Department of Labor before January 1, 1990, any workplace substance abuse testing program conducted by that employer on the effective date of this Act that included the testing of employees may continue testing employees as provided in the submitted policy until March 1, 1990, whether or not the policy has been approved by the Department of Labor. Testing by that employer must comply with this Act and rules adopted under this Act on March 1, 1990, or the date on which the Department of Labor approves the employer's written policy, whichever is earlier. Notwithstanding the Maine Revised Statutes, Title 26, section 683, subsection 3, any such employer need not provide a copy of the written policy and Title 26, chapter 7, subchapter III-A to its employees 60 days before the policy takes effect but must only provide a copy of the policy and Title 26, chapter 7, subchapter III-A to its employees before the policy may take effect.

If an employer does not submit a written policy for approval by the Department of Labor before January 1, 1990, any workplace substance abuse testing program conducted by that employer on the effective date of this Act that includes the testing of employees must comply on January 1, 1990, with this Act and rules adopted under this Act related to the testing of employees.

All workplace substance abuse testing programs must comply with this Act and rules adopted under this Act on March 1, 1990, or the date on which the Department of Labor approves the employer's written policy, whichever is earlier.

Sec. 3. Retroactivity. This Act applies retroactively to January 1, 1990.

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

Effective January 16, 1990.