

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

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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 674

H.P. 1365 - L.D. 1882

An Act Relating to Preranged Funerals
or Burial Plans

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

32 MRSA §1401, as amended by PL 1989, c. 450, §13, is further amended by adding before the last paragraph a new paragraph to read:

Nothing in this section may be construed as prohibiting any person, including a payor, from serving as a mortuary cotrustee with the payee.

See title page for effective date.

CHAPTER 675

S.P. 738 - L.D. 1942

An Act to Clarify the Definition of Employer
Under the Workers' Compensation Laws

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

Sec. 1. 39 MRSA §2, sub-§1-A, as amended by PL 1981, c. 283, §1, is further amended to read:

1-A. Private employer. The term "private employer" includes corporations, including professional corporations, partnerships and natural persons. Any agricultural employer otherwise included under this Act is not included when harvesting 150 cords of wood or less each year from farm wood lots, provided that, in order to qualify for this exemption, the employer must be covered by an employer's liability insurance policy with total limits of not less than \$25,000 and medical payment coverage of not less than \$1,000.

Sec. 2. 39 MRSA §2, sub-§5, ¶A, as amended by PL 1987, c. 737, Pt. C, §§101 and 106; and as amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is further amended to read:

A. "Employee" includes officials of the State, counties, cities, towns, water districts and all other quasi-public corporations of a similar character, every duly elected or appointed executive officer of a private corporation, other than a charitable, religious, educational or other nonprofit corporation, and every person in the service of another under any contract of hire, express or implied, oral or written, except:

(1) Persons engaged in maritime employment or in interstate or foreign commerce,

who are within the exclusive jurisdiction of admiralty law or the laws of the United States; and persons operating as sternmen as defined in ~~Title 36, section 5102, subsection 8-A;~~

(2) Firefighters, including volunteer firefighters who are active members of a volunteer fire fighters' association, as defined in Title 30-A, section 3151; volunteer emergency medical ~~services' services~~ persons, as defined in Title 32, section 83, subsection 12; and ~~police officers~~ police officers shall be deemed employees within the meaning of this Act. In computing the average weekly wage of an injured volunteer firefighter or volunteer emergency services' person, the average weekly wage shall be taken to be the earning capacity of the injured employee in the occupation in which ~~he the employee~~ is regularly engaged. Employers who hire ~~workmen workers~~ within this State to work outside the State may agree with such ~~workmen workers~~ that the remedies under this Act shall be exclusive as regards injuries received outside this State arising out of and in the course of that employment; and all contracts of hiring in this State, unless otherwise specified, shall be presumed to include such an agreement. Any reference to an employee who has been injured shall, when the employee is dead, include ~~his~~ the employee's legal representatives, dependents and other persons to whom compensation may be payable;

(3) Notwithstanding any other provisions of this Act any charitable, religious, educational or other nonprofit corporation that may be or may become an assenting employer under this Act may cause any duly elected or appointed executive officer to be an employee of the corporation by specifically including the executive officer among those to whom the corporation secures payment of compensation in conformity with subchapter II; and the executive officer shall remain an employee of the corporation under this Act while such payment is so secured. With respect to any corporation that secures compensation by making a contract of workers' compensation insurance, specific inclusion of the executive officer in the contract shall cause the officer to be an employee of the corporation under this Act;

(4) Any person who ~~states, in writing a written statement~~ to the commission, ~~that he~~ waives all the benefits and privileges provided by the workers' compensation laws, provided that the commission ~~shall have~~ has found that person to be a bona fide owner of at least 20% of the outstanding voting stock of the corporation by which ~~he that person~~ is employed or

a shareholder of the professional corporation by which that person is employed and that this waiver was not a prerequisite condition to employment. For the purposes of this subparagraph, the term "professional corporation" has the same meaning as found in Title 13, section 703, subsection 1.

Any person may revoke or rescind ~~his~~ that person's waiver upon 30 days' written notice to the commission and ~~his~~ that person's employer. The parent, spouse or child of a person who has made a waiver under the previous sentence may state, in writing, that ~~he~~ the parent, spouse or child waives all the benefits and privileges provided by the workers' compensation laws if the commissioner finds that the waiver is not a prerequisite condition to employment and if the parent, spouse or child is employed by the same corporation which employs the person who has made the first waiver;

(5) The parent, spouse or child of a sole proprietor who is employed by that sole proprietor or the parent, spouse or child of a partner who is employed by the partnership of that partner may state, in writing, that ~~he~~ the parent, spouse or child waives all the benefits and privileges provided by the workers' compensation laws if the commission finds that the waiver is not a prerequisite condition to employment;

(6) Employees of an agricultural employer when harvesting 150 cords of wood or less each year from farm wood lots, provided that the employer is covered under an employer's liability insurance policy as required in subsection 1-A;

(7) An independent contractor; or

(8) If a person employs an individual contractor, any employee of the independent contractor is not considered an employee of that person for the purposes of this Act. The person who employs an independent contractor is not responsible for providing workers' compensation insurance covering the payment of compensation and benefits to the employees of the independent contractor. No insurance company may charge a premium to any person for any employee excluded by this subparagraph.

See title page for effective date.

CHAPTER 676

H.P. 1630 - L.D. 2257

An Act to Amend the Law Concerning the Hunting of Coyote

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

12 MRSA §7108, sub-§3, as amended by PL 1987, c. 684, §2, is further amended to read:

3. Open season. Notwithstanding section 7406, subsection 5, ~~there shall be~~ an open season for hunting coyotes at night in all counties of the State from January 1st to April 30th ~~in 1989 and 1990 and January 1st to March 31st thereafter~~ is established. The commissioner may terminate this open season at any time in any area if, in ~~his~~ the commissioner's opinion, an immediate emergency action is necessary due to adverse weather conditions or illegal hunting activity.

See title page for effective date.

CHAPTER 677

S.P. 869 - L.D. 2229

An Act Concerning Retirees' Return to Employment

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

Sec. 1. 5 MRSA §17103, sub-§6, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

6. Rights, credits and privileges; decisions. The board shall in all cases make the final and determining administrative decision in all matters affecting the rights, credits and privileges of all members of the retirement system whether in participating local districts or in the state service.

Whenever the board finds that, because of an error or omission on the part of the employer of a member or retired member, a member or retired member is required to make a payment or payments to the retirement system, the board may waive payment of all or part of the amount due from the member or retired member.

Sec. 2. 5 MRSA §18252, sub-§6 is enacted to read:

6. Restoration to service. If any person who is the recipient of a service retirement benefit is covered by the United States Social Security Act upon being restored to service, continuation of that person's benefit is not subject to section 18457, but is governed by the following.