

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND FIFTEENTH LEGISLATURE

FIRST REGULAR SESSION

December 5, 1990 to July 10, 1991

Chapters 1 - 590

THE GENERAL EFFECTIVE DATE FOR
NON-EMERGENCY LAWS IS
OCTOBER 9, 1991

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
1991

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
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1991

Whereas, licensure of the state mental health hospitals provides a quality control mechanism for patients; 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:

22 MRSA §1813, as repealed and replaced by PL 1989, c. 875, Pt. E, §34 and c. 878, Pt. A, §59, is repealed and the following enacted in its place:

§1813. Licenses for new and existing hospitals

A person, partnership, association or corporation or any state, county or local governmental unit may not continue to operate an existing hospital, sanatorium, convalescent home, rest home, nursing home or ambulatory surgical facility or open a hospital, sanatorium, convalescent home, rest home, nursing home or ambulatory surgical facility unless the operation is approved and regularly licensed by the State.

Notwithstanding any other provision of this Title, a state-operated mental health hospital subject to licensure may have its current conditional license extended until January 1, 1993. By January 1, 1993, the department shall adopt rules that apply specifically to the licensure of psychiatric and mental health hospitals. Until those rules are adopted, the department shall apply existing hospital licensure rules to psychiatric and mental health hospitals.

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

Effective May 7, 1991.

CHAPTER 105

H.P. 267 - L.D. 387

An Act to Amend Employment Practices Regarding Employee Personnel Files

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

26 MRSA §631, as amended by PL 1989, c. 178, is further amended to read:

§631. Employee right to review personnel file

The employer shall, upon written request from an employee or former employee, provide the employee, former employee or duly authorized representative with an opportunity to review and copy the employee's personnel file if the employer has a personnel file for that employee. The reviews

~~shall and copying must~~ take place at the location where the personnel files are maintained and during normal office hours unless, at the employer's discretion, a more convenient time and location for the employee are arranged. The cost of copying is paid by the person requesting the copy. The employer may at the employer's discretion allow the review to take place at such other location and time as would be more convenient for the employee. For the purpose of this section, a personnel file ~~shall include~~ includes, but is not be limited to, any formal or informal employee evaluations and reports relating to the employee's character, credit, work habits, compensation and benefits and nonprivileged medical records or nurses' station notes relating to the employee which the employer has in the employer's possession. Any employer who, following a request pursuant to this section, without good cause fails to provide an opportunity for review and copying of a personnel file, within 10 days of receipt of that request, ~~shall be~~ is subject to a civil forfeiture of \$25 for each day that ~~such~~ a failure continues. The total forfeiture may not exceed \$500. For the purposes of this section, the term "nonprivileged medical records or nurses' station notes" means all ~~such~~ those materials that have not been found to be protected from discovery or disclosure in the course of civil litigation under the Maine Rules of Civil Procedure, Rule 26, the Maine Rules of Evidence, Article V or similar rules adopted by the Workers' Compensation Commission or other administrative tribunals.

See title page for effective date.

CHAPTER 106

H.P. 497 - L.D. 691

An Act to Prohibit Refusal to Issue Automobile Insurance Solely because the Applicant Has Reached the Age of 65

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

24-A MRSA §2902-C is enacted to read:

§2902-C. Refusal to issue insurance prohibited

No insurer may refuse to issue motor vehicle liability insurance to an applicant solely because the applicant is 65 years of age or older.

See title page for effective date.

CHAPTER 107

S.P. 280 - L.D. 739

An Act Regarding Moose Permits for People Called to Serve in an Armed Conflict

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

12 MRSA §7076, sub-§6-A is enacted to read:

6-A. Persons in armed forces called to serve in armed conflict. Any person who is issued a moose permit under section 7463-A and who is subsequently called to active duty in the Armed Forces of the United States to serve in an armed conflict and is unable to use the permit is entitled to use the same permit during the next appropriate season following that person's return to the State. Permits used under this section do not affect the number of permits that may be issued by the commissioner under section 7463-A, subsection 4. For purposes of this subsection, "armed conflict" means any military action in which participants are exposed to war-risk hazards as defined in 42 United States Code, Section 1711(b).

See title page for effective date.

CHAPTER 108

H.P. 202 - L.D. 293

An Act to Change the Composition of the Advisory Council on Deferred Compensation Plans

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

5 MRSA §884, as amended by PL 1989, c. 503, Pt. B, §16, is repealed and the following enacted in its place:

§884. Advisory Council on Deferred Compensation Plans

The Advisory Council on Deferred Compensation Plans, established by section 12004-I, subsection 25, shall meet at least once a year, review the operations of the deferred compensation program and advise the Department of Finance on matters of policy relating to the activities under the program. Members of the advisory council are entitled to compensation as provided in chapter 379. The advisory council consists of 7 members as follows.

1. Ex officio members; chair. The ex officio members of the Advisory Council on Deferred Compensation Plans are: the Commissioner of Finance, or the commissioner's designee; the Superintendent of Insurance, or the superintendent's designee; and the Superintendent of Banking, or the superintendent's designee. The Commissioner of Finance, or a designee, is the chair of the advisory council.

2. Retirement system representative. The retirement system representative of the advisory council is the Executive Director of the Maine State Retirement System.

3. Employee representatives. The employee representatives of the advisory council are 3 classified state employees appointed by the Governor as follows:

A. One employee recommended to the Governor by the Maine State Employees Association;

B. One employee recommended to the Governor by the American Federation of State and Municipal Employees; and

C. One employee recommended to the Governor by the Maine State Troopers Association.

Employee representatives are appointed for terms of 3 years, except that of the first appointments, one must be for one year, one for 2 years and one for 3 years.

See title page for effective date.

CHAPTER 109

S.P. 172 - L.D. 427

An Act Relating to Discrimination in Membership in Golf and Country Clubs

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

5 MRSA §4553, sub-§8, as amended by PL 1987, c. 478, §2, is further amended to read:

8. Place of public accommodation. "Place of public accommodation" means any establishment which in fact caters to, or offers its goods, facilities or services to, or solicits or accepts patronage from, the general public; and it includes, but is not limited to: Inns, taverns, roadhouses, hotels, whether conducted for the entertainment or accommodation of transient guests or of those seeking health, recreation or rest, restaurant, eating houses or any place where food is sold for consumption on the premises; buffets, saloons, barrooms or any store, park or enclosure where spirituous or malt liquors are sold; ice cream parlors, confectioneries, soda fountains and all stores where beverages of any kind are retailed for consumption on the premises; retail stores and establishments; dispensaries, clinics, hospitals, rest rooms, bathhouses, barber shops, beauty parlors, theatres, motion picture houses, music halls, airdromes, roof gardens, race courses, skating rinks, amusement and recreation parks, fairs, bowling alleys, golf courses, golf clubs, country clubs, gymnasiums, shooting galleries, billiard and pool parlors, swimming pools, seashore accommodations and boardwalks, public libraries, garages and gasoline stations; all public conveyances operated on land, water or in the air as well as the stations and terminals thereof; public halls and public elevators of buildings occupied by 2 or more tenants or by the owner and one or more tenants; and educational institutions.

See title page for effective date.