

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
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PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION

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ONE HUNDRED AND FIFTEENTH LEGISLATURE

1991

CHAPTER 161

H.P. 226 - L.D. 317

An Act Concerning the Role of Guardians Ad Litem and Other Children's Advocates**Be it enacted by the People of the State of Maine as follows:**

22 MRSA §4041, sub§-3 is enacted to read:

3. Notice to guardian ad litem. The department shall notify the guardian ad litem, as described in section 4005, of any substantial change in circumstances that may have an impact on the best interests of the child.

See title page for effective date.

CHAPTER 162

S.P. 220 - L.D. 547

An Act to Require Prompt Payment of Wages Due Upon Discharge for All Employees**Be it enacted by the People of the State of Maine as follows:**

26 MRSA §626, as amended by PL 1983, c. 652, §1, is further amended to read:

§626. Cessation of employment

Any An employee leaving his or her employment shall must be paid in full within a reasonable time after demand at the office of the employer where payrolls are kept and wages are paid; provided that any overcompensation may be withheld if authorized under section 635 and any loan or advance against future earnings or wages may be deducted if evidenced by a statement in writing signed by said the employee. Whenever the terms of employment include provisions for paid vacations, vacation pay on cessation of employment shall have has the same status as wages earned.

For purposes of this section, the term "employee" means any person who performs services for another in return for compensation, but does not include an independent contractor.

For purposes of this subchapter, a reasonable time ~~shall mean~~ means the earlier of either the next day on which employees would regularly be paid or a day not more than 2 weeks after the day on which the demand is made.

In any action for unpaid wages brought under this subchapter, the employer ~~shall may~~ not deduct as a setoff or counterclaim any ~~moneys money~~ allegedly due the employer as compensation for damages caused to the

employer's property by the employee, or any ~~moneys money~~ allegedly owed to the employer by the employee, notwithstanding any procedural rules regarding counteractions; provided that any overcompensation may be withheld if authorized under section 635 and any loan or advance against future earnings or wages may be deducted if evidenced by a statement in writing signed by said the employee, and that nothing in this section shall may be construed to limit or restrict in any way any rights which that the employer now has to recover, by a separate legal action, any moneys money owed said the employer by said the employee.

An action for unpaid wages under this section may be brought by the affected employee or employees or by the Department of Labor on behalf of the employee or employees. An employer found in violation of this section ~~shall be~~ is liable for the amount of unpaid wages and, in addition, the judgment rendered in favor of the employee or employees ~~shall must~~ include a reasonable rate of interest, an additional amount equal to twice the amount of those wages as liquidated damages and costs of suit, including a reasonable attorney's fee.

See title page for effective date.

CHAPTER 163

H.P. 595 - L.D. 846

An Act Concerning Training and Certification of Code Enforcement Officers**Be it enacted by the People of the State of Maine as follows:**

30-A MRSA §4451, as amended by PL 1989, c. 878, Pt. A, §87, is further amended to read:

§4451. Training and certification for code enforcement officers

1. Certification required; exceptions. Beginning January 1, 1993, a municipality may not employ any individual to perform the duties of a code enforcement officer who is not certified by the office, except that:

A. An individual has 12 months after beginning employment to be trained and certified as provided in this section; and

B. Whether or not any extension is available under paragraph A, the office may waive this requirement for up to one year if the certification requirements cannot be met without imposing a hardship on the municipality employing the individual.

A person employed by a municipality or municipalities as a code enforcement officer for at least 3 years prior to January 1, 1990 is deemed certified under this section and, 5 years after

the effective date of this paragraph, is subject to the recertification requirements of subsection 6.

2. Penalty. Any municipality that violates this section commits a civil violation for which a forfeiture of not more than \$100 may be adjudged. Each day in violation constitutes a separate offense.

2-A. Code enforcement officer; definition and duties. As used in this subchapter, "code enforcement officer" means a person certified under this section and employed by a municipality to enforce all applicable laws and ordinances in the following areas:

A. Shoreland zoning under Title 38, chapter 3, subchapter I, article 2-B;

B. Comprehensive planning and land use under Part 2, Subpart VI-A;

C. Internal plumbing under chapter 185, subchapter III;

D. Subsurface wastewater disposal under chapter 185, subchapter III; and

E. Building standards under chapter 141; chapter 185, subchapter I; and Title 25, chapters 313 and 331.

3. Training and certification of code enforcement officers. In cooperation with the Technical College System and the Department of Human Services, the office shall establish a continuing education program for individuals engaged in code enforcement. This program ~~shall~~ **must** provide basic and advanced training in the technical and legal aspects of code enforcement necessary for certification, ~~including, but not limited to:~~

~~A. Plumbing inspection;~~

~~B. Soils and site evaluation;~~

~~C. Electrical inspection;~~

~~D. State and federal environmental requirements;~~

~~E. Zoning ordinances;~~

~~F. Court techniques; and~~

~~G. Other enforcement information.~~

4. Examination. The office shall conduct at least one examination each year to examine candidates for certification ~~or recertification~~ at a time and place designated by it. The office may conduct additional examinations to carry out the purposes of this subchapter.

5. Certification standards. The office shall establish by rule the qualifications, conditions and licensing standards

and procedures for the certification and recertification of individuals as code enforcement officers. A code enforcement officer need only be certified in the areas of actual job responsibilities. The rules established under this subsection ~~shall~~ **must** identify standards for each of the areas of training under subsection 3 2-A, in addition to general standards that apply to all code enforcement officers.

6. Certification; terms; revocation. The office shall certify individuals as to their competency to successfully enforce ordinances and other land use regulations and permits granted under those ordinances and regulations and shall issue certificates attesting to the competency of those individuals to act as code enforcement officers. Certificates are valid for 5 years unless revoked by the Administrative Court. An examination is not required for recertification of code enforcement officers. The office shall recertify a code enforcement officer if the code enforcement officer successfully completes at least 12 hours of approved training in each area of job responsibility during the 5-year certification period.

A. The Administrative Court may revoke the certificate of a code enforcement officer, in accordance with Title 4, chapter 25, when it finds that:

(1) The code enforcement officer has practiced fraud or deception;

(2) Reasonable care, judgment or the application of a duly trained and knowledgeable code enforcement officer's ability was not used in the performance of the duties of the office; or

(3) The code enforcement officer is incompetent or unable to perform properly the duties of the office.

B. Code enforcement officers whose certificates are invalidated under this subsection may be issued new certificates provided that they are newly certified as provided in this section.

7. Other professions unaffected. This subchapter ~~shall~~ **may** not be construed to affect or prevent the practice of any other profession.

See title page for effective date.

CHAPTER 164

H.P. 194 - L.D. 285

An Act to Amend the Domestic Relations Law

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

Sec. 1. 19 MRSA §214, sub-§5, ¶K, as enacted by PL 1983, c. 813, §1, is amended to read: