

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
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B. "Earnable compensation" does not include:

(1) Payment for more than 30 days of unused accumulated or accrued sick leave, payment for more than 30 days of unused vacation leave or payment for more than 30 days of a combination of both;

(2) Any other payment ~~which~~ that is not compensation for actual services rendered or ~~which~~ that is not paid at the time the actual services are rendered; or

(3) Teacher recognition grants paid pursuant to Title 20-A, section 13503-A.

A payment for unused sick leave or unused vacation leave may not be included as part of earnable compensation unless it is paid upon the member's last termination before the member applies for retirement benefits.

See title page for effective date.

CHAPTER 433

H.P. 1150 - L.D. 1675

An Act to Clarify the Laws Pertaining to Underground Oil Storage Tanks

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

Sec. 1. 38 MRSA §563-A, sub-§1-C is enacted to read:

1-C. Extension. The removal requirement for an underground oil storage tank or facility prescribed in subsection 1 is extended 12 months if, prior to the removal date prescribed in subsection 1, a person required to remove an underground oil storage facility or tank:

A. Can not secure financing for that removal as evidenced by 3 letters from financial institutions; or

B. Can not obtain the services of a certified underground oil storage tank installer or remover required under section 566-A as evidenced by 3 letters from certified underground oil storage tank installers or removers.

Sec. 2. 38 MRSA §568, sub-§3, ¶C is enacted to read:

C. Upon completion of the clean-up activity, the commissioner shall issue a letter to the responsible party or parties indicating that the clean-up order has been complied with for one or more parcels.

Sec. 3. 38 MRSA §568-A, sub-§1, ¶A, as enacted by PL 1989, c. 865, §15 and affected by §§24 and 25, is amended to read:

A. The applicant must submit within 90 days of reporting the discharge; a written request to the commissioner to be covered by the fund. The request must include:

(1) A description of the discharge and the locations threatened or affected by the discharge, to the extent known;

(2) An agreement that the applicant shall pay the initial costs of cleanup and 3rd-party damage claims up to the deductible amount specified in subsection 2; and

(3) Documentation that the applicant is in substantial compliance with the requirements of paragraph B.

Within 90 days of receipt of an applicant's completed request for coverage by the fund submitted pursuant to subsection 1, paragraph A, the commissioner must issue an order approving or denying the applicant's request. Failure to issue an order within this period constitutes approval of the applicant's request for coverage by the fund.

Sec. 4. 38 MRSA §569, first ¶, as amended by PL 1989, c. 865, §16 and affected by §§24 and 25, is further amended to read:

The Ground Water Oil Clean-up Fund is established to be used by the department as a nonlapsing, revolving fund for carrying out the purposes of this subchapter. The balance in the fund is limited to \$15,000,000. When the fund balance reaches \$15,000,000, the collection of fees, as prescribed under subsection 4-A, paragraphs A and B, abates until the fund balance is reduced to \$12,500,000, at which point those fees are reimposed. To this fund are credited all registration fees, fees for late payment or failure to register, penalties, transfer fees, reimbursements, assessments and other fees and charges related to this subchapter. To this fund are charged any and all expenses of the department related to this subchapter, including administrative expenses, payment of 3rd-party damages covered by this subchapter, costs of removal of discharges of oil and costs of cleanup of discharges, including, but not limited to, restoration of water supplies and any obligations of the State pursuant to Title 10, section 1024, subsection 1.

Sec. 5. 38 MRSA §569, sub-§4-A, ¶¶A and B, as enacted by PL 1989, c. 865, §16 and affected by §§24 and 25, are amended to read:

A. Until January 1, 1994, and after January 1, 1998, a fee is assessed of 44¢ per barrel of gasoline; 25¢ per barrel of refined petroleum products and their by-products other than gasoline, liquid asphalt and #6 fuel oil, including #2 fuel oil, kerosene, jet fuel and diesel fuel; and 10¢ per barrel of #6 fuel oil. The fee is assessed on the first transfer of those products by oil terminal facility licensees, as defined in section 542, subsection 7, and on a person required to register with the commissioner under section 545-B; who first transports oil ~~in~~ into the State. The fee is not assessed on petroleum products that are exported from this State. These fees must be paid monthly on the basis of records certified to the commissioner. This subsection does not apply to waste oil transported into the State in any motor vehicle that has a valid license issued by the department for the transportation of waste oil pursuant to section 1319-O and which is subject to fees established under section 1319-I.

B. After January 1, 1994, the fees assessed in paragraph A increase to 48¢ per barrel of gasoline and 27¢ per barrel of refined petroleum products and their by-products other than gasoline, liquid asphalt and #6 fuel oil, including #2 fuel oil, kerosene, jet fuel and diesel fuel. The fee is not assessed on petroleum products that are exported from this State. The fees assessed on #6 fuel oil remain at 10¢ per barrel. This paragraph is repealed on January 1, 1998.

Sec. 6. 38 MRSA §569, sub-§4-D is enacted to read:

4-D. Reimbursement for fees imposed on transfers out of State. Any person who prior to the effective date of this subsection has paid a fee assessed pursuant to subsection 4-A, paragraph A on petroleum products that were exported from this State must be reimbursed by the department upon presentation of documentation of that payment and transfer.

Sec. 7. Repeal. Sections 3 to 5 of this Act are repealed December 31, 1999.

See title page for effective date.

CHAPTER 434

S.P. 411 - L.D. 1125

An Act to Amend the Disability Provisions of the Maine State Retirement System Laws

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

Sec. 1. 5 MRSA §17904, sub-§2, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

2. Exception. A member with fewer than 5 years of continuous creditable service immediately preceding ~~his~~ that member's application for a disability retirement benefit is not eligible for that benefit if the disability is the result of a physical or mental condition which existed before the member's latest membership in the retirement system, unless the disability is a result of, or has been substantially aggravated by, an injury or accident received in the line of duty but from events or circumstances not usually encountered within the scope of the member's employment.

Sec. 2. 5 MRSA §17924, sub-§2, as enacted by PL 1989, c. 409, §§8 and 12, is amended to read:

2. Exception. A member with fewer than 5 years of continuous creditable service immediately preceding that member's application for a disability retirement benefit is not eligible for that benefit if the disability is the result of a physical or mental condition which existed before the member's membership in the retirement system, unless the disability is a result of, or has been substantially aggravated by, an injury or accident received in the line of duty but from events or circumstances not usually encountered within the scope of the member's employment.

Sec. 3. 5 MRSA §18504, sub-§2, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

2. Exception. A member with fewer than 5 years of continuous creditable service immediately preceding ~~his~~ that member's application for a disability retirement benefit is not eligible for that benefit if the disability is the result of a physical or mental condition which existed before the member's latest membership in the retirement system, unless the disability is a result of, or has been substantially aggravated by, an injury or accident received in the line of duty but from events or circumstances not usually encountered within the scope of the member's employment.

Sec. 4. 5 MRSA §18524, sub-§2, as enacted by PL 1989, c. 409, §§11 and 12, is amended to read:

2. Exception. A member with fewer than 5 years of continuous creditable service immediately preceding that member's application for a disability retirement benefit is not eligible for that benefit if the disability is the result of a physical or mental condition which existed before the member's membership in the retirement system, unless the disability is a result of, or has been substantially aggravated by, an injury or accident received in the line of duty but from events or circumstances not usually encountered within the scope of the member's employment.

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