

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND FIFTEENTH LEGISLATURE

SECOND SPECIAL SESSION
December 12, 1991 to January 7, 1992

SECOND REGULAR SESSION
January 8, 1992 to March 31, 1992

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 30, 1992

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
1992

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
SECOND REGULAR SESSION

of the
ONE HUNDRED AND FIFTEENTH LEGISLATURE

1991

that the responsible parent is under a court or administrative order to support.

A. If the department fails to receive sufficient funds to meet the responsible parent's current support obligation to all of the children of all of the families, the department shall distribute pro rata the funds received so that each family of children receives the percentage of the funds received that represents that family's share of current support when calculated from the responsible parent's total current support obligation for all families.

B. Even if the responsible parent makes a designation or otherwise directs a distribution to the families of children, the department shall distribute the funds received as provided in paragraph A if the designation or other direction would result in a distribution not in compliance with paragraph A.

C. The department shall distribute the funds received as provided in paragraph A regardless of the source of the collection of the funds.

D. The department must be held harmless as to any claim of the responsible parent for its distribution of funds received as provided in paragraph A.

2. Reduction of debt under section 495. Any money realized by the department by proceedings under this subchapter reduces the debt of a responsible parent under section 495 and must be paid to the recipient of assistance for the express benefit of the dependent children to the extent permissible by federal law and regulations.

Sec. 14. 19 MRSA §777-B is enacted to read:

§777-B. Discovery of past income in department support enforcement cases

The responsible parent has an obligation to supply evidence regarding past income in order to calculate the debt owed the department or an applicant for services under section 448-A if the evidence is reasonably available. A request for evidence regarding past income may be made through a document request pursuant to the Maine Rules of Civil Procedure, Rule 34.

Failure to provide the evidence in the time period set forth in the Maine Rules of Civil Procedure, Rule 34, absent a showing of good cause for failure to do so or notification to the department of good faith attempts to secure the information, allows the court to draw any reasonable inference from the evidence available, including an inference that the responsible parent had a greater earning capacity than the average weekly wage of a worker within this State as defined by the most recent

Department of Labor statistics. This remedy is in addition to remedies available under rules of discovery.

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

Effective March 17, 1992.

CHAPTER 674

H.P. 1473 - L.D. 2085

An Act to Amend the Laws Governing Placement of Insurance in the Surplus Lines Market

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

Whereas, current law requires that brokers of surplus lines insurance remit a surplus tax once a year; and

Whereas, changing the law so that brokers must remit the tax on a monthly basis will help revenues by making that money available immediately; 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. 24-A MRSA §§2016 and 2017, as amended by PL 1973, c. 585, §12, are repealed and the following enacted in their place:

§2016. Periodic reports and tax payments

1. Each broker shall file on or before the 15th day of each month a report with the superintendent showing the amount of insurance placed for any person or organization, the location of each risk, the gross premium charged, the name of each insurer with which the insurance was placed, the date and term of each insurance contract issued during the preceding month and any other pertinent information required by the superintendent. The report must show in the same detail each contract cancelled during the month covered by the report and the return premium on it.

Within 45 days of the end of each calendar quarter, the broker shall pay to the Treasurer of State 3% of the difference between the gross premiums and the return premiums reported for the business transacted during the preceding calendar quarter.

2. If a surplus lines policy covers risks or exposures only partially in this State the tax so payable must be computed upon the proportion of the premium that is properly allocable to the risks or exposures located in this State.

§2017. Annual report

1. Each broker shall file an annual report in February with the superintendent and the Treasurer of State containing a sworn statement of the gross premium charged for insurance placed and the gross return premiums on the insurance cancelled during the year ending on the 31st of the preceding December.

Sec. 2. 24-A MRSA §2018, as amended by PL 1991, c. 298, §5, is further amended to read:

§2018. Failure to file statement or remit tax; penalty

If any broker fails to file an annual the monthly statement; or fails to remit the tax provided by section 2017, prior to the first day of March 2016 within 30 days after the tax is due, the superintendent may, following an adjudicatory hearing, assess a penalty of not less than \$25 for each day of delinquency commencing with the first day of March. Any fine collected by the superintendent must be paid to the Treasurer of State and credited to the Insurance Regulatory Fund.

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

Effective March 17, 1992.

CHAPTER 675

H.P. 1291 - L.D. 1866

An Act to Prevent Certain Restraint of Trade Practices

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

Sec. 1. 32 MRSA §2417, sub-§4-A is enacted to read:

4-A. Release of contact lens prescription. After contact lenses have been adequately fitted and the patient released from immediate follow-up care by the optometrist, the patient may request a copy of the contact lens specifications from the optometrist. The optometrist shall provide a copy of the prescription, at no cost, which must contain the information necessary to properly duplicate the current prescription. The prescription must contain an expiration date. The prescription may contain fitting guidelines and may also contain specific instructions for use by the patient.

The prescribing optometrist is not liable for any injury or condition to a patient that results from negligence in packaging, manufacturing or dispensing lenses by anyone other than the prescribing optometrist.

The dispensing party may dispense contact lenses only upon receipt of a written prescription, except that an optometrist may fill a prescription of another optometrist or a physician without a copy of the prescription. Except in the case of a physician who has previously seen the wearer, a contact lens prescription may not be filled by mail, but must be filled by being personally dispensed to the contact lens wearer. A person who fills a contact lens prescription shall maintain a file of that prescription for a period of 6 years. Any person, corporation or other entity that improperly fills a contact lens prescription or fills an expired prescription commits a civil violation for which a forfeiture of not less than \$250 nor more than \$1,000 may be adjudged.

Any person may file a complaint with the board seeking disciplinary action concerning violations of this subsection. The board shall investigate or cause to be investigated and shall resolve a complaint on its own motion or upon receipt of a written complaint. The board shall conduct its actions in accordance with the Maine Administrative Procedure Act.

Sec. 2. 32 MRSA §2418-B is enacted to read:

§2418-B. Consumer information

The board shall develop a publication that contains the information it believes necessary to educate consumers of optical products and services. The publication must inform the consumer of the consumer's right to bring complaints to the attention of the board. The publication must contain the board's address and phone number.

The board shall provide reasonable quantities of this publication at no charge to licensed practitioners.

Sec. 3. 32 MRSA §2429 is enacted to read:

§2429. Consumer information

A person requesting an eye examination must be given at the time of the request the consumer information publication required in section 2418-B.

Sec. 4. 32 MRSA §2600 is enacted to read:

§2600. Release of contact lens prescription

After contact lenses have been adequately fitted and the patient released from immediate follow-up care by the physician, the patient may request a copy of the contact lens specifications from the physician. The physician shall provide a copy of the prescription, at no cost,