

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

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SECOND REGULAR SESSION
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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

In addition to any other right to avoid a contract or sale, the first-time buyer of a home food service plan has the right prior to delivery of the food or nonfood items to avoid the contract or sale until midnight of the 10th day after the date on which the buyer signs a contract subject to this subchapter. If the contract requires the seller to deliver a home food service plan, the seller shall allow the first-time buyer of a home food service plan to avoid the contract or sale subject to this subchapter, without charge, at the time of delivery of the food or nonfood items.

Sec. 5. 32 MRSA §4681, sub-§3, as amended by PL 1991, c. 239, §3, is further amended to read:

3. Merchandise. “Merchandise” includes any objects, wares, goods, promises, commodities, intangibles, services or other things of value but does not include food, ~~except food sold by directly contacting the consumer in the consumer’s residence~~ or technical or vocational schools located outside of the State that are registered pursuant to Title 20-A, section 9501.

See title page for effective date.

CHAPTER 751

H.P. 1541 - L.D. 2174

An Act to Protect School Students from Potential Harm

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

Sec. 1. 29 MRSA §1312-D, sub-§12 is enacted to read:

12. Suspension or revocation of school bus operator endorsement. The Secretary of State shall:

A. Permanently revoke the school bus operator endorsement of any person convicted for a violation of section 1312-B who operated a school or private school activity bus during the commission of the offense;

B. Suspend for a period of at least 3 years the school bus operator endorsement of any person convicted for a first violation of section 1312-B. The person whose school bus operator endorsement has been suspended for a first violation of section 1312-B may petition the Secretary of State to restore the endorsement after one year of the suspension has been completed. The petition must include a recommendation from the school superintendent that the endorsement be restored. The Secretary of State may grant the petition with any

conditions, restrictions or terms determined to be in the interest of highway safety; or

C. Suspend for a period of at least 6 years the school bus operator endorsement of any person convicted of a 2nd or subsequent violation of section 1312-B within a 6-year period as defined by section 1312-B, subsection 2, paragraphs F and G.

This subsection applies to offenses that occur after the effective date of this subsection.

Sec. 2. 29 MRSA §2013, sub-§3 is enacted to read:

3. Current endorsement holders. The Secretary of State shall suspend or revoke a school operator’s endorsement as provided in section 1312-D, subsection 12.

See title page for effective date.

CHAPTER 752

S.P. 833 - L.D. 2137

An Act to Amend the Definition of Ambulatory Surgical Facilities

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

Sec. 1. 22 MRSA §1812-E, as enacted by PL 1989, c. 572, §2, is amended to read:

§1812-E. Ambulatory surgical facility

1. Definition. As used in this chapter, unless the context otherwise indicates, “ambulatory surgical facility” has the same meaning as in section 303 means a facility with a primary purpose of providing elective surgical care to a patient who is admitted to and discharged from the facility within the same day. In order to meet this primary purpose, a facility must at least administer anesthetic agents, maintain a sterile environment in a surgical suite and charge a facility fee separate from the professional fee. “Ambulatory surgical facility” does not include:

A. A facility that is licensed as part of a hospital;

B. A facility that provides services or accommodations for patients who stay overnight;

C. A facility existing for the primary purpose of performing terminations of pregnancies; or

D. The private office of a physician or dentist in individual or group practice, unless that facility or

office is certified as a Medicare ambulatory surgical center.

2. Standards. The department shall establish standards for the licensure of ambulatory surgical facilities effective ~~January 1, 1990~~ July 1, 1992. The standards ~~shall~~ must provide that ambulatory surgical facilities that are certified for the federal Medicare and Medicaid programs ~~are deemed to be eligible~~ meet the requirements for state licensure.

3. Annual inspection. The department shall ~~inspect annually ambulatory surgical facilities, except that state inspections need not be performed during a year when a Medicare inspection is performed.~~

Sec. 2. 22 MRSA §1815, as repealed and replaced by PL 1989, c. 878, Pt. A, §60, is amended to read:

§1815. Fees

Each application for a license to operate a hospital, convalescent home or nursing home ~~shall~~ must be accompanied by a nonrefundable fee of \$10 for each bed contained within the facility. Each application for a license to operate an ambulatory surgical facility ~~shall~~ must be accompanied by the fee established by the department. The department shall establish the fee for an ambulatory surgical facility, not to exceed ~~\$250~~ \$500, on the basis of a sliding scale representing size, number of employees and scope of operations. All licenses issued ~~shall~~ must be renewed annually upon payment of a like fee. The State's share of all fees received by the department under this chapter ~~shall~~ must be deposited in the General Fund. ~~No~~ A license granted may not be assignable or transferable. State hospitals are not required to pay licensing fees.

See title page for effective date.

CHAPTER 753

H.P. 1561 - L.D. 2199

An Act to Clarify Responsibility for Workers' Compensation Coverage for Town Forest Fire Wardens and Laborers Hired for Forest Fire-fighting Activities

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

Whereas, there is significant ambiguity in the law regarding who is responsible for workers' compensation coverage for forest fire wardens and laborers hired for forest fire-fighting activities; and

Whereas, this ambiguity could result in significant costs to forest fire wardens, hired laborers, the State

and municipalities should the forest fire wardens or hired laborers be injured while performing their duties; 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. 39 MRSA §6 is enacted to read:

§6. Workers' compensation coverage for forest firefighters

Notwithstanding Title 12, section 8901, subsection 2 and Title 12, sections 8902, 8905, 9201, 9202, 9204 and 9205, workers' compensation coverage is provided to forest fire wardens and laborers hired by municipalities for forest fire-fighting activities as follows.

1. Municipal responsibility. The municipality is responsible for workers' compensation costs for injuries that occur while the municipality is in actual control of forest fire suppression activities.

2. State responsibility. The State is responsible for workers' compensation costs for injuries that occur while the State is in actual control of forest fire suppression activities.

For purposes of this section, "actual control" means on-site supervisory responsibility for the entire command structure directing forest fire suppression activities over the fire scene. A municipality is assumed to be in actual control until the State accepts or takes actual control.

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

Effective March 27, 1992.

CHAPTER 754

H.P. 1461 - L.D. 2073

An Act to Conform the Maine Income Tax Law for 1991 with the United States Internal Revenue Code

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

Whereas, the 90-day period would delay the processing of the 1991 income tax returns; and