

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
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

C. Delegate these powers to the Superintendent of Insurance, ~~his the superintendent's~~ deputies, agents or employees.

~~7. Civil action. Whenever any insurer fails to pay any assessment due under this section within the time limit, the Attorney General shall enforce payment by civil action against that insurer for the amount of the assessment in the Superior Court in and for the county or the District Court in the division in which that insurer has his place of business, or in the Superior Court of Kennebec County.~~

8. Definition. For the purposes of this section, "insurer" means an insurance company or association ~~which that~~ does business or collects premiums for workers' compensation insurance in this State or an individual or group self-insurer under this Act, including the State and other public or governmental authority.

Sec. 4. 39 MRSA §57-D, as enacted by PL 1991, c. 615, Pt. A, §33, is repealed.

Sec. 5. 39 MRSA §57-E, as enacted by PL 1991, c. 615, Pt. A, §34, is repealed.

Sec. 6. 39 MRSA §104-A, sub-§2-B, amended by PL 1989, c. 503, Pt. B, §180, is further amended to read:

2-B. Failure to secure payment. If any employer, who is required to secure the payment to his employees of the compensation provided for by this Act, fails to do so, the employer is subject to the penalties set out in paragraphs A, B and C. The failure of any employer to procure insurance coverage for the payment of compensation and other benefits to his employees in compliance with sections 21-A and 23 constitutes a failure to secure payment of compensation within the meaning of this subsection.

A. The employer is guilty of a Class D crime.

B. The employer is liable to pay a civil penalty of up to \$10,000, payable to the ~~Second Injury~~ Employment Rehabilitation Fund.

C. The employer, if organized as a corporation, is subject to revocation or suspension of its authority to do business in this State as provided in Title 13-A, section 1302. The employer, if licensed, certified, registered or regulated by any board authorized by Title 5, section 12004-A, or whose license may be revoked or suspended by proceedings in the Administrative Court or by the Secretary of State, is subject to revocation or suspension of ~~his~~ the employer's license, certification or registration.

Prosecution under paragraph A does not preclude action under paragraph B or C.

If the employer is a corporation, any agent of the corporation having primary responsibility for obtaining insurance coverage is liable for punishment under this section. Criminal liability ~~shall be~~ is determined in conformity with Title 17-A, sections 60 and 61.

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

Effective April 6, 1992.

CHAPTER 826

H.P. 1673 - L.D. 2349

An Act to Provide Regulatory and Permitting Assistance to Businesses

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

Whereas, the State is suffering a severe recession that has an impact on the business community; and

Whereas, the process of obtaining permits and licenses is seen by business as costly and time consuming; and

Whereas, many other states have found various regulatory and permitting information, assistance, advocacy and one-stop centers to be of assistance to the business community; and

Whereas, under its broad general mandate the Department of Economic and Community Development currently performs some information and assistance functions that might well be eliminated by the budget crisis since they are not currently explicitly required by law; 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. 5 MRSA §13054, sub-§2-A is enacted to read:

2-A. Permit. "Permit" means a license, certificate, registration or other authorization required by a governmental agency for a business undertaking. "Permit" includes, but is not limited to, a permit by rule

issued by the Department of Environmental Protection in accordance with Title 38, section 344, subsection 7.

Sec. 2. 5 MRSA §13063, sub-§§3 and 4 are enacted to read:

3. Comprehensive permit information. The director shall develop and maintain a program to provide comprehensive information on permits required for business undertakings, projects and activities and to make that information available to any person. This program must function as follows.

A. Not later than 90 days from the effective date of this subsection each state agency required to review, approve or grant permits for business undertakings, projects and activities shall report to the office in a form prescribed by the office on each type of review, approval and permit administered by that state agency. Application forms, applicable agency rules and the estimated time period necessary for permit application consideration based on experience and statutory or regulatory requirements must accompany each state agency report.

B. Each state agency required to review, approve or grant permits for business undertakings, projects and activities, subsequent to its report pursuant to paragraph A, shall provide to the office, for information purposes only, a report of any new permit or modification of any existing permit together with applicable forms, rules and information required under subsections 1 and 2 regarding the new or modified permit. To ensure that the department's information is current, each agency shall report immediately to the office when a new permit is adopted or any existing permit is modified. "Permit," as used in this paragraph, refers to the categorical authorization required for an activity. "Permit" does not mean a permit issued to a particular individual or business.

C. The office shall prepare an information file on each state agency's permit requirements upon receipt of that state agency's reports and shall develop methods for that file's maintenance, revision, updating and ready access.

D. The office shall provide comprehensive permit information on the basis of the information received under this subsection. The office may prepare and distribute publications, guides and other materials explaining permit requirements affecting business and including requirements involving multiple permits or multiple state agencies that are based on the state agency reports and the information file for the convenience of permit applicants.

4. Permit assistance. Within 90 days of the effective date of this subsection the director shall set up pro-

cedures to assist permit applicants who have encountered difficulties in obtaining timely and efficient permit review. These procedures must include the following.

A. Any applicant for permits required for a business undertaking, project or activity must be allowed to confer with the office to obtain assistance in the prompt and efficient processing and review of applications.

B. The office shall, as far as possible, give assistance and the director may designate an officer or employee of the office to act as an expeditor with the purpose of:

(1) Facilitating contacts for the applicant with state agencies responsible for processing and reviewing permit applications;

(2) Arranging conferences to clarify the interest and requirements of any state agency with respect to permit applications;

(3) Considering with state agencies the feasibility of consolidating hearings and data required of the applicant;

(4) Assisting the applicant in the resolution of outstanding issues identified by state agencies, including delays experienced in permit review; and

(5) Coordinating federal, state and local permit review actions to the extent practicable.

Sec. 3. Business permit center feasibility study. The Commissioner of Economic and Community Development, referred to in this section as the "commissioner," shall convene a meeting of the commissioners or directors of agencies that issue business permits to assess the advisability of establishing a business permitting center.

The commissioner shall invite business representatives to participate in the discussions of this group. The commissioner shall convene meetings of the agency and business representatives as necessary to study the establishment of a business permit center including, but not limited to, the following:

1. A review of business license centers operating in other states;

2. An assessment of the types of permits and licenses appropriate for processing at a licensing center;

3. Consideration of ways of simplifying the application process for both original and renewal licenses, including adoption of a single application form for many licenses; and

4. A comparison of the advisability of allowing businesses to establish either staggered dates or a common expiration or renewal date for all licenses.

The commissioner shall submit a report with recommendations, including any necessary implementing legislation, to the joint standing committee of the Legislature having jurisdiction over economic development matters and to the Executive Director of the Legislative Council no later than January 30, 1993. The report must include recommendations for reducing the paper-work burden of permitting on businesses and increasing the efficiency of agency licensing procedures. If establishment of a licensing center is recommended, the report must contain an implementation plan and cost estimates for establishing and operating the center.

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

Effective April 6, 1992.

CHAPTER 827

H.P. 1681 - L.D. 2361

An Act to Repeal a State Mandate Requiring a National Plumbing Code

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

Whereas, a plumbing code was issued by the Building Officials Conference of America, BOCA; and

Whereas, many plumbing professionals have expressed dissatisfaction with the input afforded them in this situation; and

Whereas, implementation of the plumbing code would pose a hardship on homeowners and builders and be a great expense for the State; and

Whereas, the State's adoption of the plumbing code may constitute an unfunded state mandate, which will result in undue hardship on our communities; 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. 22 MRSA §42, sub-§3, as amended by PL 1991, c. 548, Pt. A, §16, is further amended to read:

3. Plumbing and subsurface waste water disposal. ~~The department, with the advice and consent of the Plumbers' Examining Board, shall adopt by reference a nationally recognized plumbing code. The department, with the advice and consent of the Plumbers' Examining Board, may adopt, as necessary, amendments to that code.~~ The department shall adopt minimum rules relating to plumbing and subsurface sewage disposal systems. All rules, including installation and inspection rules, must be consistent with Title 30-A, chapter 185, subchapter III, and Title 32, chapter 49, but this does not preempt the authority of municipalities under Title 30-A, section 3001, to adopt more restrictive ordinances. The department shall hold hearings on the first Tuesday of February of each year for the purpose of considering changes in the rules pertaining to plumbing and subsurface sewage disposal systems and the installation and inspection thereof. These rules may regulate the location of water supply wells to provide minimum separation distances from subsurface sewage disposal systems. The department may require a deed covenant or deed restriction when determined necessary.

Any person who violates the rules adopted under this subsection, or who violates a municipal ordinance adopted pursuant to Title 30-A, sections 4201 and 4211 or uses a subsurface waste water disposal system not in compliance with rules applicable at the time of installation or modification must be penalized in accordance with Title 30-A, section 4452. Enforcement of the rules is the responsibility of the municipalities rather than the department. The department or a municipality may seek to enjoin violations of the rules or municipal ordinances. In the prosecution of a violation by a municipality, the court shall award reasonable attorney's fees to a municipality if that municipality is the prevailing party, unless the court finds that special circumstances make the award of these fees unjust.

Sec. 2. Retroactivity. This Act applies retroactively to February 1, 1992.

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

Effective April 6, 1992.

CHAPTER 828

S.P. 957 - L.D. 2425

An Act to Ensure Financial Solvency of Insurers through Accreditation