

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND FIFTEENTH LEGISLATURE

THIRD SPECIAL SESSION

October 1, 1992 to October 6, 1992

FOURTH SPECIAL SESSION

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ONE HUNDRED AND SIXTEENTH LEGISLATURE

FIRST REGULAR SESSION

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J.S. McCarthy Company
Augusta, Maine
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PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION

of the
ONE HUNDRED AND SIXTEENTH LEGISLATURE

1993

tended to promote the public health, safety and welfare by providing for the creation of a statewide emergency medical services system with standards for all providers of emergency medical services.

Sec. 3. 32 MRSA §83, sub-§§23 and 24 are enacted to read:

23. Trauma. “Trauma” means a single or multi-system life-threatening or limb-threatening injury requiring immediate medical or surgical intervention or treatment to prevent death or permanent disability.

24. Trauma care system. “Trauma care system” means a subsystem within the emergency medical services system, consisting of an organized arrangement of personnel, equipment and facilities, designed to manage the treatment of the trauma patient.

Sec. 4. 32 MRSA §87-A is enacted to read:

§87-A. Trauma care system

1. Trauma care system development. Maine Emergency Medical Services shall develop a statewide trauma care system plan with the advice of the State Trauma Prevention and Control Advisory Committee and the regional emergency medical services councils.

2. State Trauma Prevention and Control Advisory Committee. The State Trauma Prevention and Control Advisory Committee, as established in Title 5, section 12004-I, subsection 49-B, is appointed by the board to advise the board on all matters related to trauma care system development. The committee’s members must be broadly representative of trauma prevention and care providers as a whole, must be as geographically diverse as possible and must include, without limitation:

- A. A representative of the board;
- B. Four surgeons representing trauma-related subspecialties;
- C. Two emergency physicians;
- D. The director;
- E. An emergency nurse;
- F. A critical care nurse;
- G. A trauma rehabilitation specialist;
- H. A regional emergency medical services coordinator;
- I. A representative of air ambulance services;
- J. Two representatives of prehospital care providers;

K. Three hospital administrators, one from a small hospital, one from a medium hospital and one from a large hospital;

L. A representative of the Maine Hospital Association; and

M. A representative of trauma care system users.

Sec. 5. Report. By January 1, 1994, Maine Emergency Medical Services shall submit to the Joint Standing Committee on Human Resources the plan developed in accordance with this Act, along with any legislation necessary to implement the trauma care system envisioned by the plan.

See title page for effective date.

CHAPTER 312

S.P. 264 - L.D. 802

An Act to Improve the Unemployment Collection Process for Employer Contributions

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

Sec. 1. 26 MRSA §1082, sub-§13, as amended by PL 1983, c. 351, §14, is further amended to read:

13. Filing payroll reports; penalty. The commission may prescribe regulations rules for the filing of payroll reports for the employing units in the State and the. The failure on the part of any employing unit to file the payroll reports within the time stated by the regulation rule of the commission shall render renders the employing unit liable to a penalty of \$10 \$25, unless the delay was occasioned by the illness or death of the person in charge of the records of the employing unit or by other unavoidable occurrence which shall excuse that excuses the employing unit from the penalty, except that an extension of time up to 30 days beyond the prescribed due date for a quarterly payroll report may be allowed for good cause upon written request made on or before the due date.

Provided that in the case of executive, administrative and professional employees, and outside salesmen sales representatives, as defined in Part 541 of the Rules and Regulations promulgated under the Fair Labor Standards Act of 1938, as amended as of June 30, 1971, the commissioner, upon the request of an employer of those individuals, may approve an alternative method for obtaining from that employer necessary wage information relative to those employees.

Sec. 2. 26 MRSA §1221, sub-§4, ¶F, as amended by PL 1983, c. 351, §22, is further amended to read:

F. Notwithstanding any other inconsistent law, any employer, who has been notified of ~~his~~ the employer's rate of contribution as required by paragraph E, subparagraph (1), for any year commencing January 1st, may voluntarily make payment of additional contributions, and, upon that payment, ~~shall be~~ is entitled to promptly receive a recomputation and renotification of ~~his~~ the employer's contribution rate for that year, including in the calculation the additional contributions so made. Any such additional contribution ~~shall~~ must be made during the 30-day period following the date of the mailing to the employer of the notice of ~~his~~ the employer's contribution rate in any year, unless, for good cause, the time of payment has been extended by the commissioner for a period not to exceed an additional 10 days.

Sec. 3. 26 MRSA §1225, as amended by PL 1985, c. 348, §12, is further amended to read:

§1225. Assessment of contributions, interest, penalties and filing fees

1. Assessment procedure. If any employer files reports for the purpose of determining the amount of contribution due, but fails to pay any part of the contribution, interest or penalties due thereon as prescribed by the commissioner, or fails to file ~~such~~ the reports when due, or files an incorrect or insufficient report, the Director of Unemployment Compensation may assess the contribution and any interest or penalties due on the basis of the information submitted by the employer or on the basis of an estimate as to the amount due and shall give written notice of the assessment to the employer.

2. Jeopardy assessment. If the Director of Unemployment Compensation determines that the collection of any contribution, interest or penalty under this subchapter, as amended, will be jeopardized by delay, ~~he~~ the director may immediately assess ~~such~~ the contributions, interest or penalties, whether or not the time prescribed by law or any ~~regulations~~ rules issued pursuant to section 1082, subsection 2, for making reports and paying ~~such~~ the contributions has expired, and shall give written notice of the assessment to the employer. In ~~such~~ these cases, the right to appeal to the commission, as provided in section 1226, ~~shall be~~ is conditioned upon payment of the contributions, interest or penalties so assessed, or upon giving appropriate security to the commissioner for the payment thereof.

3. Interest on past-due contributions. Contributions ~~which~~ that are unpaid on the date on which they are due and payable, as prescribed by ~~regulation~~ rule, ~~shall~~ bear interest at the rate determined by the State Tax Assessor as established by Title 36, section 186, from and after the due date, until payment is received by the bureau. The interest rate determined by the State Tax

Assessor, for the purposes of this section, ~~shall be~~ is in effect for the full calendar year following the year in which it is determined. If it is shown to the satisfaction of the commissioner that the delinquency arose from reasonable questions of liability under this subchapter, the commissioner, in ~~his~~ the commissioner's discretion, may abate part of the interest not to exceed 75% of the total interest. If it is shown to the satisfaction of the commissioner that the delinquency arose through no fault of the employer, no assessment of interest ~~shall~~ may be made.

4. Penalty on past-due contributions. If quarterly contributions are not paid when due, the commissioner shall assess, for the first 30 days after the due date or a waiver, a penalty of 2% of the amount of the contributions and thereafter a penalty of 5% of the amount of the unpaid contributions. The commissioner may waive that penalty if ~~he~~ finds it is determined that the delay was occasioned by the illness or death of the person in charge of the records of the employing unit or by some other unavoidable occurrence. The commissioner may allow an extension of time up to 30 days beyond the due date for good cause upon written request made on or before the due date.

5. Refunds. If, not later than 4 years after the date on which any contributions or interest thereon became due, an employer who has paid the contributions or interest thereon ~~shall~~ make application for an adjustment thereof in connection with subsequent contribution payments, or for a refund thereof because that adjustment ~~cannot~~ can not be made, and if the commissioner ~~shall~~ determine that the contributions, or interest or any portion thereof was erroneously collected, the commissioner shall allow the employer to make an adjustment ~~thereof~~, without interest, in connection with subsequent contribution payments by ~~him~~ the employer, or if the adjustment ~~cannot~~ can not be made, the commissioner shall refund that amount, without interest, from the fund. For like cause and within the same period, adjustment or refund may be so made on the commissioner's own initiative. Any ~~such~~ adjustment or refund; involving contributions with respect to wages upon the basis of which benefits have been paid for unemployment, ~~shall~~ must be reduced by the amount of benefits ~~so~~ paid. If the commissioner determines that contributions or interest were erroneously paid to this State on wages insured under the employment security law of some other state or of the Federal Government, refund or adjustment thereof may be made without interest, irrespective of the time limits provided in this subsection, on satisfactory proof that contributions or interest on the wages have been paid to ~~such~~ the other state or to the Federal Government. Nothing in this chapter; or any part ~~thereof~~, of the chapter may be construed to authorize any refund or credit of money due and payable under the law and ~~regulation~~ rule in effect at the time the money was paid.

6. Limitations on assessment. ~~Notification of assessments shall be mailed to the employer not later than~~

~~4 years after a report was due or filed, whichever is later, except that if, with intent to evade the liabilities imposed by this chapter, no return is filed or a false report is filed, a notification of assessment may be mailed to the employer not later than 6 years after the report was due or filed. Before the expiration of the time prescribed in this subsection, the commissioner and the employer may consent in writing to an assessment after such time, and the notification of assessment must be mailed within the limitation agreed upon. Limitations on assessments are governed by this subsection.~~

A. Notification of assessments must be mailed to the employer not later than 4 years after a report was due or filed, whichever is later. Before the expiration of the time prescribed in this subsection, the commissioner and the employer may consent in writing to an assessment after that time, and the notification of assessment must be mailed within the agreed-upon limitation.

B. Exceptions to paragraph A are as follows.

(1) If, with willful intent to evade the liability imposed by this chapter, a report is not filed or a false report is filed, a notification of an assessment may be mailed to the employer at any time.

(2) The running of the period of limitations for assessment or collection of unemployment compensation contributions against an employer must be stayed for the period of time, plus 365 days, during which an assessment against that person is subject to administrative or judicial review or remains outstanding because that person is subject to bankruptcy proceedings under 11 United States Code.

7. Filing fees. Any employer who fails to make and submit reports or pay any contributions or reimbursements, including interest and penalties, when due is liable to the commissioner for any filing fees, including recording lien fees, discharge lien fees and sheriff fees, incurred in collecting the amounts due or in obtaining the reports.

Sec. 4. 26 MRSA §1227, sub-§2, as amended by PL 1987, c. 14, §2, is further amended to read:

2. Filing lien. Certificates of liens for contributions or interest, or certificates discharging the liens prepared in accordance with this section, shall must be received, recorded and indexed by registrars of deeds in the same manner as similar instruments are recorded and indexed. The fee to be paid by the commissioner for recording each such certificate is \$5 the usual and customary fee, which need not be prepaid. This recording fee, along with all other filing fees pursuant to section

1225, subsection 7, is the liability of the employer and must be assessed as part of the lien pursuant to subsection 1.

Sec. 5. 26 MRSA §1232 is enacted to read:

§1232. Licenses

1. Information provided to commissioner. At the request of the commissioner, every department, board, commission, division, authority, district or other agency of the State issuing or renewing a license or other certificate of authority to conduct a profession, trade or business shall provide to the commissioner, in such form as the commissioner may prescribe, a list of all licenses or certificates of authority issued or renewed by that agency during the preceding calendar year, beginning with calendar year 1993. The list provided to the commissioner must contain the name, address, social security or federal identification number of the licensees and such other identifying information as the commissioner may adopt by rule. Notwithstanding other provisions of law, a person seeking a license or certificate of authority or a renewal shall provide, and the responsible agency shall collect, the information required by the commissioner under this section. Failure by a person to provide that information to a licensing or certifying agency results in an automatic denial of a request for a license or certificate of authority or a renewal.

2. Failure to file or pay taxes; determination to prevent renewal, reissuance or other extension of license or certificate. If the commissioner determines that an employer who holds a state-issued license or certificate of authority to conduct a profession, trade or business has failed to file a return at the time required under this chapter or has failed to pay a tax liability due under this chapter that has been demanded, and the employer continues to fail to file or pay after at least 2 specific written requests to do so, the commissioner shall notify the employer in writing by certified mail, return receipt requested, that refusal to file the required tax return or to pay the overdue tax liability may result in loss of license or certificate of authority.

This written notice must include information about the opportunity to request a fact-finding interview for the purpose of determining essential facts, negotiating a payment agreement and determining the appropriateness of further enforcement under this section.

If the employer requests a fact-finding interview within 30 days, the commissioner shall schedule the interview at which the commissioner shall attempt to negotiate a reasonable payment agreement. The employer must be notified in writing if the commissioner's determination is to prevent renewal, reissuance or extension of the license or certificate of authority by the issuing agency. If the employer enters into a payment agreement, a determination may not be made under this section until the employer fails to comply with the agreement.

If the employer continues, for a period in excess of 30 days from notice of possible denial of renewal or reissuance of a license or certificate of authority, to fail to file or show reason why the person is not required to file or if the employer continues not to pay, the commissioner shall notify the employer in writing of the determination to prevent renewal, reissuance or extension of the license or certificate of authority by the issuing agency.

A review of the determination is available by filing an appeal under section 1226 to the Maine Unemployment Insurance Commission. Either by failure to proceed to the next step of appeal or by exhaustion of the steps of appeal, the determination of the commissioner's right to prevent renewal or reissuance becomes final unless otherwise determined by appeal.

In any event, the license or certificate of authority in question remains in effect until all appeals are taken to their final conclusion. This subsection may not be invoked for any tax liability under appeal.

3. Refusal to renew, reissue or otherwise extend license or certificate. Notwithstanding any other provision of law, any issuing agency that is notified by the commissioner of the commissioner's final determination to prevent renewal or reissuance of a license or certificate of authority under subsection 2 shall refuse to reissue, renew or otherwise extend the license or certificate of authority. Notwithstanding Title 5, sections 10003 and 10005, an action by an issuing agency pursuant to this subsection is not subject to the requirements of Title 5, chapter 375, subchapters IV and VI and no hearing by the issuing agency or in Administrative Court is required. A refusal by an agency to reissue, renew or otherwise extend the license or certificate of authority is deemed a final determination within the meaning of Title 5, section 10002.

4. Subsequent reissuance, renewal or other extension of license or certificate. The agency may reissue, renew or otherwise extend the license or certificate of authority in accordance with the agency's statutes and rules after the agency receives a certificate issued by the commissioner that the person is in good standing with respect to all returns due or with respect to any tax due as of the date of issuance of the certificate. An agency may waive any applicable requirement for reissuance, renewal or other extension if it determines that the imposition of that requirement places an undue burden on the person and that a waiver of the requirement is consistent with the public interest.

5. Financial institutions excluded. This section does not apply to any registration, permit, order or approval issued pursuant to Title 9-B nor does it apply to tax registration certificates issued by the Bureau of Taxation for sales tax, withholding tax and fuel tax.

See title page for effective date.

CHAPTER 313

S.P. 472 - L.D. 1464

An Act to Establish Minimum Regulatory Standards for Insurers to Permit the Bureau of Insurance to Seek National Accreditation

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

Whereas, the National Association of Insurance Commissioners (NAIC) is a voluntary association of the 50 state insurance regulators; and

Whereas, an accreditation process has been developed to ensure consistent, high-quality standards of insurance financial regulation throughout the country; and

Whereas, the regulatory program of the Bureau of Insurance has had a preliminary audit and changes in the insurance laws were required to achieve compliance with NAIC standards; and

Whereas, the financial regulatory program of the Bureau of Insurance will be audited by a team of certified public accountants and attorneys in August 1993; and

Whereas, several additional rules must be implemented by the Superintendent of Insurance to satisfy accreditation standards; and

Whereas, attainment of accreditation is crucial to Maine's domestic insurance industry because serious financial penalties will apply to those insurers seeking to sell insurance outside of Maine if the financial regulatory program of the Bureau of Insurance is not accredited before year end 1993; 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 139-A, as amended by PL 1991, c. 780, Pt. Y, §12, is further amended by adding at the end a new paragraph to read:

The Treasurer of State shall obtain the written approval of the Superintendent of Insurance prior to releasing any securities received by the Treasurer of State and deposited in custodial accounts pursuant to the deposit requirements of the Maine Insurance Code.