

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

October 16, 1992

ONE HUNDRED AND SIXTEENTH LEGISLATURE

FIRST REGULAR SESSION

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J.S. McCarthy Company
Augusta, Maine
1993

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION

of the
ONE HUNDRED AND SIXTEENTH LEGISLATURE

1993

CHAPTER 431**H.P. 43 - L.D. 59****An Act to Change the Manner in Which Debt Service on Jail Facility Bonds Is Repaid to Counties****Be it enacted by the People of the State of Maine as follows:**

Sec. 1. 34-A MRSA §1210, sub-§5, ¶D, as amended by PL 1987, c. 335, §1, is further amended to read:

D. Capital expenditures Annual debt services on jail facility bonds to the extent that ~~it reflects they reflect~~ the actual increase in jail population resulting from net gain of prisoners under Title 17-A, section 1203, subsection 1 and Title 17-A, section 1252, subsection 1, ~~as amended:~~

- (1) Equipment:
 - (a) Furniture and fixtures; and
- (2) Buildings; ~~and~~

Sec. 2. 34-A MRSA §1210, sub-§5, ¶E, as enacted by PL 1987, c. 335, §2, is amended to read:

E. Capital expenditures, replacement:

- (1) Equipment:
 - (a) Furniture and fixtures; and
 - (b) Vehicles; ~~and~~

Sec. 3. 34-A MRSA §1210, sub-§5, ¶F is enacted to read:

F. Revenues.

See title page for effective date.

CHAPTER 432**H.P. 48 - L.D. 64****An Act to Establish Minimum Sentence Enhancements for Repeated Convictions for Gross Sexual Assault****Be it enacted by the People of the State of Maine as follows:**

Sec. 1. 17-A MRSA §253, sub-§6 is enacted to read:

6. In using a sentencing alternative involving a term of imprisonment for any natural person convicted of violating this section, a court shall, in determining the maximum period of incarceration as the 2nd step in the sentencing process, treat each prior Maine conviction for a violation of this section as an aggravating sentencing factor.

A. When the sentencing class for a prior conviction under this section is Class A, the court shall enhance the basic period of incarceration by a minimum of 4 years of imprisonment.

B. When the sentencing class for a prior conviction under this section is Class B, the court shall enhance the basic period of incarceration by a minimum of 2 years of imprisonment.

C. When the sentencing class for a prior conviction under this section is Class C, the court shall enhance the basic period of incarceration by a minimum of one year of imprisonment.

In arriving at the final sentence as the 3rd step in the sentencing process, the court may not suspend that portion of the maximum term of incarceration based on a prior conviction unless the court is of the opinion that exceptional circumstances justify that suspension in which event the court shall set forth in detail its reasons on the record.

See title page for effective date.

CHAPTER 433**S.P. 229 - L.D. 700****An Act to Develop and Expand Markets for Recycled Materials****Be it enacted by the People of the State of Maine as follows:**

Sec. 1. 36 MRSA §2526, as corrected by RR 1991, c. 2, §134, is amended to read:

§2526. Solid waste reduction investment tax credit

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Employing unit" has the same meaning as in Title 26, section 1043.

B. "Solid waste" has the same meaning as in Title 38, section 1303-C.

C. "Waste reduction, reuse or recycling equipment" means structures, machinery, equipment or

devices, singly or in combination, designed and required to reduce solid waste generated by the employing unit or to separate, process, modify, convert, treat or repair solid waste generated within the State so that component materials or substances or recoverable resources may be used as a raw material or for productive use and includes:

- (1) Vehicles designed and dedicated exclusively for the collection of source-separated municipal solid waste generated within the State for the purpose of recycling;
- (2) Add-ons or trailers designed to modify collection vehicles and dedicated to sorting, separating and transporting collected wastes generated within the State that are held for the purpose of recycling; ~~or~~
- (3) Containers for the source separation and temporary storage of recyclable wastes generated within the State; ~~or~~
- (4) Industrial processing equipment designed to clean, purify and convert waste into a manufacturing feedstock.

“Waste reduction, reuse or recycling equipment” does not include structures, machinery, equipment or devices used to burn solid waste.

D. “Investment credit base of equipment” means the total original basis of the equipment for federal income tax purposes, adjusted to exclude all architectural and engineering fees, site survey fees, legal expenses, development fees and insurance premiums that are included in the basis of the equipment for federal income tax purposes, of the taxpayer for equipment that was placed into service for the first time in the State by the taxpayer or other person during the tax year for which the credit is claimed.

2. Credit allowed. A taxpayer constituting an employing unit that purchases and uses, or purchases and leases to a person for use by that person at a fixed facility that separates, processes, converts or treats solid waste intended for sale by that person, any waste reduction, reuse or recycling equipment, ~~or other equipment~~ used exclusively in the implementation of a solid waste reduction, reuse or recycling program, is entitled to a credit against the tax imposed by this Part ~~equal to 30% of the cost of that equipment incurred during the taxable year.~~ “Cost of the equipment” means the original basis, without adjustment, of the equipment for federal income tax purposes exclusive of all architectural and engineering fees, site survey fees, legal expenses, development fees and insurance premiums that are included in the basis of the equipment for federal income tax purposes. A taxpayer may claim one of the following credits for each qualifying piece of equipment.

A. The credit allowed for equipment used to manage the taxpayer’s own waste is 25% of the investment credit base of the equipment.

B. The credit allowed for equipment used to manage the collection and processing of waste generated by parties other than the taxpayer is 20% of the investment credit base of the equipment.

C. The credit allowed for equipment used to convert waste into a feedstock that can substitute for virgin materials in a manufacturing process is 30% of the investment credit base of the equipment.

D. The credit allowed for equipment placed into service from January 1, 1990 to June 30, 1991 is 30% of the investment credit base of the equipment or from January 1, 1993 until the day prior to the effective date of this paragraph.

3. Eligible equipment. Purchases Equipment eligible for the credit allowed under this section ~~include structures, machinery; includes waste reduction, reuse or recycling equipment and devices~~ used to reduce, reuse or recycle solid waste, at least 90% of which is generated within the State. A certificate that the ~~structures, machinery; equipment and devices qualify~~ qualifies for the credit provided for in this section from the Maine Waste Management Agency is required before the tax credit may be taken. ~~Machinery and equipment~~ Equipment associated with the separation of wastes prior to incineration ~~are~~ is eligible when the Maine Waste Management Agency certifies that the separated wastes are being recycled.

4. Limitation; carry-over. The amount of the credit that may be used by a taxpayer for a taxable year may not exceed 50% of the amount of tax otherwise due under this Part for that year. A credit may not be used to reduce taxes in any tax year starting before January 1, 1993. Any unused credit may be carried over to the following year or years for a period not to exceed 15 years ~~or may be carried back for a period not to exceed 3 years.~~

5. Application. This section applies to equipment purchased and placed into use during the period from January 1, 1990 to June 30, 1991 or in any tax year beginning on or after January 1, 1993.

6. Recapture. If a taxpayer disposes of equipment for which a credit was claimed less than 4 years after the equipment was placed into service for the first time in the State by the taxpayer or other person:

A. The tax imposed under this Part for the taxable year in which the disposition occurs is increased by the following amounts:

- (1) If the disposition occurs one year or less after the equipment was placed into service

for the first time in the State by the taxpayer or other person, an amount equal to 100% of the amount allowed as a credit with respect to the equipment disposed of in the year of disposition and all prior years;

(2) If the disposition occurs more than one year but less than 2 years after the equipment was placed into service for the first time in the State by the taxpayer or other person, an amount equal to 75% of the amount allowed as a credit with respect to the equipment disposed of in the year of disposition and all prior years;

(3) If the disposition occurs 2 years or more but less than 3 years after the equipment was placed into service for the first time in the State by the taxpayer or other person, an amount equal to 50% of the amount allowed as a credit with respect to the equipment disposed of in the year of disposition and all prior years; or

(4) If the disposition occurs 3 years or more but less than 4 years after the equipment was placed into service for the first time in the State by the taxpayer or other person, an amount equal to 25% of the amount allowed as a credit with respect to the equipment disposed of in the year of disposition and all prior years; and

B. A portion of any unused credit attributable to the disposed of equipment is disallowed as follows:

(1) If the disposition occurs one year or less after the equipment was placed into service for the first time in the State by the taxpayer or other person, 100% of any unused credit attributable to the equipment disposed of is disallowed;

(2) If the disposition of the equipment occurs more than one year but less than 2 years after the equipment was placed into service for the first time in the State by the taxpayer or other person, 75% of any unused credit attributable to the equipment disposed of is disallowed;

(3) If the disposition of the equipment occurs 2 years or more but less than 3 years after the equipment was placed into service for the first time in the State by the taxpayer or other person, 50% of any unused credit attributable to the equipment disposed of is disallowed; or

(4) If the disposition of the equipment occurs 3 years or more but less than 4 years

after the equipment was placed into service for the first time in the State by the taxpayer or other person, 25% of any unused credit attributable to the equipment disposed of is disallowed.

This subsection does not apply to equipment that was acquired before October 1, 1993.

Sec. 2. 36 MRSA §5219-D, as corrected by RR 1991, c. 2, §139, is amended to read:

§5219-D. Solid waste reduction investment tax credit

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Employing unit" has the same meaning as in Title 26, section 1043.

B. "Solid waste" has the same meaning as in Title 38, section 1303-C.

C. "Waste reduction, reuse or recycling equipment" means structures, machinery, equipment or devices, singly or in combination, designed and required to reduce solid waste generated by the employing unit or to separate, process, modify, convert, treat or repair solid waste generated within the State so that component materials or substances or recoverable resources may be used as a raw material or for productive use and includes:

(1) Vehicles designed and dedicated exclusively for the collection of source-separated municipal solid waste generated within the State for the purpose of recycling;

(2) Add-ons or trailers designed to modify collection vehicles and dedicated to sorting, separating and transporting collected wastes generated within the State that are held for the purpose of recycling; or

(3) Containers for the source separation and temporary storage of recyclable wastes generated within the State; or

(4) Industrial processing equipment designed to clean, purify and convert waste into a manufacturing feedstock.

"Waste reduction, reuse or recycling equipment" does not include structures, machinery, equipment or devices used to burn solid waste.

D. "Investment credit base of equipment" means the total original basis of the equipment for federal income tax purposes, adjusted to exclude all architectural and engineering fees, site survey fees,

legal expenses, development fees and insurance premiums that are included in the basis of the equipment for federal income tax purposes, of the taxpayer for equipment that was placed into service for the first time in the State by the taxpayer or other person during the tax year for which the credit is claimed.

2. Credit allowed. A taxpayer constituting an employing unit that purchases and uses, or purchases and leases to a person for use by that person at a fixed facility that separates, processes, converts or treats solid waste intended for sale by that person, any waste reduction, reuse or recycling equipment, ~~or other equipment~~ used exclusively in the implementation of a solid waste reduction, reuse or recycling program, is entitled to a credit against the tax imposed by this Part ~~equal to 30% of the cost of that equipment incurred during the taxable year.~~ “Cost of the equipment” means the original basis, without adjustment, of the equipment for federal income tax purposes exclusive of all architectural and engineering fees, site survey fees, legal expenses, development fees and insurance premiums that are included in the basis of the equipment for federal income tax purposes. A taxpayer may claim one of the following credits for each qualifying piece of equipment.

A. The credit allowed for equipment used to manage the taxpayer’s own waste is 25% of the investment credit base of the equipment.

B. The credit allowed for equipment used to manage the collection and processing of waste generated by parties other than the taxpayer is 20% of the investment credit base of the equipment.

C. The credit allowed for equipment used to convert waste into a feedstock that can substitute for virgin materials in a manufacturing process is 30% of the investment credit base of the equipment.

D. The credit allowed for equipment placed into service during the period from January 1, 1990 to June 30, 1991 is 30% of the investment credit base of the equipment or from January 1, 1993 until the day prior to the effective date of this paragraph.

3. Eligible equipment. ~~Purchases~~ Equipment eligible for the credit allowed under this section ~~include structures, machinery; includes waste reduction, reuse or recycling equipment and devices used to reduce, reuse or recycle solid waste, at least 90% of which is generated within the State. A certificate that the structures, machinery, equipment and devices qualify~~ qualifies for the credit provided for in this section from the Maine Waste Management Agency is required before the tax credit may be taken. ~~Machinery and equipment~~ Equipment associated with the separation of wastes prior to incineration ~~are is~~ eligible when the Maine Waste Management Agency certifies that the separated wastes are being recycled.

4. Limitation; carry-over. The amount of the credit that may be used by a taxpayer for a taxable year may not exceed 50% of the amount of tax otherwise due under this Part for that year. A credit may not be used to reduce taxes in any tax year starting before January 1, 1993. Any unused credit may be carried over to the following year or years for a period not to exceed 15 years ~~or may be carried back for a period not to exceed 3 years.~~

5. Application. This section applies to equipment purchased and placed into use during the period from January 1, 1990 to June 30, 1991 or in any tax year beginning on or after January 1, 1993.

6. Recapture. If a taxpayer disposes of equipment for which a credit was claimed less than 4 years after the equipment was placed into service for the first time in the State by the taxpayer or other person:

A. The tax imposed under this Part for the taxable year in which the disposition occurs is increased by the following amounts:

(1) If the disposition occurs one year or less after the equipment was placed into service for the first time in the State by the taxpayer or other person, an amount equal to 100% of the amount allowed as a credit with respect to the equipment disposed of in the year of disposition and all prior years;

(2) If the disposition occurs more than one year but less than 2 years after the equipment was placed into service for the first time in the State by the taxpayer or other person, an amount equal to 75% of the amount allowed as a credit with respect to the equipment disposed of in the year of disposition and all prior years;

(3) If the disposition occurs 2 years or more but less than 3 years after the equipment was placed into service for the first time in the State by the taxpayer or other person, an amount equal to 50% of the amount allowed as a credit with respect to the equipment disposed of in the year of disposition and all prior years; or

(4) If the disposition occurs 3 years or more but less than 4 years after the equipment was placed into service for the first time in the State by the taxpayer or other person, an amount equal to 25% of the amount allowed as a credit with respect to the equipment disposed of in the year of disposition and all prior years; and

B. A portion of any unused credit attributable to the disposed of equipment is disallowed as follows:

CHAPTER 434

H.P. 822 - L.D. 1108

An Act to Amend the Child Labor Laws

(1) If the disposition occurs one year or less after the equipment was placed into service for the first time in the State by the taxpayer or other person, 100% of any unused credit attributable to the equipment disposed of is disallowed;

(2) If the disposition of the equipment occurs more than one year but less than 2 years after the equipment was placed into service for the first time in the State by the taxpayer or other person, 75% of any unused credit attributable to the equipment disposed of is disallowed;

(3) If the disposition of the equipment occurs 2 years or more but less than 3 years after the equipment was placed into service for the first time in the State by the taxpayer or other person, 50% of any unused credit attributable to the equipment disposed of is disallowed; or

(4) If the disposition of the equipment occurs 3 years or more but less than 4 years after the equipment was placed into service for the first time in the State by the taxpayer or other person, 25% of any unused credit attributable to the equipment disposed of is disallowed.

This subsection does not apply to equipment that was acquired before October 1, 1993.

Sec. 3. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

	1993-94	1994-95
ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF		
Bureau of Taxation		
Positions		(0.5)
Personal Services		\$17,786
All Other	\$10,000	4,308
Capital Expenditures		5,000
TOTAL	\$10,000	\$27,094
Provides for one Revenue Agent position and associated administrative costs for 6 months to perform on-site audits each year.		

See title page for effective date.

Mandate preamble. This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, two thirds of all of the members elected to each House have determined it necessary to enact this measure.

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

Whereas, the Legislature recently enacted legislation restricting the work hours of certain minors; and

Whereas, that legislation has created a hardship for certain minors who should be allowed to work additional hours on days when school is not in session, including the upcoming summer vacation; 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. 26 MRSA §664, last ¶, as amended by PL 1991, c. 544, §1, is repealed.

Sec. 2. 26 MRSA §773, first ¶ is amended to read:

No A minor under 16 years of age shall may not be employed, permitted or suffered to work in, about or in connection with any manufacturing or mechanical establishment, hotel, rooming house, laundry, except those commonly known as automatic laundries, dry cleaning establishments, bakery, bowling alley, poolroom, commercial places of amusement, including traveling shows and circuses, or in any theater or moving picture house. The provisions of this section pertaining to theaters shall do not apply to minors under 16 years of age who are employed or in training as theatrical actors or film actors.

Sec. 3. 26 MRSA §774, sub-§1, as amended by PL 1991, c. 713, §1, is further amended to read:

1. Minors under 18 years of age. A minor under 18 years of age, enrolled in school, may not be employed as follows: