

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals
(may include minor formatting differences from printed original)

LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE

FIRST REGULAR SESSION
December 7, 1994 to June 30, 1995

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 29, 1995

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
1995

CHAPTER 194

H.P. 474 - L.D. 655

An Act Concerning Municipal Rent Control

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

Sec. 1. 30-A MRSA c. 167, as amended, is repealed.

Sec. 2. Legislative intent. The Legislature intends to permit municipalities to continue to adopt and enforce rent control ordinances under home rule authority. A municipality that adopted rent control under the Maine Revised Statutes, Title 30-A, former chapter 167 may continue to operate a rent control program.

See title page for effective date.

CHAPTER 195

S.P. 348 - L.D. 976

An Act Regarding Liquor Licenses for Golf Courses

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

Sec. 1. 28-A MRSA §1012, sub-§2, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

2. Auxiliary license. A Class A restaurant or a Class I hotel located at a ski area ~~may obtain for additional premises at that ski area an auxiliary license to sell spirits, wine and malt liquor to be consumed on the premises~~ or a golf course, or a Class I golf club or a Class I or a Class V club located at a golf course may apply for one additional licensed premises at the same area for consumption of spirits, wine or malt liquor on the premises.

A. The license fee is.....\$ 100.

Sec. 2. 28-A MRSA §1075, as amended by PL 1993, c. 730, §45, is further amended to read:

§1075. Auxiliary licenses at ski areas and golf courses

1. Licenses. The bureau may issue one auxiliary license under this section for additional premises to any Class A restaurant or Class A restaurant/lounge, ~~lounge or any hotel licensee located at a ski area~~ Class I hotel located at a ski area or golf

course, or to a Class I golf club or a Class I or Class V club located at a golf course, if the following requirements are met:

A. The additional premises are located at the same ski area or golf course where the Class A restaurant, Class A restaurant/lounge, lounge, ~~or~~ hotel, or qualified club is licensed;

B. Food is for sale at the additional premises, although not necessarily prepared there;

C. The additional premises are properly equipped, including tables ~~and~~ chairs and rest-rooms; and

D. The Department of Human Services licenses the additional premises.

2. Sales for consumption on slopes or courses prohibited. Nothing in this section permits a ski area to sell liquor for consumption on the slopes away from the licensed area or a golf course to sell liquor for consumption on the course away from the licensed area.

See title page for effective date.

CHAPTER 196

S.P. 384 - L.D. 1061

An Act to Amend Certain Provisions of the Law Relating to Defense

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

PART A

Sec. A-1. 37-B MRSA §147, sub-§3, as enacted by PL 1983, c. 460, §3, is amended to read:

3. Active duty. Whenever the occasion requires, the Governor, the Adjutant General or Deputy Adjutant General, with the ~~officer's~~ individual's consent, may order to active ~~duty~~ state service any retired officer, warrant officer or enlisted ~~man~~ person, who shall be entitled to with or without pay and emoluments allowances of his that person's grade while performing the service.

Sec. A-2. 37-B MRSA §150, as enacted by PL 1983, c. 460, §3, is amended to read:

§150. Unauthorized volunteer service

~~No~~ A unit of the state military forces may not perform any voluntary ~~military~~ active state service, unless authorized by express order of the Governor.

An officer, warrant officer or enlisted person or any retired officer, retired warrant officer or retired enlisted person of the state military forces may not perform any voluntary active state service, unless authorized by express order of the Governor, the Adjutant General or the Deputy Adjutant General.

PART B

Sec. B-1. 37-B MRSA §101-A, sub-§1, as enacted by PL 1987, c. 230, §1, is amended to read:

1. Active state service. As used in this Title, "active state service" means all military duty performed as a member of the state military forces ~~in a pay status described in section 143 by order of the Governor under~~ pursuant to this Title or performed under the United States Code, Title 32.

Sec. B-2. 37-B MRSA §185, sub-§1, as amended by PL 1983, c. 594, §9, is further amended to read:

1. Immunity from civil and criminal liability. ~~No~~ A member of the state military forces may not be liable civilly or criminally for any act done or caused, ordered or directed to be done by ~~him~~ that member while on active ~~duty~~ state service in the performance of ~~his~~ that member's duty. If an action of any nature has been commenced in any court by any person against an officer or enlisted ~~man~~ member of the state military forces for such an act, done or caused, ordered or directed to be done, all expenses of the defense of the action, including fees of witnesses for the defense, defendant's court costs, and all costs for transcripts of records and abstract thereof on appeal, ~~shall~~ must be paid by the State out of the Military Fund. ~~Where~~ When the action is civil, it ~~shall be~~ is the duty of the Attorney General to defend that officer or enlisted ~~man~~ member. ~~Where~~ When the action ~~is~~ is criminal, the Adjutant General shall designate a judge advocate of the National Guard or other authorized state military or naval force to conduct the defense of the member. If the services of a judge advocate are not available, the Adjutant General shall select some other competent attorney to conduct the defense. In any civil action, the defendant may require the person instituting the action to file security for payment of costs that may be awarded the defendant, which costs, if paid out of the Military Fund, when received, ~~shall~~ must be paid into the State Treasury and credited to the Military Fund.

Sec. B-3. 37-B MRSA §186, sub-§1, ¶A, as amended by PL 1991, c. 885, Pt. E, §44 and affected by §47, is further amended to read:

A. Duty status is as follows.

(1) The types of duty that are covered are:

(a) ~~Active state duty by order of the Governor under this subchapter~~ service pursuant to this Title;

(b) Inactive duty training, with or without pay, under the United States Code, Title 32, Section 502;

(c) Annual training under the United States Code, Title 32, Sections 502 and 503;

(d) Full-time training duty for 30 days or less under the United States Code, Title 32, Section 502; and

(e) Other training duties or schools under the United States Code, Title 32, with status of less than 30 days' duration;.

(2) The types of duty that are not covered are:

(a) Annual training or any other types of duty under the United States Code, Title 10, including Section 672, Subsections (b) and (d);

(b) Initial active duty for training, such as initial active duty service schools;

(c) Full-time training duty for over 30 days under the United States Code, Title 32, Section 502, Subsection (f); and

(d) Federal technician civilian duty under the United States Code, Title 32, Section 709;.

PART C

Sec. C-1. 37-B MRSA §3, sub-§2, as amended by PL 1991, c. 376, §62, is further amended to read:

2. Deputy Adjutant General. The Deputy Adjutant General has all the ~~military-related~~ military-related powers, responsibilities and duties of the Adjutant General if the Adjutant General is unable to act or, if the office is vacant, until the vacancy is filled by the Governor, as provided by law. The Deputy Adjutant General may perform other military duties of the Adjutant General as assigned by the Adjutant General or the Governor. ~~The deputy may not concurrently hold any other state office for compensation.~~

PART D

Sec. D-1. 14 MRSA §8102, sub-§1, as repealed and replaced by PL 1989, c. 878, Pt. A, §42, is amended to read:

1. Employee. "Employee" means a person acting on behalf of ~~the~~ a governmental entity in any official capacity, whether temporarily or permanently, and whether with or without compensation from local, state or federal funds, including elected or appointed officials; volunteer firefighters as defined in Title 30-A, section 3151; emergency medical service personnel; members and staff of the Consumer Advisory Board pursuant to Title 34-B, section 1216; ~~members of the Maine National Guardsmen while receiving state active duty pay under Title 37-B, section 143, in accordance with Title 37-B, sections 181 to 183 and 742, and while engaged in the Domestic Action Program Guard but only while performing state active service pursuant to Title 37-B; and sheriffs' deputies as defined in Title 30-A, section 381 when they are serving orders pursuant to section 3135, but the term "employee" does not mean a person or other legal entity acting in the capacity of an independent contractor under contract to the governmental entity.~~

Sec. D-2. 14 MRSA §8104-B, sub-§5, as enacted by PL 1987, c. 740, §4, is amended to read:

5. Activities of state military forces. The activities of the state military forces when ~~receiving state active duty pay under Title 37-B, section 143, in accordance with Title 37-B, sections 181 and 182, intervention in insurrections and Title 37-B, section 183, human health emergency assistance on duty pursuant to Title 37-B or 32 United States Code;~~

See title page for effective date.

CHAPTER 197

S.P. 375 - L.D. 1052

An Act to Allow the Collection of Reimbursement for Medical Expenses

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

Sec. 1. 30-A MRSA §1562, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is repealed and the following enacted in its place:

§1562. Restitution

The imposition of restitution at all jails is subject to the following conditions.

1. Damage to property. Restitution may be imposed for the purpose of replacing or repairing property destroyed or damaged by a prisoner or juvenile while the prisoner or juvenile is at the jail. When restitution is imposed at a jail, a prisoner or a juvenile who is subject to that restitution and who is able to generate money from whatever source shall pay 25% of that money to the facility where the damage occurred. The facility shall collect that money and apply it to defray the cost of replacement or repair of the items destroyed or damaged.

2. Medical care. Restitution may be imposed for the purpose of paying the cost of medical care incurred as a result of the conduct of a prisoner or juvenile while the prisoner or juvenile is at the jail. When restitution is imposed at a jail, a prisoner or a juvenile who is subject to that restitution and who is able to generate money from whatever source shall pay 25% of that money to the jail where the medical care was provided. The facility shall collect that money and apply it to defray the cost of medical care.

3. Transfer of prisoner or juvenile. A prisoner or juvenile who is transferred to another facility remains liable for any restitution authorized under this subchapter. The facility receiving the prisoner or juvenile shall collect the restitution and transfer it to the facility where the damage occurred or where the medical care was provided.

4. Money available. Restitution is not authorized if its imposition would create an excessive financial hardship, as determined by the sheriff, on the dependents of the prisoner. Any payments made for the support of the dependents that are required by the Department of Human Services may not be used for restitution payments.

Sec. 2. 34-A MRSA §3032, sub-§5-A, as amended by PL 1991, c. 314, §38, is further amended to read:

5-A. Restitution. The imposition of restitution at all facilities is subject to the following conditions.

A. Restitution may be imposed for the purpose of replacing or repairing property destroyed or damaged by the prisoner or juvenile while the prisoner or juvenile is at the institution. When restitution is imposed ~~as a punishment~~ at a facility, ~~any~~ a prisoner or ~~any~~ a juvenile who is subject to that ~~punishment~~ restitution and who is able to generate ~~income~~ money from whatever source, shall pay 25% of that ~~income~~ money to the facility where the damage occurred. The facility shall collect that ~~income~~ money and apply it to defray the cost of replacement or repair of the items destroyed or damaged. ~~Restitution is not authorized if the imposition of that punishment would create an excessive financial~~