

MAINE STATE LEGISLATURE

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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

is valid and has the force and effect of a quitclaim deed releasing all interest in the real estate described in the decree or abstract.

See title page for effective date.

CHAPTER 305

H.P. 108 - L.D. 143

An Act to Increase the Minimum Wage in Maine

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

Sec. 1. 26 MRSA §664, as amended by PL 1993, c. 434, §1 and affected by §8, is repealed and the following enacted in its place:

§664. Minimum wage; overtime rate

Except as otherwise provided in this subchapter, an employer may not employ any employee at a rate less than the rates required by this section.

1. Minimum wage. The minimum hourly wage is \$4.25 per hour. If the highest federal minimum wage is increased in excess of \$4.25 per hour, the minimum wage must be increased to the same amount, effective on the same date as the increase in the federal minimum wage, but in no case may the minimum wage exceed \$5.15 per hour.

2. Tip credit. An employer may consider tips as part of the wages of a service employee, but such a tip credit may not exceed 50% of the minimum hourly wage established in this section. An employer who elects to use the tip credit must inform the affected employee in advance and must be able to show that the employee receives at least the minimum hourly wage when direct wages and the tip credit are combined. Upon a satisfactory showing by the employee or the employee's representative that the actual tips received were less than the tip credit, the employer shall increase the direct wages by the difference.

3. Overtime rate. An employer may not require an employee to work more than 40 hours in any one week unless 1 1/2 times the regular hourly rate is paid for all hours actually worked in excess of 40 hours in that week. The regular hourly rate includes all earnings, bonuses, commissions and other compensation that is paid or due based on actual work performance.

The overtime provision of this section does not apply to:

A. Automobile mechanics, automobile parts clerks and automobile salesmen as defined in section 663;

B. Hotels and motels;

C. Mariners;

D. Public employees;

E. Restaurants and other eating establishments; and

F. The canning, processing, preserving, freezing, drying, marketing, storing, packing for shipment or distribution of:

(1) Agricultural produce;

(2) Meat and fish products; and

(3) Perishable foods.

See title page for effective date.

CHAPTER 306

H.P. 199 - L.D. 258

An Act to Change the State's Air Quality Standard for Ozone to the Federal Standard

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

Sec. 1. 38 MRSA §584-A, sub-§4, as enacted by PL 1971, c. 570, is repealed.

Sec. 2. 38 MRSA §584-A, sub-§4-A is enacted to read:

4-A. Ozone. For purposes of statutory interpretation, rules, regulations, licensing determinations, policy guidance and all other actions by the department or the board relating to the control of ozone precursors for the purpose of controlling ozone or photochemical oxidant, any reference to an ambient air quality standard is interpreted to refer to the national ambient air quality standard for ozone established pursuant to Section 109 of the federal Clean Air Act as amended, 42 United States Code, Section 7409.

Sec. 3. 38 MRSA §584-F is enacted to read:

§584-F. Ozone health warnings

1. Dissemination of warnings to media. Whenever monitored data demonstrates or the department predicts that ground-level ozone concentrations have exceeded or will exceed 81 parts

per billion, the department shall disseminate a health warning to the mass media, including television, radio and print media, and shall urge the media to issue the warning to the general public. The department shall use best efforts to educate the media as to the need to broadly disseminate health warnings to the public.

2. Telephone hot line. The department shall provide information to the public on daily ground-level ozone concentrations by a toll-free ozone information telephone hot line.

Sec. 4. Efforts regarding transported ozone. The Department of Environmental Protection shall use all best efforts to ensure that the state implementation plans to be developed by other states pursuant to the federal Clean Air Act contain ozone precursor control programs designed to allow Maine to improve its air quality.

Sec. 5. Review of federal standard. The Governor shall urge the United States Environmental Protection Agency to complete its review of the current national ambient air quality standard for ozone expeditiously in compliance with the federal Clean Air Act.

See title page for effective date.

CHAPTER 307

S.P. 426 - L.D. 1149

An Act to Enhance Export Markets for Maine Sardines and Other Canned Herring Products by Clarifying the Maine Sardine Law

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

Whereas, the packing of sardines and other canned herring products is one of the most important industries of the State; and

Whereas, the Maine Sardine Council and the Maine Sardine Industry is seeking the statutory authority to revise the council's regulations in support of its mandatory product quality control program in order to enhance export opportunities; 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. 10 MRSA §1704, as amended by PL 1977, c. 694, §169, is further amended to read:

§1704. Rules and regulations

The Maine Sardine Council may prescribe, in a manner consistent with the Maine Administrative Procedure Act, rules and regulations for carrying out the purposes of this chapter, and may issue licenses to processors who request authority to use the trademark and ~~who~~ shall abide by ~~such~~ those rules and regulations. The council may charge a fee on a case basis for the use of trademarks established by the council or for the use of the State of Maine trademark ~~used~~ on canned sardines. The Administrative Court, upon application of the ~~commissioner,~~ the Maine Sardine Council or the Attorney General, ~~shall have~~ has the right to cancel any license for failure to abide by the rules and regulations prescribed by the council; and the council ~~shall have~~ has the right, after notice and opportunity for a hearing and in a manner consistent with the rule-making provisions of the Maine Administrative Procedure Act, to cancel all outstanding licenses at any time that the council deems such action necessary to the best interest of the sardine industry as a whole.

Sec. 2. 32 MRSA §4153, as amended by PL 1993, c. 14, §1, is further amended to read:

§4153. License required

~~No~~ A person, firm, corporation, association or society ~~shall~~ may not pack sardines, kippers ~~or~~ steaks or other canned herring products within the State for sale without having first filed with the Commissioner of Agriculture, Food and Rural Resources an application for license, accompanied with a fee of \$50, upon receipt of which application the commissioner shall issue to the person, firm, corporation, association or society making such application a license to pack sardines, kippers, steaks or other canned herring products. Each such license covers one group of buildings constituting a packing plant in one location. The license runs from January 1st and expires in a manner consistent with the provisions of the Maine Administrative Procedure Act as to license expiration or on December 31st of each year, whichever is later, unless sooner revoked and must be renewed annually ~~thereafter.~~ Before issuing such license or renewing it, the commissioner may by adequate inspection determine that the laws and regulations relating to the packing of sardines, kippers ~~or~~ steaks or other canned herring products and the operation of packing plants for sardines, kippers ~~or~~ steaks or other canned herring products are being observed.