

# 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**

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**J.S. McCarthy Company**  
**Augusta, Maine**  
**1995**

Title 22, chapter 262-A to law enforcement agencies.

**Tobacco Licensing Violations**

Positions - Other Count	(1.0)	(1.0)
Personal Services	\$25,250	\$50,500
All Other	11,000	2,000
Capital Expenditures	12,500	
<b>TOTAL</b>	<u>\$48,750</u>	<u>\$52,500</u>

Provides funds for one Clerk position for the Administrative Court, per diems for active retired judges, programming costs for dedicating fine revenue and other miscellaneous expenses associated with tobacco sales licensure and enforcement.

<b>JUDICIAL DEPARTMENT TOTAL</b>	<u>\$53,750</u>	<u>\$57,500</u>
<b>TOTAL ALLOCATIONS</b>	<u>\$58,750</u>	<u>\$62,500</u>

**Sec. 16. Report.** The Office of Substance Abuse in cooperation with the Department of Human Services shall submit interim reports to the joint standing committee of the Legislature having jurisdiction over legal affairs by March 30, 1996 and by January 30, 1997 regarding the operation of the tobacco education programs and other pertinent statistics. The reports must contain reliable information comparing the percentage of juveniles smoking in this State within 3 months of the effective date of this Act with the percentage of juveniles smoking in this State within 3 months of the reporting date.

**Sec. 17. Educational programs.** To the extent that funds are available, the Department of Human Services and the Office of Substance Abuse shall collaboratively coordinate, develop and implement programs to educate retailers, schools, retail clerks, juveniles and the general public about the laws relating to cigarette sales to, and purchases by, juveniles, the consequences of violating those laws and the consequences of using tobacco products. The Department of Human Services and the Office of Substance Abuse shall work in cooperation with the Department of Education, tobacco industry retailers and nonprofit health agencies, including, but not limited to, the Maine Lung Association and the American Cancer Society.

**Sec. 18. Office of Substance Abuse; approval to hire project personnel.** The Office

of Substance Abuse is granted legislative approval to use federal block grant dollars to hire project personnel to conduct education in, and research on, tobacco use by juveniles. The Office of Substance Abuse is authorized to subcontract, with the Department of Human Services, to hire contract personnel for the department to enforce the tobacco laws.

**Sec. 19. Application.** During the first 6 months after the effective date of this Act, when a juvenile is summonsed for the purchase, possession or use of tobacco products, that summons is a warning and not subject to the fines established in the Maine Revised Statutes, Title 22. The Office of Substance Abuse shall make cigarette smoking and tobacco use cessation programs available throughout the State and send notices of those programs to local schools and public service agencies to make juveniles aware of the availability of those programs.

See title page for effective date.

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**CHAPTER 471**

**S.P. 214 - L.D. 556**

**An Act Concerning the Participation of Teachers of Adult Education in the Maine State Retirement System**

**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,** current law requires part-time, seasonal and temporary state employees, including adult education teachers, to be members of the Maine State Retirement System; and

**Whereas,** that requirement creates financial and other hardships for certain part-time, uncertified adult education teachers that must be addressed through legislation; and

**Whereas,** legislation taking effect July 1, 1995 is necessary to address the hardships created by current 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 §17001, sub-§42, ¶B,** as repealed and replaced by PL 1989, c. 878, Pt. D, §4, is amended to read:

B. Any employee of a public school who fills any position not included in paragraph A, the principal function of which is to introduce new learning to students, except that an employee who is employed in adult education as defined in Title 20-A, section 8601-A, subsection 1 and who is not otherwise covered by the definition of teacher defined in this subsection may not be considered a teacher for purposes of this Part;

**Sec. 2. 5 MRSA §17154, sub-§6, ¶E,** as enacted by PL 1993, c. 387, Pt. A, §7 and c. 482, §3, is repealed and the following enacted in its place:

E. Notwithstanding this section, the employer retirement costs related to the retirement system applicable to those teachers whose funding is provided directly or through reimbursement from private or public grants must be paid by local school systems from those funds. "Public grants" does not include state or local funds provided to school administrative units under Title 20-A, chapters 315 and 606.

**Sec. 3. 5 MRSA §17154, sub-§6, ¶F** is enacted to read:

F. Notwithstanding this section, effective September 1, 1993, the employer retirement cost related to the retirement system, less the unfunded liability, applicable to a teacher who is permitted to continue to accrue service credit while on released time and serving as president of a recognized or certified collective bargaining agent representing teachers must be paid from funds provided by the collective bargaining agent or school administrative unit. For purposes of this paragraph, in computing the employer cost, "earnable compensation" means the amount that the teacher would have earned if the teacher had remained in a teaching position.

**Sec. 4. Application.** The exclusion of certain adult education employees from the definition of teacher that is provided by section 1 of this Act applies to those employees who are employed on or after July 1, 1995 in circumstances to which the exclusion applies, regardless of whether an employee has been employed in those circumstances prior to that

date. An employee who was employed in those circumstances prior to that date and whose contributions related to that employment are in the Maine State Retirement System on that date may, but is not required to, withdraw those contributions.

**Emergency clause.** In view of the emergency cited in the preamble, this Act takes effect July 1, 1995.

Effective July 1, 1995.

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**CHAPTER 472**

**H.P. 801 - L.D. 1118**

**An Act to Amend the Laws  
Pertaining to the Duties of Skiers and  
Tramway Passengers by Defining  
Inherent Risks**

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

**Sec. 1. 26 MRSA §488,** as amended by PL 1979, c. 514, §3, is repealed and the following enacted in its place:

**§488. Skiers' and tramway passengers' responsibilities**

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

A. "Inherent risks of skiing" means those dangers or conditions that are an integral part of the sport of skiing, including, but not limited to: existing and changing weather conditions; existing and changing snow conditions, such as ice, hard-pack, powder, packed powder, slush and granular, corn, crust, cut-up and machine-made snow; surface or subsurface conditions, such as dirt, grass, bare spots, forest growth, rocks, stumps, trees and other natural objects and collisions with or falls resulting from such natural objects; lift towers, lights, signs, posts, fences, mazes or enclosures, hydrants, water or air pipes, snow-making and snow-grooming equipment, marked or lit trail maintenance vehicles and snowmobiles, and other man-made structures or objects and their components, and collisions with or falls resulting from such man-made objects; variations in steepness or terrain, whether natural or as a result of slope design; snow-making or snow-grooming operations, including but not limited to ski jumps, roads and catwalks or other terrain modifications; the presence of and collisions with other skiers; and the failure of skiers to ski safely, in control or within their own abilities.