

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE

FIRST SPECIAL SESSION
November 28, 1995 to December 1, 1995

SECOND REGULAR SESSION
January 3, 1996 to April 4, 1996

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
JULY 4, 1996

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

paid from the State Treasury and other sources for all justices and judges of this State. The commission is authorized to submit with its report any proposed legislation the commission determines necessary to implement these recommendations.

Sec. 2. PL 1995, c. 368, Pt. W, §12, sub-§1 is amended to read:

1. The Task Force to Monitor Deregulation of Hospitals, referred to in this section as the "task force," is established and may review the recommendations of the Maine Health Care Reform Commission. The task force shall monitor the impact of deregulation on health care providers and consumers, propose recommendations concerning data collection and financial analysis and recommend statutory changes to implement the elimination of regulatory functions of the Maine Health Care Finance Commission.

The task force shall report to the Legislature no later than ~~December~~ February 15, 1995 1996 its findings and recommendations concerning the collection of clinical and financial data and the development of a financial analysis capability.

Sec. 3. PL 1995, c. 395, Pt. Q, §7 is amended to read:

Sec. Q-7. Report. The commission shall submit ~~a~~ an interim report to the Legislative Council and the Joint Standing Committee on Education and Cultural Affairs by March 1, 1996 that must address the following issues: access to opportunity for higher education in Maine; systems and inter-system governance structures and opportunities for improvement; and community college issues. The commission shall also submit a work plan and budget to the Legislative Council. A final report outlining its the commission's findings pursuant to section 4 of this Part, together with any necessary implementing legislation, must be submitted to the Second Regular Session of the 117th Legislature no later than ~~December 15, 1995~~ June 30, 1996. The commission must meet the deadline for the interim report and must submit a work plan and budget in order for the commission to be authorized to continue working until June 30, 1996.

Sec. 4. PL 1995, c. 465, Pt. C, §1, sub-§1 is amended to read:

1. Except as otherwise provided in this section, the Director of the State Planning Office shall assume all remaining duties and responsibilities of the former Maine Waste Management Agency, its officers and its executive director, including administration of any rules adopted by that agency relating to these remaining duties. By ~~December 1, 1995~~ March 1, 1996, the director shall submit legislation to the Second Regular Session of the 117th Legislature to revise all

remaining references to the Maine Waste Management Agency in the Maine Revised Statutes to conform to the intent of this Act.

Sec. 5. Resolve 1993, c. 62, §4, as amended by Resolve 1995, c. 9, §1, is further amended to read:

Sec. 4. Report completed. Resolved: That the Home School Study Committee shall submit its report, including any necessary legislation, to the Second Regular Session of the 117th Legislature and the Governor no later than ~~November 15, 1995~~ February 23, 1996.

Sec. 6. Resolve 1993, c. 72, §7, as amended by Resolve 1995, c. 7, §1 and affected by §2, is further amended to read:

Sec. 7. Report. Resolved: That the commission shall submit its report with any accompanying legislation to the ~~First~~ Second Regular Session of the 117th Legislature by ~~November 1, 1995~~ February 15, 1996; and be it further

Sec. 7. Resolve 1995, c. 51, §9 is amended to read:

Sec. 9. Report. Resolved: That the task force shall submit its reports with any accompanying legislation to the Second Regular Session of the 117th Legislature by ~~December 15, 1995~~ January 31, 1996; and be it further

Sec. 8. Retroactivity. This Act applies retroactively to November 1, 1995.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.

Effective February 14, 1996.

CHAPTER 510

H.P. 1174 - L.D. 1606

An Act to Amend the Overtime Laws as They Pertain to Bonuses

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

Whereas, the Legislature amended the minimum wage law in the First Regular Session of the 117th Legislature, in part, to make it easier to understand; and

Whereas, some members of the business community are confused about whether the law was

intended to require a change in the calculation of overtime pay; and

Whereas, this law affects many Maine employers and employees and should be clarified as soon as possible; 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, sub-§3, as enacted by PL 1995, c. 305, §1, is amended to read:

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 performed and does not include any sums excluded from the definition of "regular rate" under the Fair Labor Standards Act, 29 United States Code, Section 207(e).

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.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.

Effective February 22, 1996.

CHAPTER 511

S.P. 620 - L.D. 1625

An Act to Restore the Safety Defense to the Maine Human Rights Act

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

Whereas, the law providing the safety defense under the Maine Human Rights Act was repealed September 29, 1995; and

Whereas, it is necessary to restore the safety defense to the Maine Human Rights Act as quickly as possible; 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 §4573-A, sub-§§1-A and 1-B are enacted to read:

1-A. Qualification standards defined. For the purposes of this section, the term "qualification standards" may include a requirement that an individual does not pose a direct threat to the health or safety of other individuals in the workplace.

1-B. Physical or mental disability. This subchapter does not prohibit an employer from discharging or refusing to hire an individual with physical or mental disability, or subject an employer to any legal liability resulting from the refusal to employ or the discharge of an individual with physical or mental disability, if the individual, because of the physical or mental disability, is unable to perform the duties or to perform the duties in a manner that would not endanger the health or safety of the individual or others or is unable to be at, remain at or go to or from the place where the duties of employment are to be performed.