

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

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.

Sec. 2. 5 MRSA §4592, as amended by PL 1995, c. 393, §§22 to 24, is further amended by adding a new first paragraph to read:

This section does not require an entity to permit an individual to participate in or benefit from the goods, services, facilities, privileges, advantages and accommodations of that entity when the individual poses a direct threat to the health or safety of others. For the purposes of this section, the term "direct threat" means a significant risk to the health or safety of others that can not be eliminated by a modification of policies, practices or procedures or by the provision of auxiliary aids or services.

Sec. 3. Retroactivity. This Act applies retroactively to September 29, 1995.

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

Effective February 22, 1996

CHAPTER 512

H.P. 1184 - L.D. 1622

An Act to Promote Parity Between State and Federally Chartered Credit Unions

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

Sec. 1. 9-B MRSA §827, as repealed and replaced by PL 1983, c. 51, §2, is amended to read:

§827. Accounts

1. Receipt of savings. A credit union may receive savings of its members in payment for shares, Christmas clubs, special purpose clubs, tax clubs, deposit accounts and the like.

2. Receipt of payments from government agencies. A credit union may act as fiscal agent for and receive payments on shares and deposits from the Federal Government, this State or any agency or political subdivision.

3. Lien on shares. A credit union may impress and enforce a lien on the shares and dividends of a member to the extent of any loan made to and any dues or charges payable by that member.

Sec. 2. 9-B MRSA §846, sub-§2, as enacted by PL 1975, c. 500, §1, is amended to read:

2. Voting. ~~No A member shall may not~~ be entitled to vote by proxy, except in a vote for dissolution, or have more than one vote; and a member under the age of 18 ~~shall not may~~ be entitled to vote, subject to conditions prescribed in the bylaws. A fraternal organization, voluntary association, partnership or corporation having membership in a credit union may cast one vote at any of the meetings of the credit union by a duly delegated agent.

Sec. 3. 9-B MRSA §857-A, sub-§1, as amended by PL 1987, c. 405, §31, is further amended to read:

1. Authorization; limitations. Subject to the limitations set forth in sections 854 and 855, the credit committee of a credit union may approve a line of credit to a member upon written application by the member, and advances may be made to that member within the limits of that extension of credit. A line of credit given pursuant to this section, ~~other than a line of credit secured by real estate, shall expire no later than 12 months after its approval unless renewed in the same manner in which it was originally given, but no additional loan applications shall be required from the member so long as the aggregate obligation outstanding at any time does not exceed the specified limit of that extension of credit must be reviewed periodically by a loan officer or the credit committee in accordance with the policy established under section 854.~~

Sec. 4. 9-B MRSA §862, sub-§5, as enacted by PL 1991, c. 386, §24, is amended to read:

5. Federal Home Loan Bank and National Credit Union Administration Central Liquidity Facility membership. A credit union may become a member and stockholder ~~in a Federal Home Loan Bank within the Federal Home Loan Bank district where that credit union is situated.~~ of the following:

A. A Federal Home Loan Bank within the Federal Home Loan Bank district where that credit union is located; and

B. The National Credit Union Administration Central Liquidity Facility, subject to the conditions and limitations prescribed under the Federal Credit Union Act, 12 United States Code, Sections 1751 to 1795k (1988).

Sec. 5. 9-B MRSA §862, last ¶, as amended by PL 1991, c. 386, §25, is further amended to read:

~~Nothing contained in this~~ This section may not be construed as authorizing to authorize a credit union to purchase or invest in the stock of any corporation, except for the purchase of stock in the Federal Home Loan Bank or the National Credit Union Administra-