

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

tion's research, evaluation and demonstration efforts may include, but are not limited to, the following:

1. The health of Maine's population. The cause, effects, extent and nature of illness and disability among all or a particular group of the people of this State;

2. The effects of ill health. The impact of personal illness and disability on the economy of this State and the well-being of all or a particular group of the people of this State;

3. Health-related issues. Environmental, laboratory, social and other health-related issues;

4. Health-related knowledge. The health-related knowledge and practices of the people of this State;

5. Health resources. The quality and availability of health resources in this State, including, but not limited to, health care institutions and health professions;

6. Health behaviors. The determinants of health and nutrition practices and status, including, but not limited to, behaviors that are related to health;

7. Access to care. Access to and use of health care services by all or a particular group of the people of this State, including, but not limited to, the use of ambulatory health care services. The access and use may be categorized by specialty and type of practice of the health professional or health facility providing the service; and

8. Public health. Public health policies and programs.

See title page for effective date.

CHAPTER 599

H.P. 1264 - L.D. 1739

An Act Authorizing Officers of Closely Held Corporations to Represent those Corporations before Any Court

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

Sec. 1. 4 MRSA §807, sub-§3, ¶H, as amended by PL 1995, c. 419, §2, is further amended to read:

H. A person who is not an attorney, but has been designated to represent either the Department of Human Services, under Title 22, section 3473,

subsection 3, or the Department of Mental Health and Mental Retardation, under Title 34-B, section 1204, subsection 7, in Probate Court proceedings; ~~or~~

Sec. 2. 4 MRSA §807, sub-§3, ¶I, as enacted by PL 1995, c. 419, §3, is amended to read:

I. A person who is not an attorney, but is representing the Department of Human Services in a child support enforcement matter as provided by Title 14, section 3128-A, subsection 7 and Title 19, section 504-C, subsection 10. This paragraph is repealed October 1, 1998; ~~or~~

Sec. 3. 4 MRSA §807, sub-§3, ¶J is enacted to read:

J. For the purposes of defending a civil action filed against a corporation, an officer of the corporation if the corporation is organized in this State and has 2 or fewer shareholders.

See title page for effective date.

CHAPTER 600

H.P. 1269 - L.D. 1744

An Act to Revise the State Active Service Laws

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

Sec. 1. 37-B MRSA §181, as amended by PL 1989, c. 850, §4, is repealed.

Sec. 2. 37-B MRSA §181-A is enacted to read:

§181-A. Authority to activate

1. By order of the Governor. The Governor may order members of the state military forces to active state service in the case of, or imminent danger of, insurrection, invasion, tumult, riot, conspiracy to commit a felony or threat of violence to persons or property or upon the reasonable apprehension thereof; or for the safety of the inhabitants of this State; or, in the case of actual or imminent public disaster, to the aid of any civil authority.

2. By order of a justice or sheriff. In case of, or in the event of imminent danger of, insurrection, invasion, tumult, riot or conspiracy to commit a felony, to offer violence to persons or property or by force to break the laws of this State or the United States, a Justice of the Supreme Judicial Court or a Justice of the Superior Court or a county sheriff may

request in writing aid from a commanding officer in the state military forces. The commanding officer to whom the request is made shall order out, in aid of the civil authorities, all or part of the military forces under that commanding officer's command and shall immediately report to the Adjutant General and to that commanding officer's military superior for further instructions. The commanding officer may receive only general directions from the civil authority requesting the aid and remains strictly responsible to the commanding officer's military superior for the manner in which the troops are used to accomplish the desired end.

3. Upon request of local officials. In the event of an emergency requiring immediate action, the commanding officer, upon written request of the mayor of a city, the municipal officers of a town or a municipality, may order out, for the defense or protection of the community, the forces under the commanding officer's command or any part of those forces. The commanding officer shall immediately report to the Adjutant General and to the commanding officer's immediate commanding officer for further instructions.

4. Drug enforcement duties. The Governor may order Maine National Guard members to active state service to support federal drug enforcement operations under the National Defense Authorization Act of 1989.

5. Military duty by consent. The Governor, or the Governor's designee, may order a member of the Maine National Guard, with that member's consent, to perform active state service of any nature.

Sec. 3. 37-B MRSA §182, as amended by PL 1983, c. 594, §7, is further amended to read:

§182. Proclamation of state of insurrection

Whenever any portion of the state military forces is activated in aid of civilian authority and if, in the Governor's judgment, the maintenance of law and order will thereby be promoted, ~~he may~~ the Governor, by proclamation, may declare the county or municipality receiving the assistance, or any specified portion or combination thereof, to be in a state of insurrection.

In the event of a proclamation of insurrection, and without limiting any other powers of the Governor, whether inherent or conferred by other existing laws, the Governor may issue rules under the emergency rule-making provisions of the Maine Administrative Procedure Act, Title 5, section 8054, ~~which that~~ are reasonable under the circumstances to avert additional damage, destruction, injury or loss of life, including, but not limited to, emergency rules for curfews, the deployment of emergency medical

supplies and facilities, evacuations, the closing of liquor, arms, ammunition, explosives or other stores and facilities, access roads, temporary detours and other things, whether of a same or a different nature.

In the event of the call up of military forces, pursuant to section ~~181~~ 181-A, subsection 1, and without limiting any powers expressly and inherently possessed by or otherwise vested in the Governor as Commander in Chief, the Governor or Adjutant General, as ~~his~~ the Governor's designee, may petition any Superior Court for ex parte temporary restraining orders to restrain unlawful interference with efforts to maintain peace or preserve life and property. The court may grant appropriate temporary relief. Upon issuance of the order, the Governor shall cause prompt notice of the order and its effect to be broadcast, posted, announced or otherwise publicized so as to reach the persons effected. Any person aggrieved by the order is entitled at any time it is in effect to bring a motion for vacating the order. The motion ~~shall~~ must lie in the court from which the order was issued and the moving parties shall serve notice of the motion upon the Governor concurrent with it being filed, but, until vacated, the order ~~shall remain~~ remains effective according to its terms.

Sec. 4. 37-B MRSA §183, as amended by PL 1987, c. 334, is further amended to read:

§183. Human health emergencies

Personnel and equipment of the ~~state military force~~ Maine National Guard may be employed in the case of human health emergencies.

1. Activation of Maine National Guard. In the event of illness, injury, missing persons or loss of life, creating an emergency ~~which that~~ requires specialized personnel or equipment of the ~~state military forces~~ Maine National Guard to prevent human suffering, increased health risk or loss of life, the Governor, or ~~his~~ the Governor's designee, may order into active state service of the State or in aid of any civil authority the necessary personnel and equipment of the ~~state military forces~~ Maine National Guard. Human health emergencies may include medical evacuation and search and rescue under Title 6, section 303 and Title 12, section 7035, which may include providing emergency helicopter airlift service. Any person ordered into active state service of the State, for the purposes of this subsection, ~~shall be~~ is considered a state employee for purposes of the Maine Tort Claims Act and ~~his that person's~~ that person's liability ~~shall be~~ is limited by that Act.

2. Immunity from civil liability. Any In addition to all existing tort immunities enumerated in the Maine Tort Claims Act any person ordered into active state service of the State, for the purposes of this section, is immune from civil liability for damages

to the same extent as any person who renders assistance pursuant to Title 14, section 164.

3. Accounting. At least 30 days before the end of each fiscal year, the Adjutant General shall prepare an accounting of all expenses incurred pursuant to this section since any prior accounting and shall present this accounting to the Commissioner of Human Services for payment pursuant to Title 22, section 3185.

~~**4. Reimbursement.** In addition to other payments authorized by Title 22, section 3185, the Department of Human Services shall, upon receipt of an annual accounting as authorized under this subsection, transfer to the Department of Defense and Veterans' Services a sum, not to exceed \$10,000, from money appropriated pursuant to Title 22, section 3185, as reimbursement for costs of rendering emergency health service.~~

Sec. 5. 37-B MRSA §184, as enacted by PL 1983, c. 460, §3, is amended to read:

§184. Notice for duty

Notices for military duty ~~shall~~ must be given as follows.

1. When given. ~~Notices for state duty at encampments, maneuvers and field instruction shall be given at least 10 days prior to the duty. Notices for other duty may be given when prescribed by the officer issuing the order. Members of the state military forces must receive reasonable prior notice of active state service appropriate to the duty to be performed.~~

2. How given. Notices ~~shall~~ may be given orally or by written notice ~~delivered personally, sent by mail or left at the last and usual place of abode in writing.~~ Orders conspicuously posted during a regular meeting of the unit, not less than 4 days prior to the date fixed in the order, ~~shall be~~ are sufficient.

3. Dates fixed by law. ~~Where~~ When drill dates have been fixed by law, orders or regulations, no further notice is required.

Sec. 6. 37-B MRSA §185, sub-§4, as enacted by PL 1983, c. 594, §10, is amended to read:

4. Rights of a law enforcement officer. A commissioned officer member of the state military forces when called to active duty under section ~~181~~ 181-A, subsection 1, in addition to such other rights conferred by this chapter and otherwise by law, ~~shall have~~ has the rights, authority and immunities of a law enforcement officer.

Sec. 7. Allocation. The following funds are allocated from Other Special Revenue to carry out the purposes of this Act.

1996-97

DEFENSE AND VETERANS' SERVICES, DEPARTMENT OF Military Training and Operations

Personal Services	\$100,000
All Other	150,000

Allocates funds to authorize the Department of Defense and Veterans' Services to expend funds received as reimbursement for services provided by the Maine National Guard.

DEPARTMENT OF DEFENSE AND VETERANS' SERVICES	
TOTAL	\$250,000

See title page for effective date.

CHAPTER 601

H.P. 1306 - L.D. 1787

An Act to Place Penobscot Land in Trust

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

Sec. 1. 30 MRSA §6205, sub-§2, ¶B, as amended by PL 1991, c. 721, §1 and affected by §2, is further amended to read:

B. The first 150,000 acres of land acquired by the secretary for the benefit of the Penobscot Nation from the following areas or lands to the extent that those lands are acquired by the secretary prior to January 31, 2001, are not held in common with any other person or entity and are certified by the secretary by January 31, 2001, as held for the Penobscot Nation:

The lands of Great Northern Nekoosa Corporation located in T.1, R.8, W.B.K.P. (Lowelltown), T.6, R.1, N.B.K.P. (Holeb), T.2, R.10, W.E.L.S. and T.2, R.9, W.E.L.S.; the land of Raymidga Company located in T.1, R.5, W.B.K.P. (Jim Pond), T.4, R.5, B.K.P.W.K.R. (King and Bartlett), T.5, R.6, B.K.P.W.K.R. and T.3, R.5, B.K.P.W.K.R.; the land of the heirs of David