

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

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FIRST REGULAR SESSION
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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

Sec. A-66. 38 MRSA §2232, sub-§§4 and 5, as enacted by PL 1991, c. 676, §1, are amended to read:

4. Expenditures. The total expenditures of the incineration facility during the last completed fiscal year including details of those expenditures as required by the agency office; and

5. Other information. Any other information required by the agency office.

Sec. A-67. 38 MRSA §2235, as enacted by PL 1991, c. 676, §1, is amended to read:

§2235. Use of files

The agency office shall keep on file for public inspection and use all reports submitted under this subchapter.

Sec. A-68. 38 MRSA §2236, as corrected by RR 1993, c. 1, §138, is amended to read:

§2236. Limitation

Nothing in this subchapter may be construed to create or expand any agency office authority over financial, organizational or rate regulation of incineration facilities.

Sec. A-69. PL 1993, c. 591, §§3 and 4 are repealed.

Sec. A-70. Notice of tax credit termination date. The State Planning Office shall notify each person certified as eligible for the investment tax credit provided in the Maine Revised Statutes, Title 36, section 2526 or 5219-D of the June 30, 1998 termination date for use of the credit.

PART B

Sec. B-1. Legislative intent. The Legislature intends that the repeal of the Maine Revised Statutes, Title 38, sections 2103, 2122 and 2157 in Public Law 1995, chapter 465 eliminates the statutory authority for the adoption of rules under those sections or the enforcement of any rules adopted under those sections.

See title page for effective date.

CHAPTER 657

S.P. 738 - L.D. 1846

An Act to Combine Certain Reporting Requirements for Employees

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

Sec. 1. 26 MRSA §1082, sub-§13, as amended by PL 1993, c. 312, §1, is further amended to read:

13. Filing payroll reports; penalty. The commission may prescribe rules for the filing of payroll reports for the employing units in the State. Each employing unit shall submit a quarterly payroll report on those forms the bureau prescribes and these quarterly reports are due in the office of the bureau, or of any duly constituted agent of the bureau, on or before the last day of the month following the close of the calendar quarter for which the reports relate. The failure on the part of any employing unit to file the payroll reports within ~~the time stated by rule of the commission~~ this time frame renders the employing unit liable to ~~for a penalty of \$25, unless the delay was occasioned by the illness or death of the person in charge of the records of the employing unit or by other unavoidable occurrence that excuses the employing unit from the penalty, except that an extension of time up to 30 days beyond the prescribed due date for a quarterly payroll report may be allowed for good cause upon written request made on or before the due date or 10% of the tax due, whichever is greater.~~

Provided that in the case of executive, administrative and professional employees, and outside sales representatives, as defined in Part 541 of the Rules and Regulations promulgated under the Fair Labor Standards Act of 1938, as amended as of June 30, 1971, the commissioner, upon the request of an employer of those individuals, may approve an alternative method for obtaining from that employer necessary wage information relative to those employees.

Sec. 2. 26 MRSA §1082, sub-§14, ¶¶A and B, as amended by PL 1979, c. 651, §45, are further amended to read:

A. ~~Determination.~~ The Director of Unemployment Compensation or a representative of the commissioner duly authorized by the commissioner to do so shall determine whether an employing unit is an employer and whether services performed for or in connection with the business of the employing unit constitute employment, and shall give written notice of the determination to the employing unit. Unless ~~such~~ the employing unit, within ~~45~~ 30 calendar days after notification was mailed to its last known address, files an appeal from ~~such that~~ that determination, ~~such the~~ the determination ~~shall be~~ is final.

B. ~~Redetermination.~~ After a determination has been made under paragraph A, the Director of

Unemployment Compensation or a representative of the commissioner may within one year reconsider the determination in the light of additional evidence and make a redetermination and shall give written notice of the redetermination to the employing unit. Unless ~~such~~ the employing unit, within ~~15~~ 30 calendar days after notification was mailed to its last known address, files an appeal from ~~such~~ that redetermination, ~~such~~ the redetermination ~~shall be~~ is final.

Sec. 3. 26 MRSA §1221, sub-§1, ¶A, as amended by PL 1979, c. 651, §24, is further amended to read:

A. Contributions ~~shall~~ accrue and become payable by each employer subject to this chapter, other than those liable for payments in lieu of contributions, for each calendar year in which ~~he~~ the employer is subject to this chapter, with respect to wages for employment, as defined in section 1043, subsection 11. ~~Such~~ These contributions ~~shall~~ become due and must be paid by each employer to the bureau for the fund ~~in accordance with such regulations as the commissioner may prescribe, on or before the last day of the month following the close of the calendar quarter to which the contributions relate and shall~~ may not be deducted, in whole or in part, from the wages of ~~individuals in his employ~~ the employees.

Sec. 4. 26 MRSA §1225, sub-§§3 and 4, as amended by PL 1993, c. 312, §3, are further amended to read:

3. Interest on past-due contributions. Contributions are due and payable on or before the last day of the month following the close of the calendar quarter to which contributions relate. Contributions that are unpaid on the date on which they are due and payable, ~~as prescribed by rule,~~ bear interest at the rate determined by the State Tax Assessor as established by Title 36, section 186, from and after the due date, until payment is received by the bureau. ~~The interest rate determined by the State Tax Assessor, for the purposes of this section, is in effect for the full calendar year following the year in which it is determined.~~ If it is shown to the satisfaction of the commissioner that the delinquency arose from reasonable questions of liability under this subchapter, the commissioner, in the commissioner's discretion, may abate part of the interest not to exceed 75% of the total interest. If it is shown to the satisfaction of the commissioner that the delinquency arose through no fault of the employer, ~~no~~ an assessment of interest may not be made.

4. Penalty on past-due contributions. If quarterly contributions are not paid when due, the commissioner shall assess, ~~for the first 30 days after the due date or a waiver, a penalty of 2% of the amount of the contributions and thereafter a penalty of 5% a penalty of 1% of the amount of the unpaid contributions.~~ The commissioner may waive that penalty if it is determined that the delay was occasioned by the illness or death of the person in charge of the records of the employing unit or by some other unavoidable occurrence. The commissioner may allow an extension of time up to 30 days beyond the due date for good cause upon written request made on or before the due date for each month or fraction of a month during which the failure continues, to a maximum in the aggregate of 25% of the unpaid contributions.

Sec. 5. 26 MRSA §1225, sub-§8 is enacted to read:

8. Reasonable cause. For reasonable cause, the commissioner shall waive or abate any penalty imposed by subsection 4 and section 1082, subsection 13. Reasonable cause includes, but is not limited to, the following:

A. The failure to file or pay resulted directly from erroneous information provided by the Department of Labor;

B. The failure to file or pay resulted directly from the death or serious illness of the taxpayer or a member of the taxpayer's immediate family;

C. The failure to file or pay resulted directly from a natural disaster;

D. The report was filed and paid less than one month late and all of the taxpayer's reports and payments during the preceding 3 years were timely; or

E. The amount subject to a penalty is de minimis when considered in relation to the amount otherwise properly paid and the number of employees for whom wages are being reported.

The burden of establishing reasonable cause for waiver or abatement is on the taxpayer.

Sec. 6. 26 MRSA §1226, sub-§1, ¶A, as amended by PL 1983, c. 351, §29, is further amended to read:

A. An employer may appeal determinations by the commissioner or ~~his~~ the commissioner's designated representatives made under sections 1221, 1222 and 1225, or an assessment made under section 1225, to the commission by filing an appeal, in accordance with ~~such~~ regulations as

that the commission shall ~~prescribe~~ prescribes, within ~~45~~ 30 days after notification is mailed to the employer's last known address as it appears in the records of the bureau or, in the absence of such mailing, within ~~45~~ 30 days after the notification is delivered. If the employer fails to perfect ~~such~~ this appeal, the assessment or determination ~~shall be~~ is final as to law and fact.

Sec. 7. 36 MRSA §187-B, sub-§1, ¶A, as enacted by PL 1991, c. 873, §5 and affected by §§8 and 9, is amended to read:

A. If the return is filed before or within 30 days after the taxpayer receives from the State Tax Assessor a formal demand that the return be filed, the penalty is ~~\$40~~ \$25 or 10% of the tax due, whichever is greater.

Sec. 8. 36 MRSA §191, sub-§2, ¶T is enacted to read:

T. The disclosure by employees of the Bureau of Taxation, to designated representatives of the Department of Labor, of all information contained on a joint return or report submitted to the tax assessor and required by the tax assessor and the Commissioner of Labor for the administration of the taxes imposed by Part 8 and by Title 26, chapter 13.

Sec. 9. 36 MRSA §5253, sub-§1, as amended by PL 1993, c. 395, §22, is further amended to read:

1. General. Every person required to deduct and withhold tax under this Part shall, for each calendar quarter, on or before the ~~21st~~ last day of the month following the close of the calendar quarter or such other reporting period as the State Tax Assessor may require, file a withholding return and remit payment as prescribed by the ~~State Tax Assessor~~ tax assessor. The ~~State Tax Assessor~~ tax assessor shall prescribe the voucher required to be filed with payments.

Sec. 10. Effective date. This Act takes effect for any tax reporting period beginning on or after January 1, 1997.

See title page for effective date, unless otherwise indicated.

CHAPTER 658

S.P. 734 - L.D. 1843

An Act to Encourage Enterprises Engaged in Agriculture and Aquaculture in Maine and to Amend

the Maine Seed Capital Tax Credit Program

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

Whereas, the State's economy will benefit from immediate changes in the Maine Seed Capital Tax Credit Program; 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. 7 MRSA c. 101, sub-c. I-D is enacted to read:

SUBCHAPTER I-D

AGRICULTURAL MARKETING LOANS

§434. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Agricultural enterprise. "Agricultural enterprise" means a person or business engaged in the commercial growing or harvesting of plants; raising animals; growing or obtaining plant or animal by-products; aquaculture, as defined in Title 12, section 6001, subsection 1; or producing, processing, storing, packaging or marketing a product derived from an agricultural enterprise, with the intent that the product be sold or otherwise disposed of to generate income.

§435. Agricultural marketing loans

1. Administration. The commissioner shall administer the Agricultural Marketing Loan Fund established under Title 10, section 1023-J.

2. Conditions. Agricultural marketing loans are subject to the following conditions.

A. An agricultural marketing loan for any project under this subchapter, the total cost of which exceeds \$50,000, may not exceed 45% of the project cost. A loan from the fund may not be provided for such a project unless the applicant demonstrates a commitment of private funds of at least 10% of the total cost of the project; except that, in order to encourage the undertaking of cooperative projects by 2 or more