

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE

SECOND SPECIAL SESSION
September 5, 1996 to September 7, 1996

ONE HUNDRED AND EIGHTEENTH LEGISLATURE

FIRST REGULAR SESSION
December 4, 1996 to March 27, 1997

FIRST SPECIAL SESSION
March 27, 1997 to June 20, 1997

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 26, 1997

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NON-EMERGENCY LAWS IS
SEPTEMBER 19, 1997

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
1997

CHAPTER 293

H.P. 1209 - L.D. 1709

An Act Regarding Errors and Inconsistencies in the Maine Employment Security Law**Be it enacted by the People of the State of Maine as follows:**

Sec. 1. 26 MRSA §1043, sub-§9, ¶G, as amended by PL 1971, c. 538, §5, is further amended to read:

G. Any individual or employing unit ~~which that~~ acquired any part of the organization, trade or business or assets of another ~~which part, and the acquired part,~~ had it previously been treated as a separate unit, would have been an employer under paragraphs A, A-1 ~~or~~ H or J;

Sec. 2. 26 MRSA §1043, sub-§11, ¶A-1, as amended by PL 1979, c. 541, Pt. A, §179, is further amended by amending sub-¶(3) to read:

(3) Notwithstanding paragraph F, except as herein provided, service performed in the employ of a religious, charitable, educational or other organization ~~which that~~ is excluded from the term employment as defined in the Federal Unemployment Tax Act solely by reason of ~~section~~ Section 3306 (c)(8) of that Act; and the organization had 4 or more individuals in employment for some portion of a day in each of 20 different weeks, whether or not such weeks were consecutive, within either the current or preceding calendar year, regardless of whether they were employed at the same moment of time; and such services are not excluded under paragraph F, subparagraph (21), divisions (a) through ~~(h)~~ (i);

Sec. 3. 26 MRSA §1043, sub-§19, ¶B, as amended by PL 1985, c. 348, §2, is further amended by amending sub-¶(1-A) to read:

(1-A) Any payment on account of sickness or accident disability, or medical or hospitalization expenses in connection with sickness or accident disability, made by an employer or a 3rd party to, or on behalf of, an employee after the expiration of 6 calendar months following the last calendar month in which the employee worked for that employer;

Sec. 4. 26 MRSA §1051, sub-§5, as amended by PL 1983, c. 305, §1, is further amended to read:

5. Refusal to repay erroneous payments; waiver of repayment. If, after due notice, any person refuses to repay amounts erroneously paid to ~~him~~ that person as unemployment benefits, the amounts due from that person ~~shall be~~ are collectible in the manner provided in subsection 6 or in the discretion of the commission the amount erroneously paid to such person may be deducted from any future benefits payable to ~~him~~ that person under this chapter; provided that there ~~shall be~~ is no recovery of payments from any person who, in the judgment of at least 2 commission members, is without fault ~~on his part~~ and where, in the judgment of the commission, such recovery would defeat the purpose of benefits otherwise authorized or would be against equity and good conscience. No recovery may be attempted until the determination of an erroneous payment is final as to law and fact and the individual has been notified of the opportunity for a waiver under this subsection.

Sec. 5. 26 MRSA §1194, sub-§12, as enacted by PL 1989, c. 691, is amended to read:

12. Collateral estoppel. Except for proceedings under this chapter, no finding of fact or conclusion of law contained in a decision of a deputy, an administrative hearing officer, the ~~Unemployment Insurance Commission~~ commission, the commissioner or a court, obtained under this chapter, has preclusive effect in any other action or proceeding.

This provision applies to decisions issued on or after ~~the effective date of this subsection~~ July 14, 1990.

Sec. 6. 26 MRSA §1221, sub-§10, ¶A, as amended by PL 1979, c. 651, §44, is further amended to read:

A. Any nonprofit organization ~~which that~~ becomes subject to this chapter after January 1, 1972 may elect to become liable for payments in lieu of contributions for a period of 2 calendar years beginning with the date on which such subjectivity begins by filing a written notice of its election with the bureau not later than 30 days immediately following the date of determination of its subjectivity. Any nonprofit organization or governmental entity subject to this chapter ~~and~~ or after January 1, 1978, may elect to become liable for payments in lieu of contributions for a period of not less than one calendar year beginning with the date on which such subjectivity begins by filing a written notice of its election with the bureau not later than 30 days immediately following the date of determination of its subjectivity. Any nonprofit organization ~~which~~ or governmental entity that makes an election in

accordance with this paragraph will continue to be liable for payments in lieu of contributions, until it files with the bureau a written notice terminating its election not later than 30 days prior to the beginning of the calendar year for which such termination ~~shall~~ is first ~~be~~ effective.

Sec. 7. 26 MRSA §1221, sub-§11, ¶E, as amended by PL 1975, c. 462, §5, is further amended to read:

E. Past-due payments of amounts in lieu of contributions ~~shall be~~ are subject to the same interest, penalties and collection provisions that, pursuant to section 1225, ~~subsection~~ subsections 3 and 4, sections 1229, 1230 and 1231 apply to past-due contributions.

Sec. 8. 26 MRSA §1221, sub-§11, ¶F, as amended by PL 1977, c. 694, §479, is further amended to read:

F. The ~~commission~~ commissioner shall promptly review and reconsider the amount due specified in the assessment and shall thereafter issue a redetermination in any case in which such application for redetermination has been filed. Any such redetermination ~~shall be~~ is conclusive on the employer or governmental entity unless the employer or governmental entity files an appeal in accordance with Title 5, ~~section 11001 et seq~~ chapter 375, subchapter VII.

Sec. 9. 26 MRSA §1251, sub-§3, ¶A, as amended by PL 1987, c. 131, is further amended to read:

A. Any hotel, motel, inn, variety store, trading post, sporting camp or other lodging facility, including camps operated for boys and girls, restaurants and other eating establishments, which customarily conducts ~~its~~ operations ~~which that~~ are primarily related to the production of ~~its~~ characteristic goods or services for a regularly recurring period or periods of less than 26 weeks in any one calendar year shall be is deemed seasonal.

See title page for effective date.

CHAPTER 294

H.P. 1151 - L.D. 1616

An Act to Amend the Laws Regulating Occupational Therapy Practice

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

Sec. 1. 32 MRSA §2271, as enacted by PL 1983, c. 746, §2, is amended to read:

§2271. Declaration of purpose

In order to safeguard the public health, safety and welfare, to protect the public from incompetent and unauthorized persons; to assure the highest degree of professional conduct on the part of occupational therapists and certified occupational therapy assistants; and to assure the availability of occupational therapy services of high quality to persons in need of those services, it is the purpose of this chapter to provide for the regulation of persons offering occupational therapy services.

Sec. 2. 32 MRSA §2272, as corrected by RR 1993, c. 1, §87, is repealed and the following enacted in its place:

§2272. Definitions

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

1. ACOTE. "ACOTE" means the Accreditation Council for Occupational Therapy Education, a nationally recognized accrediting agency for professional programs in the field of occupational therapy.

2. AOTA. "AOTA" means the American Occupational Therapy Association.

3. Board. "Board" means the Board of Occupational Therapy Practice established under this chapter.

4. Certification examination. "Certification examination" means the certification examination for a registered occupational therapist or the certification examination for certified occupational therapy assistant, both of which are administered by NBCOT.

5. Certified occupational therapy assistant. "Certified occupational therapy assistant" means an individual who has passed the certification examination of the National Board for Certification in Occupational Therapy for an occupational therapy assistant or who was certified as an occupational therapy assistant prior to June 1977 and who is licensed to practice occupational therapy under this chapter in the State under the supervision of an occupational therapist.

6. Commissioner. "Commissioner" means the Commissioner of Professional and Financial Regulation.

7. Department. "Department" means the Department of Professional and Financial Regulation.