

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

FIRST SPECIAL SESSION
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

the commission's jurisdiction. A county commissioner, county employee, municipal official or municipal employee is not considered to hold an incompatible office for purposes of simultaneous service on the commission. If a county or municipality is a participant in an adjudicatory proceeding before the commission, a commissioner, official or employee from that county or municipality may not participate in that proceeding.

Sec. 2. 38 MRSA §341-C, sub-§2, as enacted by PL 1989, c. 890, Pt. A, §13 and affected by §40, is amended to read:

2. Qualifications and requirements. Members of the board must be chosen to represent the broadest possible interest and experience that can be brought to bear on the administration and implementation of this Title and all other laws ~~which~~ the board is charged with administering. At least 4 members must be residents of the First Congressional District and at least 4 members must be residents of the Second Congressional District. The boundaries of the congressional districts are defined in Title 21-A, chapter 15. A county commissioner, county employee, municipal official or municipal employee is not considered to hold an incompatible office for purposes of simultaneous service on the board. If a county or municipality is a participant in an adjudicatory proceeding before the board, a commissioner, official or employee from that county or municipality may not participate in that proceeding.

See title page for effective date.

CHAPTER 347

H.P. 135 - L.D. 177

An Act to Amend the Child Labor Laws as They Pertain to Employment of Minors 15 Years of Age

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

Sec. 1. 26 MRSA §773, 2nd ¶ is amended to read:

The provisions of this section pertaining to manufacturing establishments ~~shall do~~ not apply to minors ~~under 16~~ 15 years of age who are employed in retail establishments where any frozen dairy product or frozen dairy product mix or related food product is manufactured on the premises, regardless of trade name or brand or coined name.

Sec. 2. 26 MRSA §773, 3rd ¶, as amended by PL 1975, c. 238, §2, is further amended to read:

The provisions of this section pertaining to hotels ~~shall do~~ not apply to minors under 16 years of age who are employed in outdoor occupations on the grounds of a hotel or to minors 15 years of age who are employed in kitchens, dining rooms, lobbies and offices of a hotel. Minors 15 years of age are expressly prohibited from working in an area not listed as permitted and are expressly prohibited from performing room service, making deliveries of any sort to the hotel rooms or entering the hallways to those rooms.

Sec. 3. 26 MRSA §773, last ¶, as enacted by PL 1989, c. 520, §1, is repealed.

See title page for effective date.

CHAPTER 348

H.P. 244 - L.D. 308

An Act to Continue the Vendor's Tax for One Year by Delaying the Repeal Date

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

Sec. 1. 36 MRSA §4773, as amended by PL 1995, c. 661, §1, is further amended to read:

§4773. Repeal

This chapter is repealed on November 1, ~~1997~~ 1998.

See title page for effective date.

CHAPTER 349

S.P. 110 - L.D. 389

An Act to Exclude from the Definition of "Employment" Services Provided by Lessees of Taxicabs

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

Sec. 1. 26 MRSA §1043, sub-§11, ¶F, as corrected by RR 1995, c. 2, §62, is further amended by amending subparagraphs 38 and 39 to read:

(38) Services performed by a person licensed as a guide as required by Title 12, section 7311, as long as that employment is not subject to federal unemployment tax; ~~and~~

(39) Services performed by a direct seller as defined in 26 United States Code, Section 3508, Subsection (b), Paragraph (2). This subparagraph does not include a person selling major improvements or renovations to the structure of a home, business or property; and

Sec. 2. 26 MRSA §1043, sub-§11, ¶F, as corrected by RR 1995, c. 2, §62, is further amended by adding a new subparagraph (40) to read:

(40) Services performed by lessees of taxicabs, as long as that employment is not subject to federal unemployment tax. This subparagraph may not be construed to affect a determination regarding a lessee's status as an independent contractor for workers' compensation purposes.

See title page for effective date.

CHAPTER 350

S.P. 175 - L.D. 504

An Act to Amend Certain Provisions Dealing with Juvenile Summonses

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

Sec. 1. 15 MRSA §3301, sub-§5, ¶C, as amended by PL 1985, c. 439, §11, is further amended to read:

C. If the juvenile caseworker determines that the facts are sufficient for the filing of a petition, he the juvenile caseworker may request the prosecuting attorney to file a petition. If this alternative is chosen, the juvenile caseworker shall issue and may serve a summons in accordance with section 3304. If the juvenile caseworker does not make service before requesting the prosecuting attorney to file a petition, the juvenile caseworker shall request a law enforcement officer to serve the summons in accordance with section 3304.

Sec. 2. 15 MRSA §3304, sub-§1, as enacted by PL 1977, c. 520, §1, is amended to read:

1. Issuance and contents. After a petition has been filed, the court shall promptly issue a summons. The summons shall briefly recite the substance of the petition issued by the juvenile caseworker must include the signature of the juvenile caseworker, a brief description of the alleged juvenile crime, the time and place of the alleged juvenile crime and the time and place the juvenile is to appear in court. The

summons ~~shall~~ must also include a statement of the constitutional rights of the juvenile, including the right to have an attorney present at the hearing on the petition and to have an attorney appointed, if indigent.

Sec. 3. 15 MRSA §3304, sub-§3, as amended by PL 1989, c. 741, §12, is further amended to read:

3. Service. The summons must be directed to and served, pursuant to Rule 4 (c)(4) of the Maine Rules of Criminal Procedure, upon the following persons:

- A. The juvenile; and
- B. The juvenile's parents, guardian or legal custodian, if the juvenile is not emancipated. Service upon a parent, guardian or legal custodian who is out of state may be by a reasonable method ordered by the court.

Sec. 4. 15 MRSA §3304, sub-§4, as enacted by PL 1977, c. 520, §1, is amended to read:

4. Service at least 48 hours before appearance demanded. The summons ~~shall~~ must require the person on whom it is served to appear for a hearing at ~~a~~ the time and place specified. The time ~~shall~~ may not be less than ~~2 days~~ 48 hours after service of the summons. If the juvenile is not detained by an order of the court, the summons ~~shall~~ required ~~must~~ require the custodian to produce the juvenile at that time and place. ~~A copy of the petition shall be attached to the summons.~~

See title page for effective date.

CHAPTER 351

H.P. 443 - L.D. 593

An Act to Strengthen the Laws Concerning Resisting Arrest

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

Sec. 1. 17-A MRSA §108, sub-§1-A is enacted to read:

1-A. A person is not justified in using nondeadly force against another person who that person knows or reasonably should know is a law enforcement officer attempting to effect an arrest or detention, regardless of whether the arrest or detention is legal. A person is justified in using the degree of nondeadly force the person reasonably believes is necessary to defend the person or a 3rd person against a law enforcement officer who, in effecting an arrest or detention, uses