

# 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.**

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**J.S. McCarthy Company**  
**Augusta, Maine**  
**1997**

**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 §17001, sub-§42, ¶B**, as amended by PL 1995, c. 471, §1, is further amended to read:

B. Any employee of a public school who fills any position not included in paragraph A, the principal function of which is to introduce new learning to students, except that a coach who is employed by a public school and who is not otherwise covered by the definition of teacher as defined in this subsection or an employee who is employed in adult education as defined in Title 20-A, section 8601-A, subsection 1 and who is not otherwise covered by the definition of teacher defined in this subsection may not be considered a teacher for purposes of this Part;

**Emergency clause.** In view of the emergency cited in the preamble, this Act takes effect July 1, 1997.

Effective July 1, 1997.

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## CHAPTER 356

### S.P. 309 - L.D. 1018

#### **An Act to Strengthen the Sanctions for Failure to Respond to an Employee's Request for Reason for Termination of Employment**

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

**Sec. 1. 26 MRSA §630**, as amended by PL 1979, c. 175, is further amended to read:

#### **§630. Written statement of reason for termination of employment**

An employer shall, upon written request of the affected employee, give that employee the written reasons for the termination of his that person's employment. An employer who fails to satisfy this request within 15 days of receiving it may be subject to a forfeiture of not less than \$50 nor more than \$500. An employee may bring an action in the District Court or the Superior Court for such equitable relief, including an injunction, as the court may

consider to be necessary and proper. The employer may also be required to reimburse the employee for the costs of suit, including a reasonable attorney's fee if the employee receives a judgment in the employee's favor. This section does not apply to public employees in proceedings governed by Title 1, section 405.

See title page for effective date.

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## CHAPTER 357

### H.P. 777 - L.D. 1065

#### **An Act to Require Law Enforcement Officers to Inform a Person Who Fails to Submit to a Test about the Informed Consent Law**

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

**Sec. 1. 29-A MRSA §2521, sub-§3**, as amended by PL 1995, c. 368, Pt. AAA, §§28 and 29, is further amended to read:

**3. Warnings.** ~~Before a test is given, the law enforcement officer shall inform the person that failure to submit to and complete a test will~~ Neither a refusal to submit to a test nor a failure to complete a test may be used for any of the purposes specified in paragraph A, B or C unless the person has first been told that the refusal or failure will:

- A. Result in suspension of that person's driver's license for a period up to 6 years;
- B. Be admissible in evidence at a trial for operating under the influence of intoxicants; and
- C. Be considered an aggravating factor at sentencing if the person is convicted of operating under the influence of intoxicants that, in addition to other penalties, will subject the person to a mandatory minimum period of incarceration.

See title page for effective date.

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## CHAPTER 358

### H.P. 781 - L.D. 1069

#### **An Act to Require Prisoners to Pay Court Fines and Family Support**

**Mandate preamble.** This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures.

Pursuant to the Constitution of Maine, Article IX, Section 21, two thirds of all of the members elected to each House have determined it necessary to enact this measure.

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

**Whereas,** the courts are currently unable to collect many of the fines imposed on prisoners; and

**Whereas,** uncollected fines account for approximately \$4,500,000 in lost revenues and are a significant financial detriment to the State; and

**Whereas,** many dependent children of prisoners do not receive financial support from their incarcerated parent; and

**Whereas,** dependent children of prisoners should have the same access to parental support as children whose parents are not incarcerated; 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. 17-A MRSA §1330, sub-§1,** as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is further amended to read:

**1. Work program; payment of restitution and fines.** No prisoner who has been ordered to pay restitution or fines may be released pursuant to a work program administered by the Department of Corrections under Title 34-A, section 3035, or a sheriff under Title 30-A, section 1605, unless ~~he~~ the prisoner consents to pay at least 25% of ~~his~~ the prisoner's gross weekly wages to the victim or the court until such time as full restitution has been made or the fine is paid in full. The chief administrative officer of the correctional facility where the prisoner is incarcerated shall collect and disburse to the victim or victims that portion of the prisoner's wages agreed to as payment of restitution. The chief administrative officer of the correctional facility where the prisoner is incarcerated shall also collect and disburse to the court that portion of the prisoner's wages agreed to as payment of fines after the restitution is paid in full. If the victim or victims ordered by the court to receive restitution have died or cannot be located, the correctional facility shall inform the court that ordered restitution. The court shall determine the distribution of these funds.

**Sec. 2. 17-A MRSA §1330, sub-§2,** as amended by PL 1995, c. 534, §1, is further amended to read:

**2. Payment of restitution or fines from other sources.** Any prisoner, other than one addressed by subsection 1, who is able to generate money, from whatever source, shall pay 25% of that money to any victim or the court if the court has ordered that restitution or a fine be paid. The chief administrative officer of the correctional facility in which the prisoner is incarcerated shall collect and disburse to the victim or victims that portion of the prisoner's money ordered as restitution. The chief administrative officer of the correctional facility where the prisoner is incarcerated shall also collect and disburse to the court that portion of the prisoner's money ordered as fines after the restitution is paid in full. If the victim or victims ordered by the court to receive restitution have died or can not be located, the correctional facility shall inform the court that ordered restitution. The court shall determine the distribution of these funds.

**Sec. 3. 30-A MRSA §1607** is enacted to read:

**§1607. Family support**

A prisoner may not participate in a work program under section 1605 or any other program administered by the sheriff by which a prisoner is able to generate money unless the prisoner consents to pay at least 25% of that money for the support of that prisoner's dependent children if the parent, legal guardian or legal custodian of that prisoner's dependent child requests that payment. Upon the written request of a parent, legal guardian or legal custodian, the sheriff of the county jail where the prisoner is incarcerated shall collect and disburse to the parent, legal guardian or legal custodian that portion of the prisoner's money to be paid for the support of that prisoner's dependent children. This section does not apply to any prisoner making payments for the support of a dependent child pursuant to a support order issued by a court or by the Department of Human Services.

**Sec. 4. 34-A MRSA §3039-A** is enacted to read:

**§3039-A. Family support**

A prisoner may not participate in an industry program under section 1403 or a work program under section 3035 or any other program administered by the department by which a prisoner is able to generate money unless the prisoner consents to pay at least 25% of that money for the support of that prisoner's dependent children if the parent, legal guardian or legal custodian of that prisoner's dependent child requests that payment. Upon the written request of a parent, legal guardian or legal custodian, the chief administrative officer of the correctional facility

where the prisoner is incarcerated shall collect and disburse to the parent, legal guardian or legal custodian that portion of the prisoner's money to be paid for the support of that prisoner's dependent children. This section does not apply to any prisoner making payments for the support of a dependent child pursuant to a support order issued by a court or by the Department of Human Services.

**Sec. 5. PL 1997, c. 41** is repealed.

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

Effective May 31, 1997.

## CHAPTER 359

### H.P. 835 - L.D. 1140

#### **An Act to Clarify the Workers' Compensation Law Concerning Seasonal Agricultural Laborers**

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

**Whereas,** current law provides an exemption from the workers' compensation laws for employers of employees engaged in agriculture or aquaculture as seasonal or casual laborers and a separate exemption for employers of 6 or fewer agricultural or aquacultural laborers; and

**Whereas,** a number of insurance agents servicing the State's farmers are under the mistaken impression that seasonal and casual laborers should be included when determining whether the employer has more than 6 agricultural laborers; and

**Whereas,** the issue needs to 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. 39-A MRSA §401, sub-§1, ¶C,** as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

C. Employers of 6 or fewer agricultural or aquacultural laborers, if the employer maintains an

employer's liability insurance policy with total limits of not less than \$100,000 multiplied by the number of agricultural or aquacultural laborers employed by that employer and medical payment coverage of not less than \$1,000.

(1) In computing the number of agricultural or aquacultural laborers under this paragraph, immediate family members of unincorporated employers, immediate family members of bona fide owners of at least 20% of the outstanding voting stock of an incorporated agricultural employer and seasonal and casual workers are not included. For the purposes of this subparagraph, "immediate family members" means parents, spouse, brothers, sisters and children.

(2) This exemption does not apply if the employer has employed more than 6 agricultural or aquacultural laborers, not including seasonal or casual laborers, in regular and concurrent manner, as computed under subparagraph 4 (1), at any time during the 52 weeks immediately preceding the injury.

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

Effective May 31, 1997.

## CHAPTER 360

### H.P. 867 - L.D. 1184

#### **An Act Regarding Firearms Proficiency Testing for Private Investigators**

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

**Sec. 1. 25 MRSA §2001, sub-§5,** as amended by PL 1989, c. 917, §5, is repealed.

**Sec. 2. 25 MRSA §2002, sub-§9, ¶¶B and C,** as enacted by PL 1993, c. 524, §2, are amended to read:

B. To a resident of an unorganized territory:

(1) The Chief of the State Police; ~~and~~

C. To a nonresident:

(1) The Chief of the State Police; ~~and~~

**Sec. 3. 25 MRSA §2002, sub-§9, ¶D** is enacted to read: