

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 court under this subsection expires in 60 days and may be reissued only upon a showing by the obligor that the obligor has made reasonable efforts to obtain a hearing on the motion for determination of arrearages during the effective period of the stay.

C. An order modifying the amount of spousal support issued after a hearing on a motion to modify spousal support may provide that payments be made outright by withholding. If so, paragraph B does not apply.

D. Notwithstanding any law to the contrary, the withholding order is binding on the payor of funds once service has been made upon the payor. The payor is liable for any amounts the payor fails to withhold after receiving notice. The payor shall withhold from the income payable to the obligor the amount specified in the order and shall monthly or more frequently remit the amounts withheld to the department. The payor may withhold a \$2 processing fee in addition to the amount withheld for support. The amount withheld may not exceed the limitations imposed by section 2356 or by 15 United States Code, Section 1673. An employer who, in contravention of this section, discharges from employment, refuses to employ or takes disciplinary action against any obligor because of the existence of an order and the obligations or additional obligations that it imposes upon the employer is subject to a fine in an amount not to exceed \$5,000.

E. When a withholding order is in effect and the obligor's employment is terminated or the periodic payment terminates, the obligor's employer or other payor of funds shall notify the department of the termination within 30 days of the termination date. The notice must include the obligor's home address and the name and address of the obligor's new employer or payor of funds, if known.

F. The order of withholding with regard to a current support obligation must be terminated if:

- (1) The department is unable to forward funds to the obligee for 3 months; or
- (2) The spousal support obligation has been eliminated by a subsequent court order.

A termination may not occur while an arrearage remains unless other provisions for its repayment have been made.

If the department is unable to forward the funds to the obligee for 3 months the funds must be returned to the

obligor and notice must be given to the obligor's employer or other payor to cease withholding.

2. Department designated as administering agency. The department is designated as the agency responsible for adopting and administering procedures to receive, record and disburse all spousal support payments collected pursuant to this section.

3. Liability of payor to obligee. An obligee may maintain an action for compensatory damages, including attorney's fees and court costs, against a payor who knowingly fails to comply with this section.

Sec. 2. Effective date. This Act takes effect October 1, 1997.

Effective October 1, 1997.

CHAPTER 434

H.P. 1080 - L.D. 1517

An Act to Enhance the Collection of Unemployment Benefit Overpayments

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

Sec. 1. 26 MRSA §1051, sub-§6, ¶C is enacted to read:

C. If the amount of benefit payments owed to the commissioner, as a result of nondisclosure or misrepresentation, when the decision establishing or a decision upholding the establishment of the debt has become final as to law and fact under section 1194 is over \$100, and if the amount of benefit payments due was set forth on a notice duly mailed to the individual following the finality of the last decision and the individual has failed to make payments for 90 days, the amount due may be collected by an order to withhold and deliver as follows.

- (1) The commissioner may serve on any person an order to withhold and deliver wages that are due or belong to the individual. Any person served with an order to withhold and deliver shall answer the order within 20 days of receipt of the order.
- (2) Before implementation of the order to withhold, the individual must be served with a notice of intention to withhold weekly earnings.

(3) If the individual requests review by the commission of a notice of debt accrued or seeks relief in a court of proper jurisdiction, and if the Department of Labor receives the request or service of pleadings within 21 days after service of the notice of debt, it shall stay the collection action. The Department of Labor shall accept ordinary mail service of copies of all pleadings, which must be addressed to the Department of Labor representative whose name appears on the face of the notice of debt. Service upon the Department of Labor must be in addition to any other service required under the Maine Rules of Civil Procedure.

(4) Upon receipt of an order to withhold issued by the Department of Labor, the employer or other payor shall immediately begin withholding from the income of the responsible individual 10% of gross wages, except that the amount withheld may not exceed an amount by which the individual's disposable earnings are reduced to a weekly equivalent of 40 times the federal hourly minimum wage prescribed by 29 United States Code, Section 206(a)(1). Sums withheld must be remitted to the Department of Labor within 10 days of the date the individual is paid. Any person who honors an order to withhold issued under this section is discharged from any liability or obligation to the individual for the amount of the wages withheld.

(5) The withholding may be terminated with regard to a current obligation only upon notification by the commissioner.

(6) An employer may not discharge an employee because a lien or order to withhold and deliver has been served against the employee's earnings. An aggrieved employee may maintain a civil action against that employee's employer for violation of this subparagraph.

Sec. 2. 26 MRSA §1051, sub-§8 is enacted to read:

8. Setoff of debts against lottery winnings. Lottery winnings may be offset for benefit payments owed to the commissioner in accordance with this subsection.

A. The commissioner shall periodically notify the Department of Administrative and Financial Services, Bureau of Alcoholic Beverages and Lottery Operations, referred to in this paragraph as the "bureau," of all persons who owe the Department of Labor an unemployment compensa-

tion debt that has been liquidated by judicial or administrative action. Before paying any state lottery winnings that must be paid directly by the bureau, the bureau shall determine whether the lottery winner is on the list of persons who owe to the State an unemployment compensation debt that has been liquidated by judicial or administrative action. If the winner is on a list of persons who owe unemployment compensation debts, the bureau shall suspend payment of winnings and notify the winner of its intention to offset the winner's unemployment compensation debt against the winnings. The bureau shall notify the winner of the winner's right to appeal to the Commissioner of Labor pursuant to Title 5, chapter 375. The winner must appeal in writing within 15 days of receipt of that notice. The hearing is limited to the questions of whether the debt is liquidated and whether postliquidation events have affected the winner's liability. The decision of the Department of Labor as to the existence of a liquidated debt constitutes final agency action. If, within 90 days of the notice of intended setoff to the winner, the Department of Labor certifies to the bureau that the winner did not make a timely request for hearing or that a hearing was held and the debt was upheld, the bureau shall offset the liquidated debt against the winnings due to the winner. Any remaining winnings are paid to the winner. If the bureau does not hear from the Department of Labor within 90 days of the notice of intended setoff to the winner, the bureau shall release all winnings to the winner.

B. The commissioner shall periodically notify the Tri-state Lotto Commission of all persons who owe the Department of Labor an unemployment compensation debt that has been liquidated by judicial or administrative action.

See title page for effective date.

CHAPTER 435

H.P. 1260 - L.D. 1787

An Act to Authorize Captive Insurance Companies

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

Sec. 1. 24-A MRSA c. 83 is enacted to read:

CHAPTER 83

CAPTIVE INSURANCE COMPANIES