

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

one additional travel lane for each direction of travel on the turnpike between Mile 12 and Mile 42.

Sec. B-2. Referendum procedure; submission at statewide election; form of question; effective date. This Part must be submitted to the legal voters of the State of Maine at a statewide election held on the Tuesday following the first Monday of November following passage of this Act. The municipal officers of this State shall notify the inhabitants of their respective cities, towns and plantations to meet, in the manner prescribed by law for holding a statewide election, to vote on the acceptance or rejection of this Part by voting on the following question:

"Do you favor adding one travel lane in each direction to the southern end of the Maine Turnpike, paid for by turnpike tolls, to reduce accidents and congestion?"

The legal voters of each city, town and plantation shall vote by ballot on this question, and shall designate their choice by a cross or check mark placed within a corresponding square below the word "Yes" or "No." The ballots must be received, sorted, counted and declared in open ward, town and plantation meetings and returns made to the Secretary of State in the same manner as votes for members of the Legislature. The Governor shall review the returns and proclaim the results without delay. If it appears that a majority of the legal votes are cast in favor of this Part, the Governor shall proclaim that fact and this Part takes effect 30 days after the date of the proclamation.

The Secretary of State shall prepare and furnish to each city, town and plantation all ballots, returns and copies of this Part necessary to carry out the purpose of this referendum.

PART C

Sec. C-1. Finding. The Legislature finds that the determination of the Maine Turnpike Authority pursuant to the Maine Revised Statutes, Title 23, section 1965-A that safe, reasonable-cost, nonwidening alternatives using available technologies are not adequate to meet the identified safety and traffic needs of the Maine Turnpike between Mile 12 and Mile 42, and the authority's determination concerning alternatives to widening the turnpike, is reasonable and appropriate and satisfies the applicable requirements of the Sensible Transportation Policy Act.

See title page for effective date, unless otherwise indicated.

CHAPTER 494

S.P. 667 - L.D. 1893

An Act Regarding Child Care Regulation

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

Sec. 1. 17 MRSA §2871, sub-§1, as enacted by PL 1985, c. 538, §1, is amended to read:

1. Day care center. "Day care ~~facility center~~" means a day care ~~facility center~~, as defined in Title 22, section ~~8301~~ 8301-A, subsection 1, paragraph A.

Sec. 2. 17 MRSA §2871, sub-§3, as enacted by PL 1985, c. 538, §1, is amended to read:

3. Preschool facility. "Preschool facility" means any day care ~~facility center~~ or nursery school.

Sec. 3. 22 MRSA §1315, sub-§6-B, as enacted by PL 1991, c. 810, §11, is amended to read:

6-B. Preschool facility. "Preschool facility" means a day care ~~facility center~~ as defined in section ~~8301, a home baby sitting service as described in section 8305~~ 8301-A, subsection 1, paragraph A or a nursery school as defined in section 8401.

Sec. 4. 22 MRSA §7701, sub-§1, as enacted by PL 1975, c. 719, §6, is amended to read:

1. Children. As used in this subtitle, the word "children" ~~shall mean~~ means persons who are not related by blood or marriage to, or who have not been legally adopted by, the licensee or administrator of any facility, defined in ~~sections~~ section 8101, 8201 or ~~8301~~ 8301-A, which provide that provides services to these children.

Sec. 5. 22 MRSA §7701, sub-§2, as amended by PL 1989, c. 502, Pt. A, §80, is further amended to read:

2. Facility. As used in this subtitle, the word "facility" means any of the places defined in section ~~7901 A, subsection 3, sections~~ 8001, 8101, 8201 or ~~8301~~ 8301-A, subsection 1, paragraph A.

Sec. 6. 22 MRSA §7702, as amended by PL 1987, c. 774, §3, is further amended to read:

§7702. Violation; penalty

Whoever violates any provision of this subtitle, except section 7801, subsection 1, paragraph A, ~~shall~~ may be punished by a fine of not more than \$500 or by imprisonment for not more than 11 months, or by both, except that anyone violating sections 7703, ~~8305~~

8301-A and 8603 shall may be punished only by a fine of not more than \$500.

Sec. 7. 22 MRSA §8301, as amended by PL 1989, c. 700, Pt. A, §97, is repealed.

Sec. 8. 22 MRSA §8301-A is enacted to read:

§8301-A. Licensure of day care centers; certification of home day care providers

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

A. "Day care center" means a house or other place in which a person maintains or otherwise carries out a regular program, for consideration, for any part of a day providing care and protection for 13 or more children under 13 years of age. "Day care center" does not include any facility operated as a nursery school, a home day care provider or summer camp established solely for recreational and educational purposes or formal public or private school in the nature of a kindergarten or elementary or secondary school approved by the Commissioner of Education in accordance with Title 20-A.

B. "Home day care provider" means a person who provides day care in that person's home on a regular basis, for consideration, for 3 to 12 children under 13 years of age who are not the children of the provider.

2. Day care center licensure. The owner or operator of a day care center shall pay the licensing fee required under section 8303-A. A day care center must be licensed under this chapter and must comply with the rules adopted by the commissioner under section 8302-A and the fire safety requirements of section 8304-A.

3. Home day care provider certification. A home day care provider shall pay the certification fee required under section 8303-A. A home day care provider must be certified under this chapter and shall comply with the rules adopted by the commissioner under section 8302-A and the fire safety requirements of section 8304-A.

4. Complaints. Upon receipt of a complaint about a licensed day care center or a certified home day care provider and if the department has reasonable cause to suspect that a violation of the licensure or certification requirements has occurred, the department may investigate the complaint and enter the premises at any reasonable time for the purposes of the investigation.

Sec. 9. 22 MRSA §8302, as amended by PL 1995, c. 74, §1, is repealed.

Sec. 10. 22 MRSA §8302-A is enacted to read:

§8302-A. Rules for day care centers and home day care providers

The commissioner shall adopt rules for day care centers and home day care providers according to this section.

1. Rules for day care centers. Rules for day care centers must include, but are not limited to, rules pertaining to the following:

- A. Child to staff ratios;
- B. The health and safety of the children and staff, including training on communicable diseases;
- C. Water for drinking and cooking;
- D. Wastewater;
- E. Rabies vaccinations for pets;
- F. The quality of the program provided;
- G. The age, criminal record and personal history of the day care provider and staff members;
- H. The administration of medication; and
- I. Licensing procedures.

Rules adopted pursuant to this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A.

2. Rules for home day care providers. Rules for home day care providers must include, and are limited to, rules pertaining to the following:

- A. Cardiopulmonary resuscitation;
- B. Water for drinking and cooking;
- C. Wastewater;
- D. Rabies vaccinations for pets;
- E. Recording the times, reasons and numbers of children involved when more than 12 children are cared for;
- F. Ongoing training for providers on health and safety issues, including training on communicable diseases. This training must be offered at times that are convenient to the providers;
- G. Child to staff ratios;

H. Health and safety of the children and staff;

I. Procedures for waivers of rules and for suspension and revocation of certification; and

J. The age, criminal record and personal history of the home day care provider, staff and members of the household.

Rules adopted pursuant paragraphs A to F are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A and rules adopted pursuant to paragraphs G to J are major substantive rules pursuant to Title 5, chapter 375, subchapter II-A.

Sec. 11. 22 MRSA §8302-B is enacted to read:

§8302-B. Providers subject to standards

A person who provides day care in that person's home for one or 2 children whose care is paid for by state or federal funds is not required to be certified as a home day care provider pursuant to section 8301-A but is subject to the provisions of this section.

1. Investigation. The provider must pass a background investigation check by the State Bureau of Investigation, a check for involvement with child protective services and a motor vehicle record check.

2. Information provided by department. The department shall supply providers with information on the following topics:

A. Health and safety, including the control of communicable disease, and immunization requirements;

B. Physical premises safety; and

C. Training opportunities in health and safety, first aid and cardiopulmonary resuscitation and early care and education.

3. Authority to inspect. The department has the authority to inspect the premises of the person providing the care.

Sec. 12. 22 MRSA §8303-A, as enacted by PL 1993, c. 353, §2, is amended to read:

§8303-A. Fee for licenses

By January 1, ~~1994~~ 1998, the department shall adopt rules to establish reasonable fees for both initial licensure or certification and license or certification renewals for day care ~~facilities~~ centers, nursery schools and ~~registered home baby sitting services~~ certified home day care providers. Rules adopted pursuant to this section are major substantive rules pursuant to Title 5, chapter 375, subchapter II-A.

Sec. 13. 22 MRSA §8304-A, sub-§1, as enacted by PL 1993, c. 158, §5, is amended to read:

1. Inspection required. As an ongoing condition of licensure or ~~registration~~ certification, the Office of the State Fire Marshal must provide ~~annually~~ at least biennially to the department a written statement that the day-care ~~facility~~ center, nursery school or certified home day care providers complies with applicable fire safety rules adopted pursuant to Title 25, section 2452. The Commissioner of Public Safety shall adopt rules in accordance with the Maine Administrative Procedure Act to implement this subsection. The rules must provide for at least the following.

A. The State Fire ~~Marshall~~ Marshal shall issue a fire safety technician certificate to any person who successfully completes a training course established by the Office of the State Fire Marshal. A person who receives a fire safety technician certificate pursuant to this paragraph may perform fire safety inspections under this section.

B. In addition to ongoing license or certification requirements, inspection and certification are required under this section whenever a day-care ~~facility~~ center, nursery school or certified home day care provider changes or augments a heating system or makes major structural alterations to the ~~facility~~ center or home.

Sec. 14. 22 MRSA §8305, as amended by PL 1993, c. 353, §§3 to 5, is repealed.

Sec. 15. Effective date. This Act takes effect July 1, 1998.

Effective July 1, 1998.

CHAPTER 495

H.P. 1329 - L.D. 1878

An Act to Provide Regulation of Payroll Processing Companies

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

Sec. 1. 10 MRSA c. 222 is enacted to read:

CHAPTER 222

PAYROLL PROCESSORS

§1495. Definitions