

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 or more entities that publish a monthly state tax service all rules, bulletins, taxpayer notices or alerts, notices of rulemaking, any other taxpayer information issued by the assessor, and all substantive amendments or modifications of the same, for publication by that entity or entities. When a significant change has occurred in Bureau of Taxation policy or practice or in the interpretation by the bureau of any law, rule or instruction bulletin, the assessor shall, within 60 days of the change, provide to the same publishing entity or entities written notice, suitable for publication, of the change.

Sec. 4. 36 MRSA §112, sub-§4, as amended by PL 1991, c. 873, §2, is further amended to read:

4. Examination of records and premises. Whenever necessary to the administration of this Title, the State Tax Assessor may make, or cause to be made by an employee, an examination or investigation of the place of business, books and other documents and any other relevant personal property of any person who the ~~State Tax Assessor~~ assessor has reason to believe is liable for any tax imposed by this Title. The assessor may also examine the books and records of a payroll processor, as defined in Title 10, section 1495, and client books and records in the possession of a payroll processor.

At the conclusion of an audit, the ~~State Tax Assessor~~ assessor or an agent shall conduct an audit conference with the taxpayer and shall give the taxpayer a written summary of the audit findings, including the legal basis for the audit findings and adjustments, along with copies of relevant Bureau of Taxation audit workpapers.

Sec. 5. 36 MRSA §5255-A, first ¶, as amended by PL 1985, c. 535, §27, is further amended to read:

The State Tax Assessor may, by filing a complaint, apply for an injunction from doing business of any person required to deduct and withhold tax under this Part whenever any such person fails to deduct and withhold tax under this Part; or truthfully account for, or pay over, or make returns of the tax as required by section 5253. The assessor may also apply for an injunction from doing business of any payroll processor, as defined in Title 10, section 1495, whenever a payroll processor is responsible for truthfully accounting for, or paying over or making returns of the tax imposed by this Part and fails to do so. The existence of other civil or criminal remedies ~~shall be no~~ is not a defense to this proceeding.

See title page for effective date.

CHAPTER 496

H.P. 1336 - L.D. 1885

An Act to Amend the Insurance Premium Tax for Certain Large Domestic Insurers

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

Sec. 1. 36 MRSA §2513, as amended by PL 1989, c. 556, Pt. B, §5, is further amended by adding at the end a new paragraph to read:

Notwithstanding this section, for tax years commencing on or after January 1, 1997, the tax imposed by this section with respect to premiums on qualified group disability policies written by every insurer, except a large domestic insurer, must be at the rate of 1% and must be at the rate of 2.55% with respect to those premiums written by every large domestic insurer. For the purposes of this section, the term "qualified group disability policies" is limited to group health insurance policies properly reported as such in the insurer's annual statement and whose sole coverage is the full or partial replacement of an individual's income in the event of disability. Policies that contain coverages in addition to replacement of income coverage are considered to solely provide that coverage as long as the premium related to the additional coverages is not more than 10% of the total premium charged. The term "qualified group disability policies" does not include workers' compensation insurance policies, policies that include coverages that are collectively renewable, policies that provide for credit disability insurance or policies that pay benefits only upon the occurrence of hospitalization. For purposes of this section, a "large domestic insurer" is any insurer domiciled in this State with assets in excess of \$5,000,000,000 as reported on its annual statement.

See title page for effective date.

CHAPTER 497

H.P. 1340 - L.D. 1889

An Act to Provide Warranty Reimbursement Protection for Retailers

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

Sec. 1. 11 MRSA §2-316, sub-§5, as amended by PL 1975, c. 320, is further amended to read:

(5) The provisions of subsections (2), (3) and (4) ~~shall do~~ not apply to sales of consumer goods or services. Any language, oral or written, used by a seller or manufacturer of consumer goods and services, ~~which that~~ attempts to exclude or modify any implied warranties ~~or of~~ merchantability and fitness for a particular purpose or to exclude or modify the consumer's remedies for breach of those warranties, ~~shall be is~~ unenforceable. Any language, oral or written, used by a prior seller or manufacturer of consumer goods and services that attempts to exclude or modify the warranty or reimbursement remedy of a retail seller of consumer goods and services who provides reimbursement or return to a consumer as required to honor an implied warranty of merchantability due to a defect for which that prior seller or manufacturer is liable under section 2-314 or 2-315 is unenforceable. Consumer goods and services are those new or used goods and services, including mobile homes, ~~which that~~ are used or bought primarily for personal, family or household purposes.

(a) A violation of ~~sections section~~ section 2-314, 2-315 or 2-316, arising from the retail sale of consumer goods and services, shall constitute constitutes a violation of Title 5, chapter 10, Unfair Trade Practices Act.

(b) A violation of section 2-316 arising from an attempt by a prior seller or manufacturer of consumer goods and services to exclude or modify the warranty or reimbursement remedy of a retail seller of consumer goods and services who provides reimbursement or return to a consumer as required to honor an implied warranty of merchantability due to a defect for which that prior seller or manufacturer is liable under section 2-314 or 2-315 does not constitute a violation of Title 5, chapter 10, Unfair Trade Practices Act.

See title page for effective date.

CHAPTER 498

H.P. 740 - L.D. 1004

An Act to Provide Equal Political Rights for Employees

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

Sec. 1. 5 MRSA §14, as enacted by PL 1975, c. 597, is repealed.

Sec. 2. 5 MRSA §7032, sub-§6-A is enacted to read:

6-A. Employee from the executive branch in the unclassified service. "Employee from the

executive branch in the unclassified service" means all executive branch employees listed in section 931, but does not include any elective or constitutional officers listed in that section or their direct appointees.

Sec. 3. 5 MRSA §7035, sub-§2, as enacted by PL 1985, c. 785, Pt. B, §38, is amended to read:

2. Restricted political activity. The provisions in section ~~7056~~ 7056-A, as they relate to the political activities of employees in the classified service ~~or~~ employees from the executive branch in the unclassified service as defined in section 7032; and

Sec. 4. 5 MRSA §7036, sub-§14, as enacted by PL 1985, c. 785, Pt. B, §38, is amended to read:

14. Employ staff and other assistance. Employ staff, who ~~shall must~~ be employed in the classified service in accordance with the Civil Service Law. Persons appointed to major policy-influencing positions ~~shall be are~~ unclassified and ~~shall~~ serve at the pleasure of the director. The classified and unclassified employees in the Bureau of Human Resources shall comply with section ~~7056~~ 7056-A, defining the political activities in which the employees may engage. All managerial, policy-influencing and professional employees in the bureau ~~shall must~~ be qualified by education, training and experience in the administration of personnel systems;

Sec. 5. 5 MRSA §7056, as amended by PL 1987, c. 487, is repealed.

Sec. 6. 5 MRSA §7056-A is enacted to read:

§7056-A. Political activity

1. Use of official authority. An officer or employee in the classified service or an employee from the executive branch in the unclassified service of this State may not use that officer's or employee's official authority, influence or supervisory position for the purpose of:

A. Interfering with or affecting the result of a partisan election or nomination for elective office; or

B. Attempting to intimidate, threaten, coerce, command or influence a person to give or withhold a political contribution or to engage or not to engage in any form of political activity as defined in this section.

For the purpose of this subsection, "use of official authority or influence" includes promising to confer or conferring a benefit such as compensation, a grant, contract, license or ruling; effecting or threatening to effect a reprisal, such as deprivation of compensation, a grant, contract, license or ruling; or taking, directing