

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

(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

others to take, recommending, processing or approving any personnel action.

2. Political contributions. An officer or employee in the classified service or an employee from the executive branch in the unclassified service of this State may not:

A. Give or offer to give a political contribution to an individual to vote or refrain from voting or to vote for or against any candidate or measure in any partisan election;

B. Solicit, accept or receive a political contribution to vote or refrain from voting or to vote for or against any candidate or measure in any partisan election;

C. Knowingly give or hand over a political contribution to a superior of the employee;

D. Knowingly solicit, accept or receive or be in any manner concerned with soliciting, accepting or receiving a political contribution from another employee or a member of another employee's immediate family who is a subordinate of the employee; or

E. Knowingly solicit, accept or receive a political contribution from or give a political contribution to any person who:

(1) Has or is seeking to obtain contractual or other business or financial relations with the agency in which the employee is employed;

(2) Conducts operations or activities that are regulated by that agency; or

(3) Has interests that may be substantially affected by the performance or nonperformance of the employee's official duties.

3. Political activity. An officer or employee in the classified service or an employee from the executive branch in the unclassified service of this State may not engage in political activity:

A. When the employee is on duty;

B. In state-owned or leased work space occupied in the discharge of official duties or by using the facilities or services of the State; or

C. When wearing a uniform or official insignia identifying the office or position of the employee or while using a vehicle owned or leased by the State or its agencies.

As used in this subsection, political activity means to advocate expressly for the election or defeat of any

candidate for a federal office, a constitutional office or any candidate for partisan elective municipal, county or state office, including leadership positions in the Senate and the House of Representatives or to solicit contributions reportable under Title 21-A, chapter 13.

4. Candidacy for elective office. An officer or employee in the classified service or an employee from the executive branch in the unclassified service of this State may not be a candidate for elective office in a partisan public election other than for a local office. This subsection may not be construed as to prohibit an officer or employee of the State from being a candidate in an election if none of the candidates is nominated or elected at that election as representing a party whose candidates for presidential elector received votes in the last preceding election during which presidential electors were selected. Law enforcement officers continue to be subject to departmental rules regarding procedures on candidacy.

5. Rights of voting and free expression. An officer or employee in the classified service or an employee from the executive branch in the unclassified service of this State retains the right to vote as that officer or employee chooses and to express opinions on political subjects and candidates.

6. Rights of participation in political organizations and activities. An officer or an employee of the classified service or an employee from the executive branch in the unclassified service of this State may:

A. Campaign for and hold an elective office in political clubs and organizations;

B. Contribute money to political organizations or attend political fundraising functions;

C. Donate personal time and service to a political cause;

D. Be a candidate for public office in a nonpartisan election; and

E. Participate in any other activity not specifically prohibited by state or federal law.

7. Exemption of official duties. This section may not be construed to apply to any actions taken in order to carry out the duties and responsibilities of an officer's or employee's position, including but not limited to advocacy on policy issues or legislation.

See title page for effective date.
