

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND NINETEENTH LEGISLATURE

FIRST REGULAR SESSION
December 2, 1998 to June 19, 1999

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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
1999

§599. Broadcasting industry contract

1. Definition. As used in this section, unless the context otherwise indicates, "broadcasting industry contract" means an employment contract between a person and a legal entity that owns one or more television stations or networks or one or more radio stations or networks, excluding an employment contract with a sales representative.

2. Presumed unreasonable. A broadcasting industry contract provision that requires an employee or prospective employee to refrain from obtaining employment in a specified geographic area for a specified period of time following expiration of the contract or upon termination of employment without fault of the employee is presumed to be unreasonable.

See title page for effective date.

CHAPTER 407

H.P. 1115 - L.D. 1574

**An Act to Improve Access to
Education for Parents as Scholars
Program Participants**

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

Sec. 1. 22 MRSA §3790, sub-§3, as enacted by PL 1997, c. 530, Pt. B, §1, is repealed and the following enacted in its place:

3. Program requirements. An enrollee must participate in a combination of education, training, study or work-site experience for an average of 20 hours per week in the first 24 months of the program. Aid under this chapter may continue beyond 24 months if the enrollee remains in an educational program and agrees to participate in either of the following options:

A. Fifteen hours per week of work-site experience in addition to other education, training or study; or

B. A total of 40 hours of education, training, study or work-site experience.

The department shall present both options to enrollees and permit them to choose either option. For the purpose of this subsection, work-site experience includes, but is not limited to, paid employment, work study, practicums, internships, clinical placements, laboratory or field work directly related to the enrollee's employment goal or any other work activities that, as determined by the department, will enhance the enrollee's employability in the enrollee's

field. In the last semester of the enrollee's educational program, work-site experience may also include resume preparation, employment research, interviews and other activities related to job placement.

The department shall make reasonable adjustments in the participation requirements in this subsection for good cause. For the purpose of this subsection, "good cause" means circumstances in which the required participation would cause the enrollee to seriously compromise academic performance. "Good cause" includes, but is not limited to, a verifiable need to take care of a family member with special needs, a physical or mental health problem, illness, accident, death or a serious personal or family problem that necessitates reduced participation or time off from education, training or work. An enrollee receiving aid under this chapter must make satisfactory progress in the enrollee's educational program. The department shall adopt rules defining satisfactory academic progress. The department may not disapprove an educational plan based solely on the length of the educational program.

See title page for effective date.

CHAPTER 408

H.P. 1406 - L.D. 2011

**An Act to Amend the Laws
Regarding Asset Forfeiture**

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

Sec. 1. 15 MRSA §5822, sub-§4, ¶A, as amended by PL 1991, c. 461, §2, is further amended to read:

A. To the extent that the court finds it appropriate and with the written consent of the Attorney General, the court may order forfeiture of as much of the property as is appropriate to a municipality, county or state agency, or to the district attorneys budget within the Department of the Attorney General, that has made a substantial contribution to the investigation or prosecution of a related criminal case, subject to the requirements of section 5824.

When property is forfeited and transferred to a municipality in accordance with section 5824, the legislative body municipal officers of the municipality shall determine the disposition of the property. When property is forfeited and transferred to a county in accordance with section 5824, the county commissioners shall determine the disposition of the property.

Sec. 2. 15 MRSA §5824, sub-§§1 and 3, as enacted by PL 1987, c. 420, §2, are amended to read:

1. State; agency or department. In the case of an agency or department of the State, the Governor or the Attorney General;

3. Municipality; agency or department. In the case of an agency or department of a municipality, the ~~legislative body~~ municipal officers of the municipality.

Sec. 3. 15 MRSA §5826, sub-§§2, 4 and 6, as enacted by PL 1995, c. 421, §1, are amended to read:

2. Commencement of criminal forfeiture action. Property subject to forfeiture ~~that is not yet the subject of a final order pursuant to section 5822, subsection 4~~ may be proceeded against by indictment ~~or superseding indictment~~ of the grand jury or by complaint in the District Court in any related criminal proceeding in which ~~one or more persons~~ a person with an interest in the property ~~have~~ has been simultaneously indicted ~~for one or more violations charged with a violation~~ of Title 17-A, chapter 45. At any time prior to trial, the State, with the consent of the court and any defendant with an interest in the property, may file an ancillary charging instrument or information alleging that property is subject to criminal forfeiture. ~~Upon commencement of a criminal forfeiture by indictment or information of any property that may be the subject of any pending civil action commenced pursuant to section 5822, the civil action must be immediately stayed and subrogated to the criminal forfeiture action.~~ Discovery in the criminal action must be as provided for by the Maine Rules of Criminal Procedure.

4. Trial proceedings. Trial against property charged by indictment ~~or~~ information or complaint may be by jury and must be held in a single proceeding together with the trial of the related criminal violation. Forfeiture of the property must be proved by the State by a preponderance of the evidence. ~~The court, in its discretion, may allow any defendant with an interest in property indicted pursuant to this section to waive the right to trial by jury as against the property while preserving the right to trial by jury of any crime alleged.~~ At trial by jury, the court, upon motion of a defendant or the State, may separate the trial of the matter against the defendant from the trial of the matter against the property subject to criminal forfeiture. ~~If the court bifurcates the jury trial, the court shall first instruct and submit to the jury the issue of the guilt or innocence of defendants to be determined by proof beyond a reasonable doubt and shall restrict argument of counsel to those issues. After a verdict upon the guilt or innocence of all defendants, the court shall instruct and submit to the~~

~~jury the issue of the forfeiture of the property to be determined by proof by a preponderance of the evidence and the court shall restrict argument to those issues. A special verdict must be returned as to the extent of the interest or property subject to forfeiture, if any.~~

A. Forfeiture of the property must be proved by the State by a preponderance of the evidence.

B. The court, in its discretion, may allow any defendant with an interest in property charged pursuant to this section to waive the right to trial by jury as against the property while preserving the right to trial by jury of any crime alleged.

C. At trial by jury, the court, upon motion of a defendant or the State, shall separate the trial of the matter against the defendant from the trial of the matter against the property subject to criminal forfeiture. If the court bifurcates the jury trial, the court shall first instruct and submit to the jury the issue of the guilt or innocence of defendants to be determined by proof beyond a reasonable doubt and shall restrict argument of counsel to those issues. If the jury finds a defendant guilty of the related criminal offense, the court shall instruct and submit to the jury the issue of the forfeiture of the property.

6. Final order of disposition of property. Following the entry of a verdict of forfeiture of property pursuant to this section or the entry of a guilty plea in open court on the record and following the court's disposition of all petitions for hearing timely filed by 3rd parties, the State has clear title to property that is the subject of the indictment ~~or~~ information and order of forfeiture and may order all or a portion of the property forfeited to the State to be disposed of pursuant to section 5822, subsection 4 and section 5824 or complaint. The final order must provide for the deposit of the property or the proceeds from the disposition of the property, less the reasonable expenses of the forfeiture proceedings, seizure, storage, maintenance of custody, advertising and notice, in the General Fund, except that, to the extent that the court finds it reasonable, the court may order forfeiture of as much of the property as is appropriate, less the reasonable expenses of the forfeiture proceedings, seizure, storage, maintenance of custody, advertising and notice, to a municipality, county or state agency that has made a substantial contribution to the investigation or prosecution of a related criminal case.

Sec. 4. 15 MRSA §5826, sub-§7 is enacted to read:

7. Equitable transfer of forfeited assets. In the case of any asset forfeited under this section to any

entity other than the State, transfer of title to the asset may not occur until the transfer is approved by:

A. In the case of an agency or department of a county, a majority of the commissioners of the county; and

B. In the case of an agency or department of a municipality, the municipal officers of the municipality.

When property is forfeited and transferred to a municipality in accordance with this section, the municipal officers of the municipality shall determine the disposition of the property. When property is forfeited and transferred to a county in accordance with this section, the county commissioners shall determine the disposition of the property.

Sec. 5. 30-A MRSA §5655, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is further amended to read:

§5655. Unconditional gifts

A gift without conditions, of any type of property, offered to a municipality shall may be accepted or rejected by its legislative body, except for forfeited assets conveyed to the municipality pursuant to Title 15, chapter 517, which may be accepted or rejected by the municipal officers.

See title page for effective date.

CHAPTER 409

H.P. 1516 - L.D. 2164

**An Act to Enhance Access to
Technology for Maine Schools and
Libraries**

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

Sec. 1. 35-A MRSA §7104-A, as amended by PL 1997, c. 169, §1, is repealed.

Sec. 2. 35-A MRSA §7104-B is enacted to read:

§7104-B. Access to information services

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

A. "Qualified library" means a public library as defined in Title 27, section 110, subsection 10; a research center as defined in Title 27, section 110, subsection 12; or a library that provides free

public access to all advanced telecommunications services available at that library and whose collection serves as a statewide resource, if the commission determines, in consultation with the Maine Library Commission, that including that library as a qualified library is in the public interest.

B. "Qualified school" means a public school as defined in Title 20-A, section 1, subsection 24; a private school approved under Title 20-A, section 2901 or 2951; or a school that provides free public access to all advanced telecommunications services available at that school, if the commission determines, in consultation with the Department of Education, that including that school as a qualified school is in the public interest.

C. "Telecommunications carrier" and "telecommunications service" have the same meanings as set forth in 47 United States Code, Section 153.

2. Authority. Pursuant to the authority granted in section 7104 and in order to carry out the policy goals established by section 7101, subsections 1, 2 and 4, the commission shall establish a telecommunications education access fund, referred to in this section as the "fund," and require all telecommunications carriers offering telecommunications services in the State and any other entities identified by the commission pursuant to subsection 8 to contribute to the fund. The fund must be available, with any accumulated interest, to qualified libraries and qualified schools to assist in paying the costs of acquiring and using advanced telecommunications technologies.

3. Limitations. In carrying out the authority granted by subsection 2, the commission shall:

A. Limit the amount collected to no more than 0.5% of retail charges for telecommunications services as determined by the commission, excluding interstate tolls or interstate private line services;

B. Ensure that the funds are collected in a competitively neutral manner;

C. Integrate the collection of the charge with any state universal service fund developed by the commission;

D. Require explicit identification on customer bills of any charge imposed under this section; and

E. Commence any assessment for this fund no earlier than July 1, 2001.