

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**  
**ONE HUNDRED AND TWENTIETH LEGISLATURE**  
**FIRST REGULAR SESSION**  
**December 6, 2000 to June 22, 2001**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 21, 2001**

**PUBLISHED BY THE REVISOR OF STATUTES**  
**IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,**  
**TITLE 3, SECTION 163-A, SUBSECTION 4.**

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**J.S. McCarthy Company**  
**Augusta, Maine**  
**2001**

by the holder of a small brewery license whose brewery has produced malt liquor in an amount that exceeds 50,000 gallons in one year, may renew that holder's small brewery license for only one additional year.

See title page for effective date.

**CHAPTER 237**

**H.P. 1020 - L.D. 1369**

**An Act to Amend the Laws  
Regarding Investigations by the  
Commission on Governmental Ethics  
and Election Practices**

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

**Sec. 1. 21-A MRSA §1003, sub-§2-A** is enacted to read:

**2-A. Confidentiality.** The commission shall keep confidential a request for an investigation pursuant to subsection 2 that is filed within 10 business days immediately preceding the election. That request and any information it has relating to that request are confidential until the investigation is complete and the commission has made a final determination on the request.

See title page for effective date.

**CHAPTER 238**

**H.P. 724 - L.D. 944**

**An Act to Provide Equity in the  
Payment of Excise Tax on Leased  
Special Mobile Equipment**

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

**Sec. 1. 36 MRSA §1482, sub-§7** is enacted to read:

**7. Special mobile equipment; local option.** A municipality may by ordinance refund a portion of the excise tax paid on leased special mobile equipment, as defined by Title 29-A, section 101, subsection 70, if the person who paid the excise tax provides evidence that the registration has been voluntarily surrendered and cancelled under Title 29-A, section 410. The amount of the refund must be the percentage of the excise tax paid that is equal to the percentage repre-

sented by the number of full months remaining in the year of the cancelled registration.

See title page for effective date.

**CHAPTER 239**

**H.P. 1187 - L.D. 1610**

**An Act to Clarify the Legal Status of  
Employees of the Governor Baxter  
School for the Deaf**

**Emergency preamble.** Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

**Whereas,** this proposal clarifies the status, rights and benefits of employees of the Governor Baxter School for the Deaf; and

**Whereas,** in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

**Sec. 1. 5 MRSA §285, sub-§1, ¶A-1** is enacted to read:

A-1. Any employee of the Governor Baxter School for the Deaf, unless a different health program is established by collective bargaining agreement or otherwise consistent with applicable law;

**Sec. 2. 5 MRSA §17001, sub-§40,** as amended by PL 1999, c. 152, Pt. E, §3, is further amended to read:

**40. State employee.** "State employee" means any regular classified or unclassified officer or employee in a department, any employee of the Maine Technical College System, except those who make the election provided under Title 20-A, section 12722, any employee of the Governor Baxter School for the Deaf, except as provided in Title 20-A, section 7407, subsection 3-A, any employee of the Northern New England Passenger Rail Authority and any employee transferred from the Division of Higher Education Services to the Finance Authority of Maine who elects to be treated as a state employee, but does not include:

A. A judge, as defined in Title 4, section 1201 or 1301, who is now or later may be entitled to retirement benefits under Title 4, chapter 27 or 29;

B. A member of the State Police who is now entitled to retirement benefits under Title 25, chapter 195; or

C. A Legislator who is now or later may be entitled to retirement benefits under Title 3, chapter 29.

**Sec. 3. 20-A MRSA §7407, sub-§3-A** is enacted to read:

**3-A. Employee retirement plan.** Employees of the school are state employees for purposes of Title 5, chapters 421 and 423, unless a decision is made pursuant to a collective bargaining agreement or is otherwise made consistent with applicable law other than Title 5, section 18201 to provide for retirement coverage in some way other than as state employees in the Maine State Retirement System regular retirement plan. The school board shall consult with the Executive Director of the Maine State Retirement System in proposing any change to the Maine State Retirement System retirement status of school employees. The school board shall provide certification to the Maine State Retirement System of any decision to provide retirement coverage in some way other than as state employees at least 60 days prior to any change in retirement coverage. Any decision that removes school employees from the definition of "state employee" as provided in Title 5, section 17001, subsection 40 is irrevocable unless changed by law.

**Sec. 4. PL 1999, c. 775, §15, sub-§5** is repealed and the following enacted in its place:

**5. Personnel transferred.** Classified and unclassified employees assigned to the Governor Baxter School for the Deaf must be transferred from state employment to the Governor Baxter School for the Deaf in its capacity as an independent agency.

Fringe benefits from state employment of the transferred personnel, including vacation and sick leave, health and life insurance and retirement, remain with the transferred personnel. All employees of the Governor Baxter School for the Deaf, whenever hired, are eligible to participate in the state employee health plan and the regular state employee plan of the Maine State Retirement System.

The rights and benefits of employees at the Governor Baxter School for the Deaf are determined by statute and by the status quo existing at the school. The rights and benefits under statutes, rules and the applicable executive branch collective bargaining agreements in effect on the effective date of this Act or successor collective bargaining agreements are evidence of the status quo that must be maintained for all personnel at Governor Baxter School for the Deaf until changed in accordance with applicable labor law principles. The rights and benefits of personnel hired after August 11,

2000, whose positions are included within a bargaining unit, are the same as those of the transferred employees, once the newly hired personnel are eligible employees under applicable law or the applicable collective bargaining agreement, except that these employees do not have seniority rights applicable to executive branch bargaining units.

All personnel transferred from state employment to the Governor Baxter School for the Deaf as an independent agency retain all applicable seniority rights and privileges and all other rights and privileges with regard to employment in state service for a period of 2 years from the effective date of this Act. During this 2-year period, the recall provisions of these applicable laws, rules and collective bargaining agreements continue to apply for all transferred personnel with layoff status to the filling of any vacancy in the Governor Baxter School for the Deaf. Transferred personnel who refuse recall to the Governor Baxter School for the Deaf retain full recall rights to all other agencies of State Government.

The Department of Administrative and Financial Services shall assist the School Board of the Governor Baxter School for the Deaf with the orderly implementation of the provisions of this subsection.

**Sec. 5. Retroactivity.** This Act is retroactive to August 11, 2000.

**Emergency clause.** In view of the emergency cited in the preamble, this Act takes effect when approved.

Effective May 22, 2001.

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## CHAPTER 240

H.P. 1287 - L.D. 1751

### An Act to Amend the Maine Commission on Domestic Abuse

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

**Sec. 1. 5 MRSA §12004-I, sub-§74-C**, as amended by PL 1995, c. 694, Pt. D, §6 and affected by Pt. E, §2, is further amended to read:

<b>74-C.</b>	Maine	Expenses	19-A
Public	Commission	Only	MRSA
Safety	on Domestic		§4013
	and Sexual		
	Abuse		

**Sec. 2. 19-A MRSA §4013**, as amended by PL 1997, c. 597, §§2 and 3 and affected by c. 507, §4, is further amended to read: