

# 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**

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**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
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**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**

## CHAPTER 379

H.P. 376 - L.D. 478

## An Act to Strengthen the Maine Rx Program

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

Sec. 1. 22 MRSA §2682 is enacted to read:

**§2682. Display of Maine Rx program participation information**

A drug dispensed pursuant to prescription, including a drug dispensed without charge to the consumer, must carry program participation information prominently displayed on the label or on the packaging in a manner approved by the commissioner.

**1. Exceptions.** The requirements of this section do not apply to:

A. A drug dispensed to a consumer who has health coverage that pays part or all of the retail cost of the drug;

B. A generic drug; or

C. A drug of a manufacturer or labeler that has entered into an agreement with the department pursuant to section 2681, subsection 3.

**2. Rulemaking.** The commissioner shall adopt rules to implement this section. Rules adopted pursuant to this section are routine technical rules as defined by Title 5, chapter 375, subchapter II-A.

**3. Program participation information.** The rules must provide for the disclosure of program participation information, including, but not limited to, the following:

A. Notification that the manufacturer or labeler has not entered into an agreement with the Department of Human Services pursuant to section 2681, subsection 3;

B. A warning that the consumer may be paying more for the drug than is paid in other countries, particularly Canada; and

C. Advice to consult a health care provider or pharmacist about access to drugs at lower prices.

**4. Separate writing.** The requirements of this section may be met by the distribution of a separate writing that is approved by or produced and distributed by the department.

**5. Waivers.** The rules must provide for waivers to the requirements of this section, particularly when the manufacturer or labeler is negotiating with the commissioner pursuant to section 2681, subsection 3.

See title page for effective date.

## CHAPTER 380

S.P. 579 - L.D. 1757

## An Act to Encourage Savings for Higher Education

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

Sec. 1. 20-A MRSA §11473, sub-§3, as enacted by PL 1997, c. 732, §4, is amended to read:

**3. Application of program fund.** Money in the program fund may be applied to carry out any power of the authority under or in connection with this chapter. All money in the program fund must be continuously applied by the authority to carry out this chapter and for no other purpose. Assets of the program fund must at all times be preserved, invested and expended only for the purposes of the program and must be held for the benefit of the participants and beneficiaries, including the refunding of fees paid by participants or any class of participants, the matching of contributions made by participants or any class of participants or the use of funds to provide scholarships to program account beneficiaries who attend institutions of higher education whether or not in the State. Assets may not be transferred or used by the State or the authority for any purposes other than the purposes of the program. All amounts in the program fund, except for contributions and program earnings that have been credited to an account, may be used by the authority to pay the administrative costs of the program and program fund, as determined by the authority.

Sec. 2. 20-A MRSA §11475, sub-§3, as enacted by PL 1997, c. 732, §4, is amended to read:

**3. Designation of beneficiaries.** ~~—A Except for accounts opened by a state or local governmental entity or charitable organization, an application or participation agreement must designate the name and date of birth of the beneficiary. —A beneficiary designated in a participation agreement may be designated from date of birth to an age the authority may require by rule.~~

Sec. 3. 20-A MRSA §11478, sub-§3-A is enacted to read:

**3-A. Successor participants.** A participant may designate another person as successor owner of the account in the event of the death or disability of the participant.

See title page for effective date.

## CHAPTER 381

S.P. 575 - L.D. 1753

### An Act Regarding the Treatment of American Indian Tribes Under the Federal Unemployment Tax Act

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

**Sec. 1. 26 MRSA §1221-B** is enacted to read:

#### **§1221-B. Treatment of Indian tribes**

To the extent permitted under federal law, including the Maine Indian Claims Settlement Act, Title 25, United States Code, Chapter 19, Subchapter II, this section governs unemployment contributions and direct reimbursement options for Indian tribes.

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

A. "Employing unit," as defined in this chapter, includes any Indian tribe for which service in employment is performed.

B. "Employment" includes service performed in the employ of an Indian tribe, as defined in the Federal Unemployment Tax Act, 26 United States Code, Chapter 23, Section 3306(u), 2000, referred to in this section as "FUTA," as long as that service is excluded from the definition of employment as defined in 26 United States Code, Section 3306(c) solely by reason of 26 United States Code, Section 3306(c)(7) and is not otherwise excluded from the definition of employment under this chapter. For purposes of this paragraph, the exclusions from employment in section 1043, subsection 11, paragraph F, subparagraph (21), division (i), subdivisions (i), (ii), (iii), (iv) and (v) are applicable to services performed in the employ of an Indian tribe.

C. "Indian tribe" means an Indian tribe or tribal unit, including a subdivision, subsidiary or business enterprise wholly owned by an Indian tribe subject to this chapter.

**2. Benefits.** Benefits based on service in employment are payable in the same amount, on the same

terms and subject to the same conditions as benefits payable on the basis of other service subject to this chapter.

**3. Payments in lieu of contributions.** Contributions by Indian tribes for unemployment tax purposes are controlled by this subsection.

A. An Indian tribe shall pay contributions under the same terms and conditions as all other subject employers unless that Indian tribe elects to pay into the fund amounts equal to the amount of benefits attributable to service in the employ of the Indian tribe.

B. An Indian tribe electing to make payments in lieu of contributions shall make that election in the same manner and under the same conditions as provided in section 1221, subsection 11 for the State and local governments and nonprofit organizations subject to this chapter. An Indian tribe shall determine if reimbursement for benefits paid will be elected by the Indian tribe as a whole, by an individual tribal unit or by a combination of individual tribal units.

C. An Indian tribe or tribal unit must be billed for the full amount of benefits attributable to service in the employ of the Indian tribe or tribal unit on the same schedule as other employing units that have elected to make payments in lieu of contributions.

D. At the discretion of the commissioner, an Indian tribe that elects to become liable for payments in lieu of contributions shall, within 60 days after the effective date of its election:

(1) Execute and file with the commissioner a surety bond approved by the commissioner; or

(2) Deposit with the commissioner money or securities on the same basis as other employers with the same election option.

**4. Failure to make payments.** An Indian tribe that fails to make the required payment is subject to this subsection.

A. An Indian tribe that fails to make the payments required by this chapter, including assessments of interest and penalty, within 90 days of receipt of the bill loses the option to make payments in lieu of contributions, as described in subsection 3, for the following tax year unless payment in full is received before contribution rates for the next tax year are computed.

B. An Indian tribe that loses the option to make payments in lieu of contributions due to late