

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
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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.

J.S. McCarthy Company
Augusta, Maine
2001

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

payment or nonpayment, as described in paragraph A, regains the option if, after a period of one year, all contributions have been made on time and no contributions, payments in lieu of contributions for benefits paid, interest or penalties remain outstanding.

C. Notwithstanding subsection 1, paragraph B, if the Indian tribe fails to make required payments, including assessments of interest and penalty, after all collection activities considered necessary by the commissioner have been exhausted, services performed for that Indian tribe are not considered employment for purposes of subsection 1, paragraph B.

D. An Indian tribe that loses coverage due to paragraph C may have services performed for that Indian tribe included as employment at the discretion of the commissioner, once all contributions, payments in lieu of contributions, interest and penalties have been paid.

5. Notices to Indian tribes. The commissioner shall provide notification in notices of payment and reporting delinquency to Indian tribes that failure to make full payment within the prescribed time frame:

A. Will cause the Indian tribe to be liable for taxes under FUTA;

B. Will cause the Indian tribe to lose the option to make payments in lieu of contributions; and

C. Could cause services in the employ of the Indian tribe to be excepted from employment for purposes of obtaining benefits under the Employment Security Law.

6. Notices to Federal Government. If an Indian tribe fails to make payments required under this section, including assessments of interest and penalties, within 90 days of a final notice of delinquency, the commissioner shall notify immediately the United States Internal Revenue Service and the United States Department of Labor.

7. Extended benefits. Extended benefits paid that are attributable to service in the employ of an Indian tribe and not reimbursed by the Federal Government must be financed in their entirety by that Indian tribe.

8. Continuation of coverage. Unemployment benefits payable to unemployed individuals who performed services in employment for an Indian tribe as defined in this section and who meet the eligibility qualifications under this chapter may not be withheld because the Indian tribe is delinquent in the payment of unemployment contributions or reimbursement

payments in lieu of contributions as defined in this chapter.

See title page for effective date.

CHAPTER 382

H.P. 1361 - L.D. 1818

An Act to Ensure Retailer Compliance with the Tax on Tobacco Products

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

Sec. 1. 36 MRSA §4402, as amended by PL 1997, c. 526, §14, is further amended to read:

§4402. Licenses

Every person engaging in the business of selling tobacco products as a distributor, ~~or as a retailer that brings into this State or causes to be brought into this State tobacco products upon which the tax imposed by this chapter has not been paid,~~ shall ~~secure~~ obtain a license from the ~~tax assessor~~ State Tax Assessor before engaging in that business. Every license application ~~shall~~ must be made on a form prescribed by the ~~tax~~ assessor and ~~shall~~ must state the name and address of the applicant, ~~the~~ the address of ~~his~~ the applicant's principal place of business, and such other information as the ~~tax~~ assessor may require for the proper administration of this chapter. The application ~~shall~~ must be accompanied by a fee of \$25, except that ~~there shall be no a fee is not~~ required for distributors or unclassified importers licensed under chapter 703. A person ~~without~~ outside the State who ships or transports tobacco products to retailers in this State shall make application as a distributor and be granted by the ~~tax~~ assessor a license subject to all the provisions of this chapter and agree, upon applying for a license, to submit ~~his~~ that person's books, accounts and records to examination by the ~~Bureau of Revenue Services~~ bureau during reasonable business hours, and to accept service of process by mail when service is made in any proceeding involving enforcement of this chapter.

Each unclassified importer before importing, receiving or acquiring tobacco products from ~~without~~ outside the State shall ~~secure~~ obtain a license from the ~~tax assessor~~ State Tax Assessor. ~~There shall be is~~ no fee for that license.

~~Each~~ A license issued ~~shall expire pursuant to this section expires~~ on July 31st of each year unless sooner revoked by the ~~tax assessor~~ State Tax Assessor. The license ~~shall~~ must be prominently displayed on