

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.

J.S. McCarthy Company
Augusta, Maine
2001

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

the premises covered by the license and ~~no license~~ may not be transferred to any other person.

The ~~tax assessor~~ State Tax Assessor may revoke or suspend the license or licenses of any person for violation of this chapter applicable to the sale of tobacco products. ~~No~~ A license may not be revoked, canceled or suspended until after notice and hearing by the ~~tax assessor~~.

Sec. 2. 36 MRSA §4403, sub-§3, as enacted by PL 1985, c. 783, §16, is amended to read:

3. Imposition. The tax ~~shall be~~ is imposed at the time the distributor, retailer or unclassified importer brings or causes to be brought into this State tobacco products that are for sale to consumers or to retailers or for use or at the time tobacco products are manufactured or fabricated in this State for sale in this State.

Sec. 3. 36 MRSA §4404, as amended by PL 1987, c. 497, §46, is further amended to read:

§4404. Returns; payment of tax and penalty

Every distributor, ~~or retailer and~~ unclassified importer subject to the licensing requirement of section 4402 shall on or before the last day of each month ~~render submit, on forms to be~~ a form prescribed and furnished by the ~~tax assessor~~ State Tax Assessor, a report together with payment of the tax due under this chapter ~~to the tax assessor~~ stating the quantity and the wholesale sale price of all tobacco products held, purchased, manufactured, brought in or caused to be brought in from ~~without~~ outside the State or shipped or transported to retailers within the State during the preceding calendar month. Every such distributor ~~or, retailer and~~ unclassified importer shall keep a complete and accurate record at his ~~its~~ principal place of business to substantiate all receipts of tobacco products; ~~this record shall be preserved for a period of 2 years in such manner as to insure permanency and accessibility for inspection.~~

Such monthly reports ~~shall~~ must contain such further information as the ~~tax assessor shall~~ State Tax Assessor may prescribe and ~~shall~~ must show a credit for any tobacco products exempted as provided in section 4403. Records ~~shall~~ must be maintained to substantiate the exemption. Tobacco products previously taxed ~~which that~~ are returned to a manufacturer because the product has become unfit for use ~~of, sale or consumption or unsalable~~ may be taken as a credit on a subsequent return upon receipt of the credit notice from the original supplier.

See title page for effective date.

CHAPTER 383

H.P. 1280 - L.D. 1740

**An Act to Implement
Recommendations of the MCJUSTIS
Board Pursuant to the Study
Required by Resolve 1997, Chapter
105**

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

Sec. 1. 17-A MRSA §2, sub-§9, ¶D, as repealed and replaced by PL 1977, c. 510, §10, is amended to read:

D. For purposes of this subsection, proof that a thing is presented in a covered or open manner as a dangerous weapon shall be presumed to be gives rise to a permissible inference under the Maine Rules of Evidence, Rule 303 that it, in fact, is a dangerous weapon.

Sec. 2. 17-A MRSA §7, sub-§3, as amended by PL 1979, c. 512, §18, is further amended to read:

3. When the crime is homicide, a person may be convicted under the laws of this State if either the death of the victim or the bodily impact causing death occurred within the State or had a territorial relationship to the State. ~~If Proof that~~ the body of a homicide victim is found within this State, ~~it is presumed~~ gives rise to a permissible inference under the Maine Rules of Evidence, Rule 303 that such death or impact occurred within the State. When the crime is theft, a person may be convicted under the laws of this State if ~~he that person~~ obtained property of another, as defined in chapter 15, section 352, outside of this State and brought the property into the State.

Sec. 3. 17-A MRSA §9-A, sub-§2, as enacted by PL 1999, c. 196, §2, is amended to read:

2. ~~If Proof that~~ the name and date of birth of the person charged with the current principal offense are the same as those of the person who has been convicted of the prior offense, ~~it is presumed~~ gives rise to a permissible inference under the Maine Rules of Evidence, Rule 303 that the person charged with the current principal offense is the same person as that person convicted of the prior offense.

Sec. 4. 17-A MRSA §9-A, sub-§§3 and 4 are enacted to read:

3. Prior convictions may be considered for purposes of enhancing a present sentence if the date of each prior conviction precedes the commission of the offense being enhanced by no more than 10 years, except as otherwise provided by law. More than one