

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTIETH LEGISLATURE

SECOND REGULAR SESSION
January 2, 2002 to April 25, 2002

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JULY 25, 2002

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

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Augusta, Maine
2002

(b) If it is the standard practice of an off-site medical facility to require the removal of clothing when collecting a urine sample for any purpose, the physician or nurse supervising the collection of the sample in that facility may require the employee or applicant to remove their clothing.

(3) No employee or applicant may be required to provide a urine sample while being observed, directly or indirectly, by another individual.

(4) The employer may take additional actions necessary to ensure the integrity of a urine sample if the sample collector or testing laboratory determines that the sample may have been substituted, adulterated, diluted or otherwise tampered with in an attempt to influence test results. The Department of Human Services shall adopt rules governing when those additional actions are justified and the scope of those actions. These rules may not permit the direct or indirect observation of the collection of a urine sample. If an employee or applicant is found to have twice substituted, adulterated, diluted or otherwise tampered with the ~~employee~~ employee's or applicant's urine sample, as determined under the rules adopted by the department, the employee or applicant is deemed to have refused to submit to a substance abuse test.

(5) If the employer proposes to use the type of screening test described in section 682, subsection 7, paragraph A, subparagraph (1), the employer's policy must include:

(a) Procedures to ensure the confidentiality of test results as required in section 685, subsection 3; and

(b) Procedures for training persons performing the test in the proper manner of collecting samples and reading results, maintaining a proper chain of custody and complying with other applicable provisions of this subchapter;

Sec. 3. 26 MRSA §683, sub-§5-A is enacted to read:

5-A. Point of collection screening test. Except as provided in this subsection, all provisions of this subchapter regulating screening tests apply to noninstrumented point of collection test devices described in section 682, subsection 7, paragraph A, subparagraph (1).

A. A noninstrumented point of collection test described in section 682, subsection 7, paragraph A, subparagraph (1) may be performed at the point of collection rather than in a laboratory. Subsections 6 and 7 and subsection 8, paragraphs A to C do not apply to such screening tests. Subsection 5 applies only to a sample that results in a positive test result.

B. Any sample that results in a negative test result must be destroyed. Any sample that results in a positive test result must be sent to a qualified testing laboratory consistent with subsections 6 to 8 for confirmation testing.

Sec. 4. 26 MRSA §683, sub-§6, as amended by PL 1989, c. 832, §8, is further amended by amending the first paragraph to read:

6. Qualified testing laboratories required. No employer may perform any substance abuse test administered to any of that employer's employees. An employer may perform screening tests administered to applicants if the employer's testing facilities comply with the requirements for testing laboratories under this subsection. ~~Any~~ Except as provided in subsection 5-A, any substance abuse test administered under this subchapter must be performed in a qualified testing laboratory that complies with this subsection.

See title page for effective date.

CHAPTER 557

H.P. 1469 - L.D. 1970

An Act to Clarify the Status of Retirees Who Return to Service Under the Maine State Retirement System

Mandate preamble. This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, two thirds of all of the members elected to each House have determined it necessary to enact this measure.

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

Sec. 1. PL 2001, c. 442, §5 is amended to read:

Sec. 5. Status of employees who have retired and returned to covered employment under the Maine State Retirement System.

Notwithstanding the Maine Revised Statutes, Title 5, section 17651, and, except as provided in Title 5, section 17857, subsection 2, recipients of a service retirement benefit from the Maine State Retirement System who have returned to covered employment under the retirement system in a position that would otherwise be covered by the retirement plan for state employees and teachers may not contribute to the retirement system, do not earn creditable service for their employment after retirement and do not earn any additional retirement benefits as a result of that employment. They may participate in other retirement options available to similar employees, including the state program of tax-deferred arrangements under Title 5, chapter 67, at the discretion of their employer. For purposes of participation in the state employee health insurance program pursuant to the Maine Revised Statutes, Title 5, section 285 or in dental health insurance coverage offered by the State, recipients of a service retirement benefit under the Maine State Retirement System who are retired state employees and who are reemployed as state employees must be treated as retirees under section 285, subsection 1-A for purposes of eligibility for coverage under the group plan. A recipient of a service retirement benefit under the Maine State Retirement System who is a retired teacher and who returns to work as a teacher under this Act is eligible for coverage under the group health insurance plan for active teachers in the school administrative unit in which newly employed. For purposes of participation in the group accident and sickness or health insurance for retired teachers pursuant to Title 20-A, section 13451, a recipient of a service retirement benefit under the Maine State Retirement System who is a retired teacher who returns to work under this Act is eligible upon ceasing work to return to coverage under the group health insurance plan in effect for active teachers in the school unit from which the teacher originally retired, including state payment of a percentage of the premium cost under section 13451.

See title page for effective date.

CHAPTER 558

H.P. 1667 - L.D. 2172

An Act to Designate the Great Salt Bay Marine Shellfish Preserve

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

Sec. 1. 12 MRSA c. 629 is enacted to read:

CHAPTER 629

GREAT SALT BAY MARINE SHELLFISH PRESERVE

§6961. Great Salt Bay marine shellfish preserve

1. Designation; prohibition. The Great Salt Bay is designated as a marine shellfish preserve in which the harvesting of any shellfish species and other harvesting activities involving bottom disturbance are prohibited, except that the commissioner may authorize research activities in the area.

2. Great Salt Bay defined. For the purposes of this section, "Great Salt Bay" means the tidal portion of the Damariscotta River in the towns of Damariscotta, Newcastle and Nobleboro that is north of a line extending between 2 points of land located 600 yards north of the U.S. Route 1 highway bridge.

3. Research activities. This section does not apply to research activities in the Great Salt Bay that are authorized by the commissioner.

4. Taking of finfish. Nothing in this section may be construed to limit the taking of finfish from the Great Salt Bay.

Sec. 2. Participation in study. During the period ending June 30, 2005, the Department of Marine Resources, within existing budgeted resources, shall participate in the planning and evaluation of a privately funded study of the Great Salt Bay's ecology and resources if the Commissioner of Marine Resources authorizes the study in accordance with the Maine Revised Statutes, Title 12, section 6961. The department's participation must include representation of the department on a joint study management committee to be formed of representatives of the shellfish harvesting community, recreational ice anglers, local land trusts, the municipal officers of the towns of Damariscotta, Newcastle and Nobleboro and the University of Maine's Darling Marine Center laboratory.

See title page for effective date.