

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.

J.S. McCarthy Company
Augusta, Maine
2002

(9) State Planning Office, except for the Land for Maine's Future Board, in 2004-2007.

See title page for effective date.

CHAPTER 598

H.P. 1665 - L.D. 2170

An Act to Ensure Maine Citizens in Recovery from Drug Addiction Equal Access to Public Assistance

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

Sec. 1. 22 MRSA §3104, sub-§14 is enacted to read:

14. Prohibition against denial of assistance based on drug conviction. A person who is otherwise eligible to receive food assistance under the federal Food Stamp Act of 1977, 7 United States Code, Sections 2011 to 2036 may not be denied assistance because the person has been convicted of a drug-related felony as described in the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, Section 115, 110 Stat. 2105.

Sec. 2. 22 MRSA §3762, sub-§17 is enacted to read:

17. Prohibition against denial of assistance based on drug conviction. A person who is otherwise eligible to receive TANF may not be denied assistance because the person has been convicted of a drug-related felony as described in Section 115 of PRWORA.

See title page for effective date.

CHAPTER 599

H.P. 1107 - L.D. 1476

An Act to Amend the Laws of the Board of Barbering and Cosmetology

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

Sec. 1. 32 MRSA §14211-A, sub-§1, as amended by PL 1999, c. 687, Pt. E, §14, is further amended to read:

1. Membership. The Board of Barbering and Cosmetology, as established by Title 5, section

12004-A, subsection 6, consists of 9 members appointed by the Governor. Two members must be representatives of the public; ~~3~~ 2 must be licensed and practicing cosmetologists; 2 ~~one~~ must be a licensed and practicing ~~barbers~~ barber; one must be a licensed instructor ~~having that has at least 3 years of instructing experience and no current affiliation with any school currently licensed in the State; and one must be the owner of a school licensed barbering or cosmetology school by the board; one must be a licensed and practicing manicurist; and one must be a licensed and practicing aesthetician.~~

Sec. 2. 32 MRSA §14212, sub-§11, as enacted by PL 1997, c. 771, §9, is amended to read:

11. Inspections. The board or its agents ~~or assistants shall inspect each establishment~~ conduct random inspections of licensed establishments and booths as considered necessary for compliance with the applicable requirements of this subchapter chapter and the applicable rules of the board adopted pursuant to this subchapter chapter. ~~Each establishment must be inspected at least once a year for compliance with the applicable laws and rules relating to the public health and safety and the conduct and operation of establishments.~~

Sec. 3. Transition; change in board composition. Notwithstanding the Maine Revised Statutes, Title 32, section 14211-A, subsection 1, members of the Board of Barbering and Cosmetology on January 1, 2002 may remain members of that board until the completion of their terms. As board positions become vacant, members must be appointed in accordance with the changes to the composition of the board required by Title 32, section 14211-A, subsection 1, as amended by this Act.

See title page for effective date.

CHAPTER 600

S.P. 461 - L.D. 1514

An Act to Ensure Fairness in the Regulation and Reimbursement of Nursing Facilities

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

Sec. 1. 22 MRSA §1812-H, sub-§2-B is enacted to read:

2-B. Implementation. Notwithstanding any provision of this section to the contrary, a nursing facility may decline to admit a prospective resident after an evaluation of the person's clinical condition and related care needs and a determination that the

facility lacks qualified staff to meet the level of care required for that person. A nursing facility is not subject to penalty or sanction for declining to admit a prospective resident under this subsection. Nothing in this subsection affects the obligation of a nursing facility to provide care specific to the needs of residents of the facility.

Sec. 2. Rulemaking. The Department of Human Services shall adopt rules regarding contracts for long-term care to ensure responsible financial management by persons who manage or have authority to manage or expend the assets and funds of residents of long-term care facilities. In developing the rules, the department shall consider allowing contracts to impose a clear duty on the part of a person to apply the funds of a resident in a responsible manner so that health care and long-term care expenses are paid to the extent possible and allowing mechanisms to promote payment of the resident's obligations in a timely manner. Mechanisms for payment may include but are not limited to direct deposit of funds, electronic transfer of funds and directed payment of Social Security benefits and other income of the resident. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

See title page for effective date.

CHAPTER 601

H.P. 1443 - L.D. 1940

An Act Regarding the Repatriation of Native American Remains

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

Sec. 1. 22 MRSA §2842-B, as enacted by PL 1993, c. 738, Pt. C, §5, is repealed and the following enacted in its place:

§2842-B. Indian human remains

1. Transfer of remains. Except as provided in subsections 2 and 3, a person or entity who possesses any human remains identified as Indian human remains shall transfer the remains to the intertribal repatriation organization that is appointed by the Passamaquoddy Tribe, Penobscot Nation, Houlton Band of Maliseet Indians and Aroostook Band of Micmacs for reburial. The intertribal repatriation organization shall make reasonable inquiry to locate the next of kin of the deceased. If next of kin are located, the intertribal repatriation organization shall transfer the remains to the next of kin.

2. Medical Examiner cases. In cases within the jurisdiction of the Medical Examiner Act, the Chief Medical Examiner has authority over Indian human remains until the remains are no longer required for legal purposes. At that time, the Chief Medical Examiner shall make reasonable inquiry to locate the next of kin of the deceased. If next of kin are located, the Chief Medical Examiner shall release the remains to the next of kin of the deceased. If no next of kin are located, the remains must be released to the intertribal repatriation organization for reburial.

3. Native American Graves Protection and Repatriation Act. Subsection 1 does not apply to any human remains or any person or entity subject to the Native American Graves Protection and Repatriation Act, 25 United States Code, Chapter 32.

4. Memorandum of understanding. The Chief Medical Examiner, the Maine Historic Preservation Commission and the Maine State Museum shall enter into a memorandum of understanding concerning the disposition of human remains in the possession of the Chief Medical Examiner that are subject to the Native American Graves Protection and Repatriation Act.

See title page for effective date.

CHAPTER 602

H.P. 1458 - L.D. 1955

An Act to Allow Federal Law Enforcement Officers to Enforce Maine Statutes

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

Sec. 1. 25 MRSA §1502-A, sub-§1, ¶A-1 is enacted to read:

A-1. Special Agents of the United States Secret Service of the Department of the Treasury. This paragraph is repealed July 1, 2004;

Sec. 2. 25 MRSA §1502-A, sub-§5, ¶B, as enacted by PL 1995, c. 423, §1, is amended to read:

B. The Immigration and Naturalization Service of the Department of Justice, the United States Secret Service of the Department of the Treasury and the United States Customs Service of the Department of the Treasury shall develop policies governing their employees, including training policies. This paragraph is repealed July 1, 2004.

Sec. 3. 25 MRSA §1502-A, sub-§5, ¶B-1 is enacted to read: