

# 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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**J.S. McCarthy Company**  
**Augusta, Maine**  
**2002**

J. A driver or driver's helper who is subject to the provisions of 49 United States Code, Section 31502 as amended or to regulations adopted pursuant to that section and who is employed by an entity that is party to a contract with the Federal Government or an agency of the Federal Government that dictates the minimum hourly rate of pay to be paid the driver or driver's helper.

**Sec. 4. Legislative intent; findings.** The Legislature finds that the practice in the State for at least 30 years has been that interstate truck drivers and other employees involved in interstate trucking have been considered exempt from the Maine overtime law. This practice was developed in reliance on a 1966 written interpretation by the Department of the Attorney General and an interpretation of the Department of Labor that federal overtime law superseded Maine law. These interpretations led the Department of Labor to routinely defer enforcement of overtime laws to the Federal Government. As a result of this longstanding practice, a majority of employers and employees have adjusted their expectations and developed compensation practices that take into account the Department of Labor's interpretation that there is no statutory requirement for overtime pay.

As a result of cases pending before Maine courts in early 2002, the Legislature was asked to enact this interpretation of law. The Legislature now intends to enact the interpretation, retroactive to January 1, 1995. However, in deference to the authority of the judiciary to redress disputes, the Legislature exempts cases pending in Maine courts as of March 20, 2002 from the application of section 3 of this Act.

**Sec. 5. Retroactivity.** This Act applies retroactively to January 1, 1995 but does not apply to cases pending on March 20, 2002.

**Emergency clause.** In view of the emergency cited in the preamble, this Act takes effect when approved.

Effective April 5, 2002.

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## CHAPTER 629

H.P. 1666 - L.D. 2171

### An Act to Withdraw from the Texas Low-level Radioactive Waste Disposal Compact

**Emergency preamble.** Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, prior action of the Maine Legislature and the Congress of the United States calls for

payment to the State of Texas by Maine of \$25,000,000 in 2 or more payments, all of which are initially to be paid by the customers of the State's only nuclear-generating unit pursuant to Maine law and federal regulation; and

Whereas, the Legislature in 1993 enacted Public Law 1993, chapter 400, "An Act Authorizing a Referendum to Ratify the Texas Low-Level Radioactive Waste Disposal Compact with Maine and Vermont and Approving the Compact's Terms," which was subsequently signed by the Governor of this State; and

Whereas, in November 1993 the voters of the State approved Maine's entrance into a low-level radioactive waste compact with Texas and Vermont; and

Whereas, action in the Legislatures of Texas and Vermont and subsequent approval of the Congress of the United States of the "Texas Low-Level Radioactive Waste Disposal Compact Consent Act" (Public Law 105-236) in 1998 caused the Texas Low-level Radioactive Waste Compact to come into existence under both federal and state law; and

Whereas, the State's only nuclear-generating unit ceased operations permanently in 1997 and began the process of physical dismantlement and decommissioning in 1998; and

Whereas, the State's only nuclear-generating unit has completed more than 50% of that decommissioning process and has entered into contractual relationships for the disposal of low-level radioactive waste at commercial facilities in the states of South Carolina and Utah; and

Whereas, the State of Texas has made no progress in siting, licensing, constructing or opening for commercial operation a low-level waste disposal facility as had been contemplated by the compact members; and

Whereas, no other generator of low-level radioactive waste in this State continues to have a need for disposal capacity in Texas in view of the facilities currently accepting such waste in South Carolina and Utah; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

**Sec. 1. 35-A MRSA §4301, sub-§2**, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

**2. Costs.** The Legislature finds that there are many uncertain future costs associated with nuclear power plants, including the costs of low-level and high-level waste disposal, decommissioning and long-term care. These costs will be borne by the consumers and reductions in these costs will serve to benefit consumers.

**Sec. 2. 38 MRSA c. 14-C**, as enacted by PL 1993, c. 664, §20 and 1995, c. 333, §6, is repealed.

**Sec. 3. PL 1993, c. 400, §§3 and 4** are repealed.

**Sec. 4. Withdrawal from Texas Low-Level Radioactive Waste Disposal Compact.** Pursuant to Sections 7.03 and 7.05 of the Texas Low-Level Radioactive Waste Disposal Compact, the State of Maine hereby unilaterally and irrevocably withdraws from and terminates its agreements under that compact. The State of Maine takes this step due to:

1. The closure of the State's largest generator of low-level radioactive waste in 1997, obviating the need for Maine's membership in the compact; and

2. The inability to date of the State of Texas to cause a facility to be built in a timely manner pursuant to Section 4.04 of the compact and in recognition of the remedies provided under Section 7.04 of the compact for such inaction.

**Emergency clause.** In view of the emergency cited in the preamble, this Act takes effect when approved.

Effective April 5, 2002.

**CHAPTER 630**

**H.P. 506 - L.D. 646**

**An Act to Establish the Energy Resources Council**

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

**Sec. 1. 5 MRSA c. 313-A** is enacted to read:

**CHAPTER 313-A**

**ENERGY RESOURCES COUNCIL**

**§3327. Energy Resources Council**

**1. Council established; membership.** In order to facilitate more effective interagency coordination of the State's activities regarding energy issues, the Energy Resources Council, referred to in this chapter as the "council," is established. The chair of the council is the Director of the State Planning Office who is responsible for ensuring that the council carries out its responsibilities under this chapter. The membership of the council is as follows:

A. The Director of the State Planning Office;

B. The chair of the Public Utilities Commission;

C. The Commissioner of Environmental Protection;

D. The Public Advocate;

E. The Commissioner of Transportation;

F. The Commissioner of Administrative and Financial Services;

G. The Commissioner of Economic and Community Development; and

H. The Director of the Maine State Housing Authority.

**2. Duties; responsibilities.** The council shall advise the Governor, the Legislature and state agencies in the formulation of energy policy, including policy relating to energy use and conservation, development of energy resources and facility siting.

In fulfilling its duties, the council may interact and cooperate with any state, federal, regional or local agency or private organization. The council shall establish and regularly consult with one or more advisory groups composed of individuals with relevant expertise and experience to assist the council in carrying out its responsibilities under this chapter.

The council shall:

A. Recommend coordinated state policy regarding major programs or proposals that affect energy use in the State and that involve the activities of more than one state agency;

B. Support the full implementation of an integrated program to provide a substantially improved energy resources information base for planning purposes;

C. Provide direction to the State's energy planning and regulatory programs and encourage coordination of these efforts through review and comment on agency program plans, specific projects and legislative proposals that involve or affect more than one agency;