

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTIETH LEGISLATURE**

**FIRST SPECIAL SESSION**  
**November 13, 2002 to November 14, 2002**

**ONE HUNDRED AND TWENTY-FIRST LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 4, 2002 to June 14, 2003**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST SPECIAL SESSION**  
**NON-EMERGENCY LAWS IS**  
**FEBRUARY 13, 2003**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 13, 2003**

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

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**Penmor Lithographers**  
**Lewiston, Maine**  
**2003**

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

**Sec. 1. 20-A MRSA §1255, sub-§10, ¶B,** as enacted by PL 1981, c. 693, §§5 and 8, is repealed and the following enacted in its place:

B. If the approved plan requires a reduction of the number of directors to be elected in a municipality, the reduction must be achieved in accordance with this paragraph.

(1) If possible, the reduction must be achieved by the voluntary resignation of one or more of the directors.

(2) If the reduction can not be achieved in accordance with subparagraph (1) and the plan is approved and filed less than 30 days prior to the annual municipal election, the number of open positions to be filled by the election process must be reduced to the number required by the approved plan.

(3) If the reduction can not be achieved in accordance with subparagraph (1) or (2), or a combination of the 2, all of the remaining existing directors representing the municipality shall choose by lot which directors' terms must terminate.

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

Effective April 18, 2003.

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**CHAPTER 58**

**H.P. 319 - L.D. 411**

**An Act To Provide Employees Fair Access to Personnel Files**

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

**Sec. 1. 26 MRSA §631,** as amended by PL 1999, c. 235, §1, is further amended to read:

**§631. Employee right to review personnel file**

The employer shall, upon written request from an employee or former employee, provide the employee, former employee or duly authorized representative with an opportunity to review and copy the employee's personnel file if the employer has a personnel file for that employee. The reviews and copying must take place at the location where the personnel files are maintained and during normal office hours unless, at the employer's discretion, a more convenient time and

location for the employee are arranged. In each calendar year, the employer shall provide, at no cost to the employee, one copy of the entire personnel file when requested by the employee or former employee and, when requested by the employee or former employee, one copy of all the material added to the personnel file after the copy of the entire file was provided. The cost of copying any other material requested during that calendar year is paid by the person requesting the copy. For the purpose of this section, a personnel file includes, but is not limited to, any formal or informal employee evaluations and reports relating to the employee's character, credit, work habits, compensation and benefits and nonprivileged medical records or nurses' station notes relating to the employee that the employer has in the employer's possession. Records in a personnel file may be maintained in any form including paper, microfiche or electronic form. The employer shall take adequate steps to ensure the integrity and confidentiality of these records. An employer maintaining records in a form other than paper shall have available to the employee, former employee or duly authorized representative the equipment necessary to review and copy the personnel file. Any employer who, following a request pursuant to this section, without good cause fails to provide an opportunity for review and copying of a personnel file, within 10 days of receipt of that request, is subject to a civil forfeiture of \$25 for each day that a failure continues. The total forfeiture may not exceed \$500. An employee, former employee or the Department of Labor may bring an action in the District Court or the Superior Court for such equitable relief, including an injunction, as the court may consider to be necessary and proper. The employer may also be required to reimburse the employee, former employee or the Department of Labor for costs of suit including a reasonable attorney's fee if the employee or the department receives a judgment in the employee's or department's favor, respectively. For the purposes of this section, the term "nonprivileged medical records or nurses' station notes" means all those materials that have not been found to be protected from discovery or disclosure in the course of civil litigation under the Maine Rules of Civil Procedure, Rule 26, the Maine Rules of Evidence, Article V or similar rules adopted by the Workers' Compensation Board or other administrative tribunals.

See title page for effective date.

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**CHAPTER 59**

**H.P. 129 - L.D. 170**

**An Act To Improve the Health and Safety of Young Workers**

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

**Sec. 1. 26 MRSA §772**, as amended by PL 1999, c. 30, §1, is repealed and the following enacted in its place:

**§772. Minors under 18 years of age; hazardous employment**

**1. Prohibition against certain employment.** A minor under 18 years of age may not be employed in any capacity that the director determines to be hazardous, dangerous to life or limbs or injurious to the minor's health or morals.

**2. Rules; list of occupations.** The director shall adopt rules to develop and maintain a list of occupations not suitable for employment of a minor. The rules must conform as far as practicable to the child labor provisions of the federal Fair Labor Standards Act of 1938, 29 United States Code, Section 212 and any associated regulations. The rules must also contain a provision prohibiting the employment of minors in places having nude entertainment.

**3. Rules relating to confined spaces and height.** The director shall adopt rules prohibiting a minor under 18 years of age from working in confined spaces or at a designated height when regulations of the federal Occupational Safety and Health Administration, adopted under the general industry standards, 29 Code of Federal Regulations, Part 1910, require special precautions or procedures for such work. The rules must provide exceptions to the prohibition in specific exceptional circumstances, such as work required for public safety.

**4. Rules are routine technical.** Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**5. Application.** This section does not apply to minors in public and approved private schools where mechanical equipment is installed and operated primarily for purposes of instruction.

See title page for effective date.

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**CHAPTER 60**

**S.P. 458 - L.D. 1388**

**An Act To Expand the Mission of the Marine Patrol**

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

**Whereas**, since September 11, 2001, there has been a recognized need for increased homeland security, including improved protection of the nation's coasts; and

**Whereas**, it is in the best interest of the State to protect its ports, the flow of commerce and the marine transportation system from terrorism; and

**Whereas**, Maine's Marine Patrol is the only maritime resource available to assist the United States Coast Guard in providing safety and security services; 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. 12 MRSA §6029-A** is enacted to read:

**§6029-A. Safety and security services**

**1. Enforcement of federal safety and security zones.** At the request of and as expressly provided by the United States Coast Guard in accordance with federal law, marine patrol officers may assist the United States Coast Guard in the enforcement of safety and security zones established by the United States Coast Guard Captain of the Port for Maine. Marine patrol officers may take all action necessary to assist the United States Coast Guard in enforcing security and safety zones to the extent authorized by the United States Coast Guard.

**2. Memorandum of agreement.** Prior to engaging in the activities authorized under this section, the Bureau of Marine Patrol must enter into a memorandum of agreement with the United States Coast Guard that establishes the appropriate procedures and protocols for enforcement activities authorized under this section. Any funds received from the Federal Government for reimbursement to the State for activities authorized under this section must be deposited in the watercraft fund pursuant to section 7910, subsection 9, paragraph D.

**Sec. 2. 12 MRSA §6052, sub-§3**, as enacted by PL 1977, c. 661, §5, is amended to read:

**3. Marketing.** Serve as the primary state agency providing promotional and marketing assistance to the commercial fishing industries, including assisting in marketing seafood, stimulating of consumer interest in and consumption of seafood, increasing the sales of seafood domestically and abroad, supporting and