

# 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**

**§13913. Right of entry for professional land surveyor performing surveying services**

When performing surveying services at the request of a landowner or person with an interest in real estate, a professional land surveyor and the surveyor's assistants may, without the consent of the owner or person in possession, enter upon or cross any lands necessary to perform surveying services.

**1. No authority to intentionally damage or move object.** Nothing in this section may be construed as giving authority or license to a professional land surveyor or the surveyor's assistant to intentionally destroy, injure, damage or move any object, chattel or item on the lands of another without the permission of the owner.

**2. Civil liability for actual damage.** This section may not be construed to remove civil liability for actual damage to land, chattels, crops or personal property.

**3. No authority to enter building used as residence or for storage.** This section may not be construed to give a professional land surveyor or the surveyor's assistant the authority to enter any building or structure used as a residence or for storage.

**4. Professional land surveyor shall make reasonable effort to notify landowners.** A professional land surveyor shall make reasonable effort to notify a landowner upon whose land it is necessary for the professional land surveyor to enter or cross. Notice provided as follows meets the requirement of this subsection:

A. Written notice delivered by hand to the landowner or to the residence of the landowner upon whose land the surveyor may enter or cross, delivered at least 24 hours prior to the surveyor's entering the land; or

B. Written notice mailed by first class mail to the landowner upon whose land the surveyor may enter or cross, postmarked at least 5 days prior to the surveyor's entering the land. The surveyor may rely on the address of the landowner as contained in the municipal property tax records or their equivalent.

**5. Owner or occupant of land; duty of care; liability.** The duty of care an owner or occupant owes to the professional land surveyor and the surveyor's assistant is the same as that owed a trespasser.

**6. Professional land surveyor and assistant shall carry identification and display upon request.** A professional land surveyor and the surveyor's assistant shall carry means of proper identification as

to their registration or employment and shall display this identification to anyone requesting identification.

**7. Compliance with safety regulations.** A professional land surveyor and the surveyor's assistant shall comply with all federal and state safety rules and regulations that apply to the land that they enter or cross pursuant to this section.

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

Effective May 15, 2003.

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**CHAPTER 162**

**H.P. 1026 - L.D. 1399**

**An Act To Allow District Attorneys To Approve Immunity Requests**

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

**Sec. 1. 15 MRSA §1314-A**, as amended by PL 1985, c. 386, §1, is further amended to read:

**§1314-A. Compelling evidence in criminal or juvenile proceedings; immunity**

In any criminal proceeding before a court or grand jury, or in any juvenile proceeding before a court, if a person refuses to answer questions or produce evidence of any kind on the ground that ~~he~~ the person may be incriminated thereby, and if the ~~prosecuting~~ prosecuting attorney for the State, in writing, and with the written approval of the Attorney General or, in the event the prosecution is being conducted by the office of the district attorney, the written approval of either the Attorney General or the district attorney for that district, requests the court to order that person to answer the questions or produce the evidence, and the court after notice to the witness and hearing ~~shall so order~~ orders, unless ~~it~~ the court finds to do so would be clearly contrary to the public interest, that person shall comply with the order. After complying, and if, but for this section, ~~he~~ that person would have had the right to withhold the answers given or the evidence produced by ~~him~~ that person, that person ~~shall~~ may not be prosecuted or subjected to penalty, forfeiture or adjudication for or on account of any transaction, matter or thing concerning which, in accordance with the order, ~~he~~ that person gave answer or produced evidence. Failure to answer questions or produce evidence as ordered by the court following notice and hearing ~~shall constitute~~ constitutes contempt of court. ~~He~~ The person may nevertheless be prosecuted or subjected to penalty, forfeiture or adjudication for any perjury, false swearing or contempt committed in

answering, or failing to answer, or in producing or failing to produce evidence, in accordance with the order.

See title page for effective date.

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## CHAPTER 163

S.P. 485 - L.D. 1453

### An Act To Allow for Immediate Unemployment Fact-finding Interviews for Able and Availability Issues

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

**Sec. 1. 26 MRSA §1194, sub-§2,** as amended by PL 1999, c. 464, §8, is further amended to read:

**2. Determination.** A representative designated by the commissioner, and in this chapter referred to as a deputy, shall promptly examine the first claim filed by a claimant in each benefit year and shall determine the weekly benefit amount and maximum benefit amount potentially payable to the claimant during that benefit year in accordance with section 1192, subsection 5.

The deputy shall promptly examine all subsequent claims filed and, on the basis of facts, shall determine whether or not that claim is valid with respect to sections 1192 and 1193, other than section 1192, subsection 5, or shall refer that claim or any question involved ~~therein in the claim~~ to the Division of Administrative Hearings or to the commission, which shall make a determination with respect ~~thereto to the claim~~ in accordance with the procedure described in subsection 3, except that in any case in which the payment or denial of benefits ~~will be~~ is subject to section 1193, subsection 4, the deputy shall promptly transmit a report with respect to that subsection to the Director of Unemployment Compensation upon the basis of which the director shall notify appropriate deputies as to the applicability of that subsection.

The deputy shall determine in accordance with section 1221, subsection 3, paragraph A, the proper employer's experience rating record, if any, against which benefits of an eligible individual ~~shall~~ must be charged, if and when paid.

The deputy shall promptly notify the claimant and any other interested party of the determinations and reasons ~~therefor~~ for the determinations. Subject to subsection 11, unless the claimant or any such interested party, within 15 calendar days after that notification was mailed to ~~his~~ the claimant's last

known address, files an appeal from that determination, that determination ~~shall be~~ is final, ~~provided~~ except that the period within which an appeal may be filed may be extended, for a period not to exceed an additional 15 calendar days, for good cause shown. If new evidence or pertinent facts that would alter that determination become known to the deputy prior to the date that determination becomes final, a redetermination is authorized, but that redetermination must be mailed before the original determination becomes final.

If an employer's separation report for an employee is not received by the office specified ~~thereon on the separation report~~ within 10 days after that report was requested, the claim ~~shall~~ must be adjudicated on the basis of information at hand. If the employer's separation report containing possible disqualifying information is received after the 10-day period and the claimant is denied benefits by a revised deputy's decision, benefits paid prior to the date of the revised decision ~~shall do~~ not constitute an overpayment of benefits. Any benefits paid after the date of the revised decision ~~shall~~ constitute an overpayment.

If an employer files an amended separation report or otherwise raises a new issue as to the employee's eligibility or changes the wages or weeks used in determining benefits ~~which that~~ results in a denial of benefits or a reduction of the weekly benefit amount, the benefits paid prior to the date the determination is mailed ~~shall do~~ not constitute an overpayment. Any benefits received after that date to which the claimant is not entitled pursuant to a new determination based on that new employer information ~~shall~~ constitute an overpayment.

If, during the period a claimant is receiving benefits, new information or a new issue arises concerning the claimant's eligibility for benefits or which affects the claimant's weekly benefit amount, ~~no~~ benefits may not be withheld until a determination is made on the issue. Before a determination is made, written notice shall be mailed to the claimant and other interested parties, which ~~shall~~ must include the issue to be decided, the law upon which it is based, any factual allegations known to the bureau, the right to a fact-finding interview, the date and location of the scheduled interview and the conduct of the interview and appeal. The fact-finding interview ~~shall~~ must be scheduled not less than 5 days nor more than 14 days after the notice is mailed. The bureau shall include in the notice a statement notifying the claimant that any benefits paid prior to the determination may be an overpayment under applicable law and recoverable by the bureau if it is later determined that the claimant was not entitled to the benefits. If the claimant does not appear for the scheduled interview, the deputy shall make a determination on the basis of available evidence. The deputy shall make a prompt determination of the issue based