

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.

Penmor Lithographers
Lewiston, Maine
2003

Sec. 1. 39-A MRSA §102, sub-§4, ¶H, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

H. "Average weekly wages, earnings or salary" does not include any fringe or other benefits paid by the employer that continue during the disability. Any fringe or other benefit paid by the employer that does not continue during the disability must be included for purposes of determining an employee's average weekly wage to the extent that the inclusion of the fringe or other benefit will not result in a weekly benefit amount that is greater than 2/3 of the state average weekly wage at the time of injury. The limitation on including discontinued fringe or other benefits only to the extent that such inclusion does not result in a weekly benefit amount greater than 2/3 of the state average weekly wage at the time of injury does not apply if the injury results in the employee's death.

Sec. 2. Application. This Act applies to calculations of death benefits made on or after the effective date of this Act.

See title page for effective date.

CHAPTER 438

H.P. 623 - L.D. 846

An Act To Protect Health Care Practitioners Responding to Public Health Threats

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

Sec. 1. 22 MRSA §816, sub-§1, as enacted by PL 1989, c. 487, §11, is amended to read:

1. For private institutions. Any private institution, its employees or agents ~~shall be~~ are immune from civil liability to the extent provided in Title 14, chapter 741, as if that institution were a state agency and its employees and agents were state employees, for any acts taken to provide for the confinement or restraint of a person committed pursuant to this chapter or for participating in reporting under this chapter, or for engaging in any prescribed care within the meaning of this chapter in support of the State's response to a declared extreme public health emergency in accordance with the provisions of this chapter and Title 37-B, chapter 13, subchapter 2.

Sec. 2. 24 MRSA §2904, as repealed and replaced by PL 1995, c. 625, Pt. C, §3, is repealed and the following enacted in its place:

§2904. Immunity from civil liability for volunteer activities

1. Health care practitioners. Notwithstanding any inconsistent provision of any public or private and special law, an individual is not liable for an injury or death arising from medical services provided as described in this subsection unless the injury or death was caused willfully, wantonly or recklessly or by gross negligence of the individual if that individual is:

A. A licensed health care practitioner who voluntarily, without the expectation or receipt of monetary or other compensation either directly or indirectly, provides professional services within the scope of that health care practitioner's licensure:

- (1) To a nonprofit organization;
- (2) To an agency of the State or any political subdivision of the State;
- (3) To members or recipients of services of a nonprofit organization or state or local agency;
- (4) To support the State's response to a public health threat as defined in Title 22, section 801, subsection 10;
- (5) To support the State's response to an extreme public health emergency as defined in Title 22, section 801, subsection 4-A; or
- (6) To support the State's response to a disaster as defined in Title 37-B, section 703, subsection 2; or

B. An emergency medical services' person who voluntarily, without the expectation or receipt of monetary or other compensation either directly or indirectly, provides emergency medical services within the scope of that person's licensure:

- (1) To support the State's response to a public health threat as defined in Title 22, section 801, subsection 10;
- (2) To support the State's response to an extreme public health emergency as defined in Title 22, section 801, subsection 4-A; or
- (3) To support the State's response to a disaster as defined in Title 37-B, section 703, subsection 2.

2. Retired physicians, podiatrists and dentists. Notwithstanding any inconsistent provision of any public or private and special law, a licensed physician, podiatrist or dentist who has retired from practice and who voluntarily, without the expectation or receipt of

monetary or other compensation either directly or indirectly, provides professional services within the scope of that physician's, podiatrist's or dentist's licensure is not liable for an injury or death arising from those services unless the injury or death was caused willfully, wantonly or recklessly by the physician, podiatrist or dentist for professional services provided:

- A. To a nonprofit organization;
- B. To an agency of the State or any political subdivision of the State;
- C. To members or recipients of services of a nonprofit organization or state or local agency;
- D. To support the State's response to a public health threat as defined in Title 22, section 801, subsection 10;
- E. To support the State's response to an extreme public health emergency as defined in Title 22, section 801, subsection 4-A; or
- F. To support the State's response to a disaster as defined in Title 37-B, section 703, subsection 2.

The extended immunity under this subsection applies only if the licensed physician, podiatrist or dentist is retired from practice, possessed an unrestricted license in the relevant profession and had not been disciplined by the licensing board in the previous 5 years at the time of the act or omission causing the injury.

3. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

- A. "Dentist" means a person who practices dentistry according to the provisions of Title 32, section 1081.
- B. "Health care practitioner" has the same meaning as in section 2502.
- C. "Nonprofit organization" does not include a hospital.
- D. "Podiatrist" has the same meaning as in Title 32, section 3551.
- E. "Emergency medical services' person" includes a first responder, as defined in Title 32, section 83, subsection 13-A; a basic emergency medical technician, as defined in Title 32, section 83, subsection 7; and an advanced emergency medical technician, as defined in Title 32, section 83, subsection 1.

See title page for effective date.

CHAPTER 439

H.P. 1160 - L.D. 1587

An Act Regarding Distribution of Tobacco Products

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

Sec. 1. 22 MRSA c. 263, sub-c. 4 is enacted to read:

SUBCHAPTER 4

TOBACCO PRODUCT MANUFACTURERS

§1580-L. Tobacco product manufacturer

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Brand family" means all styles of cigarettes sold under the same trademark and differentiated from one another by means of additional modifiers, including, but not limited to, menthol, lights, kings and 100s. "Brand family" includes any brand name alone or in conjunction with any other word, trademark, logo, symbol, motto, selling message, recognizable pattern of colors or any other indicia of product identification identical or similar to or identifiable with a previously known brand of cigarettes.

B. "Cigarette" has the same meaning as in section 1580-H, subsection 4.

C. "Distributor" means a person that is authorized to affix tax stamps to packages or other containers of cigarettes under Title 36, section 4366-A or any person that is required to pay the excise tax imposed on cigarettes, including roll-your-own tobacco, pursuant to Title 36, chapter 703 or chapter 704.

D. "Nonparticipating manufacturer" means any tobacco product manufacturer that is not a participating manufacturer.

E. "Participating manufacturer" means a manufacturer as defined in the Master Settlement Agreement, as that agreement is defined in section 1580-H, subsection 5.

F. "Qualified escrow fund" has the same meaning as in section 1580-H, subsection 6.

G. "Tobacco product manufacturer" has the same meaning as in section 1580-H, subsection 9. "Tobacco product manufacturer" also means a