

# MAINE STATE LEGISLATURE

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

**AS PASSED BY THE**  
**ONE HUNDRED AND TWENTY-FIRST LEGISLATURE**

**FIRST SPECIAL SESSION**  
**August 21, 2003 to August 22, 2003**

**The General Effective Date For**  
**First Special Session**  
**Non-Emergency Laws Is**  
**November 22, 2003**

**SECOND REGULAR SESSION**  
**January 7, 2004 to January 30, 2004**

**The General Effective Date For**  
**Second Regular Session**  
**Non-Emergency Laws Is**  
**April 30, 2004**

**SECOND SPECIAL SESSION**  
**February 3, 2004 to April 30, 2004**

**The General Effective Date For**  
**Second Special Session**  
**Non-Emergency Laws Is**  
**July 30, 2004**

**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**  
**2004**

were under the influence of a substance of abuse. It is the intent of the Legislature that the requirements of this paragraph be narrowly construed; or

C. The employer has established a random or arbitrary testing program under this paragraph that applies to all employees, except as provided in subparagraph (4), regardless of position.

(1) An employer may establish a testing program under this paragraph only if the employer has 50 or more employees who are not covered by a collective bargaining agreement.

(2) The written policy required by section 683, subsection 2 with respect to a testing program under this paragraph must be developed by a committee of at least 10 of the employer's employees. The employer shall appoint members to the committee from a cross-section of employees who are eligible to be tested. The committee must include a medical professional who is trained in procedures for testing for substances of abuse. If no such person is employed by the employer, the employer shall obtain the services of such a person to serve as a member of the committee created under this subparagraph.

(3) The written policy developed under subparagraph (2) must also require that selection of employees for testing be performed by a person or entity not subject to the employer's influence, such as a medical review officer. Selection must be made from a list, provided by the employer, of all employees subject to testing under this paragraph. The list may not contain information that would identify the employee to the person or entity making the selection.

(4) Employees who are covered by a collective bargaining agreement are not included in testing programs pursuant to this paragraph unless they agree to be included pursuant to a collective bargaining agreement as described under paragraph A.

(5) Before initiating a testing program under this paragraph, the employer must obtain from the Department of Labor approval of the policy developed by the employee committee, as required in section 686. If the employer does not approve of the written policy developed by the employee committee, the employer may decide not to submit the policy to the department and not

to establish the testing program. The employer may not change the written policy without approval of the employee committee.

(6) The employer may not discharge, suspend, demote, discipline or otherwise discriminate with regard to compensation or working conditions against an employee for participating or refusing to participate in an employee committee created pursuant to this paragraph.

**Sec. 3. 26 MRSA §685, sub-§2, ¶B,** as amended by PL 1989, c. 832, §12, is further amended to read:

B. Before taking any action described in paragraph A in the case of an employee who receives an initial confirmed positive result, an employer shall provide the employee with an opportunity to participate for up to 6 months in a rehabilitation program designed to enable the employee to avoid future use of a substance of abuse and to participate in an employee assistance program, if the employer has such a program. The employer may take any action described in paragraph A if the employee receives a subsequent confirmed positive result from a test administered by the employer under this subchapter.

See title page for effective date.

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## CHAPTER 548

H.P. 1294 - L.D. 1772

### An Act To Revise the Frequency of Home Health Licensing Surveys

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

**Sec. 1. 22 MRSA §2144, sub-§3, ¶B,** as enacted by PL 1983, c. 570, is repealed and the following enacted in its place:

B. The term of a full license may not exceed 24 months.

**Sec. 2. 22 MRSA §2144, sub-§3, ¶D,** as enacted by PL 1983, c. 570, is amended to read:

D. Regardless of the term of the license, the department shall monitor for continued compliance with applicable laws and rules on at least ~~an annual~~ a biennial basis. The department shall adopt rules, which are routine technical rules as defined

in Title 5, chapter 375, subchapter 2-A, regarding terms of licenses.

See title page for effective date.

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## CHAPTER 549

H.P. 1304 - L.D. 1782

### **An Act To Ensure Fair Payment for Timber Harvesting Jobs on Land Managed by the Department of Conservation, Bureau of Parks and Lands**

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

**Sec. 1. 12 MRSA §1834, sub-§2**, as enacted by PL 1997, c. 678, §13, is amended to read:

**2. Grant of permits.** The bureau may grant permits and enter into contracts to cut timber, harvest grass and wild foods, tap maple trees for sap and cultivate and harvest crops provided that those permits and contract rights create revocable licenses to the permittee or party to the contract and do not create any real property interest in the nonreserved public lands. Permits and contracts for the harvesting of timber from the nonreserved public lands must include a provision requiring that persons engaged in timber harvesting on the nonreserved public lands be compensated at rates not less than the most recently issued prevailing wage and piece rates and equipment allowances for the pulpwood and logging industry as determined by the Department of Labor, Bureau of Labor Standards.

If the Department of Labor does not determine a prevailing wage or piece rate for a timber harvesting occupation or an equipment allowance for a type of harvesting equipment, the director may establish those rates by referring to prevailing rates and allowances in the industry for that occupation or type of equipment. Any rates or allowances established by the director under this subsection apply only to permits and contracts on nonreserved public lands governed by this section.

**Sec. 2. 12 MRSA §1848, sub-§2**, as enacted by PL 1997, c. 678, §13, is amended to read:

**2. Grant of permits.** The bureau may grant permits and enter into contracts to cut timber, harvest grass and wild foods, tap maple trees for sap and cultivate and harvest crops provided that such permits and contract rights create revocable licenses to the permittee or party to the contract and do not create any real property interest in the public reserved lands. Permits and contracts for the harvesting of timber

from the reserved public lands must include a provision requiring that persons engaged in timber harvesting on the public reserved lands be compensated at rates not less than the most recently issued prevailing wage and piece rates and equipment allowances for the pulpwood and logging industry as determined by the Department of Labor, Bureau of Labor Standards.

If the Department of Labor does not determine a prevailing wage or piece rate for a timber harvesting occupation or an equipment allowance for a type of harvesting equipment, the director may establish those rates by referring to prevailing rates and allowances in the industry for that occupation or type of equipment. Any rates or allowances established by the director under this subsection apply only to permits and contracts on public reserved lands governed by this section.

See title page for effective date.

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## CHAPTER 550

S.P. 625 - L.D. 1693

### **An Act To Improve the Property Boundary Marking Laws for Purposes of Timber Harvesting**

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

**Sec. 1. 17 MRSA §2511** is enacted to read:

#### **§2511. Harvesting timber near property line**

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

**A. "Established property line"** means a line demarcated by monuments, signs, markings, pins, reference points or other markers that denotes a change in ownership between abutting properties. These established property line markers must have been placed upon mutual agreement of the abutting landowners, based on historical physical evidence of a preexisting boundary line, or by a licensed professional surveyor pursuant to Title 32, chapter 121.

**B. "Harvester"** means a person, firm, company, corporation or other legal entity that harvests or contracts to harvest a forest product.

**C. "Landowner representative"** means a person, firm, company, corporation or other legal entity representing the landowner in timber sales or land management.