

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.

Penmor Lithographers
Lewiston, Maine
2004

date have been irrevocably set aside in trust for the benefit of the bondholders in accordance with agreements with the bondholders.

Sec. 10. 5 MRSA §13080-N, sub-§5, as enacted by PL 1993, c. 729, §10, is amended to read:

5. Appropriation. On or before December 1st, annually, the authority shall certify to the Governor the amount, if any, necessary to restore the amount in any capital reserve fund. In trust agreements or other pertinent documents ~~between the authority and the Governor,~~ it must be clearly stated that this subsection applies to the capital reserve requirement. The Governor shall pay from the Contingent Account to that fund as much of the amount as is available in the Contingent Account and shall transmit to the Legislature a certification and a statement of the amount, if any, remaining to be paid and the amount certified must be appropriated and paid to the authority during the then current state fiscal year.

Sec. 11. 5 MRSA §13080-N, sub-§7 is enacted to read:

7. Other capital reserve funds. This section, including subsection 5, may not be construed to require that each capital reserve fund established under this section have the benefit described in subsection 5.

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

Effective April 6, 2004.

CHAPTER 599

H.P. 1404 - L.D. 1897

An Act To Make Emergency Changes to Recent Law

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

Whereas, there are certain errors and inconsistencies in Public Law 2003, chapter 510 that need immediate correction; 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. 5 MRSA §191, sub-§4, ¶A, as enacted by PL 2003, c. 510, Pt. B, §2 and affected by §3, is repealed.

Sec. 2. Retroactivity. That section of this Act that repeals the Maine Revised Statutes, Title 5, section 191, subsection 4, paragraph A applies retroactively to July 1, 2003.

Sec. 3. 22 MRSA §253, sub-§3, as repealed by PL 2003, c. 469, Pt. B, §3 and amended by c. 510, Pt. A, §14, is repealed.

Sec. 4. 22 MRSA §1812-G, sub-§7, as enacted by PL 2003, c. 376, §2, is amended to read:

7. Time limit on consideration of prior criminal conviction. Except as otherwise provided in this section, an individual may not be employed in a hospital, nursing facility, home health agency or assisted housing program as a certified nursing assistant if that individual has a prior criminal conviction within the last 10 years of:

A. A crime for which incarceration of 3 years or more may be imposed under the laws of the state in which the conviction occurred; or

B. A crime for which incarceration of less than 3 years may be imposed under the laws of the state in which the conviction occurred involving sexual misconduct or involving abuse, neglect or exploitation in a setting other than a health care setting.

Sec. 5. Retroactivity. That section of this Act that amends the Maine Revised Statutes, Title 22, section 1812-G, subsection 7 applies retroactively to June 2, 2003.

Sec. 6. 22 MRSA §2061, sub-§2, as amended by PL 2003, c. 469, Pt. C, §16 and c. 510, Pt. A, §16, is repealed and the following enacted in its place:

2. Review. Each project for a health care facility has been reviewed and approved to the extent required by the agency of the State that serves as the designated planning agency of the State or by the Department of Human Services in accordance with the provisions of the Maine Certificate of Need Act of 2002, as amended, and is consistent with the cost containment provisions for health care and health coverage of the State Health Plan adopted pursuant to Title 2, section 101, paragraph A;

Sec. 7. 22 MRSA §3477, sub-§1, ¶A, as repealed and replaced by PL 2003, c. 510, Pt. E, §2 and affected by §4, is amended to read:

A. While acting in a professional capacity:

- (1) An allopathic or osteopathic physician;
- (2) A medical intern;
- (3) A medical examiner;
- (4) A physician's assistant;
- (5) A dentist;
- (6) A chiropractor;
- (7) A podiatrist;
- (8) A registered or licensed practical nurse;
- (9) A certified nursing assistant;
- (10) A social worker;
- (11) A psychologist;
- (12) A pharmacist;
- (13) A physical therapist;
- (14) A speech therapist;
- (15) An occupational therapist;
- (16) A mental health professional;
- (17) A law enforcement official;
- (18) A coroner;
- (19) Emergency room personnel;
- (20) An ambulance attendant;
- (21) An emergency medical technician;
- (22) Unlicensed assistive personnel;
- (23) A ~~human~~ humane agent employed by the Department of Agriculture, Food and Rural Resources; and
- (24) A clergy member acquiring the information as a result of clerical professional work except for information received during confidential communications;

Sec. 8. 22 MRSA §4011-A, sub-§1, ¶A, as repealed and replaced by PL 2003, c. 510, Pt. E, §3 and affected by §4, is repealed and the following enacted in its place:

A. When acting in a professional capacity:

- (1) An allopathic or osteopathic physician, resident or intern;
- (2) An emergency medical services person;

- (3) A medical examiner;
- (4) A physician's assistant;
- (5) A dentist;
- (6) A dental hygienist;
- (7) A dental assistant;
- (8) A chiropractor;
- (9) A podiatrist;
- (10) A registered or licensed practical nurse;
- (11) A teacher;
- (12) A guidance counselor;
- (13) A school official;
- (14) A children's summer camp administrator or counselor;
- (15) A social worker;
- (16) A court-appointed special advocate or guardian ad litem for the child;
- (17) A homemaker;
- (18) A home health aide;
- (19) A medical or social service worker;
- (20) A psychologist;
- (21) Child care personnel;
- (22) A mental health professional;
- (23) A law enforcement official;
- (24) A state or municipal fire inspector;
- (25) A municipal code enforcement official;
- (26) A commercial film and photographic print processor;
- (27) A clergy member acquiring the information as a result of clerical professional work except for information received during confidential communications;
- (28) A chair of a professional licensing board that has jurisdiction over mandated reporters; and

(29) A humane agent employed by the Department of Agriculture, Food and Rural Resources;

Sec. 9. Retroactivity. That section of this Act that amends the Maine Revised Statutes, Title 22, section 3477, subsection 1, paragraph A and that section that repeals and replaces Title 22, section 4011-A, subsection 1, paragraph A apply retroactively to September 13, 2003.

Sec. 10. 22 MRSA §8103, sub-§1, as repealed by PL 2003, c. 411, §1 and repealed and replaced by c. 510, Pt. A, §18, is repealed.

Sec. 11. PL 2003, c. 510, Pt. B, §3 is amended to read:

Sec. B-3. Retroactivity. That section of this Part that repeals and replaces the Maine Revised Statutes, Title 5, section 191 ~~takes effect~~ applies retroactively to July 1, 2003.

Sec. 12. PL 2003, c. 510, Pt. C, §10 is repealed.

Sec. 13. Retroactivity. That section of this Act that repeals Public Law 2003, chapter 510, Part C, section 10 applies retroactively to January 11, 2004.

Sec. 14. PL 2003, c. 510, Pt. E, §4 is amended to read:

Sec. E-4. Retroactivity. Those sections of this Part that repeal and replace the Maine Revised Statutes, Title 22, section 3477, subsection 1, paragraph A and section 4011-A, subsection 1, paragraph A ~~take effect 90 days after adjournment of the First Regular Session of the 121st Legislature~~ apply retroactively to September 13, 2003.

Sec. 15. PL 2003, c. 510, Pt. F, §2 is amended to read:

Sec. F-2. Retroactivity. That section of this Part that amends the Maine Revised Statutes, Title 21-A, section 1014, subsection 2 ~~takes effect 90 days after adjournment of the First Regular Session of the 121st Legislature~~ applies retroactively to September 13, 2003.

Sec. 16. PL 2003, c. 510, Pt. G, §3 is enacted to read:

Sec. G-3. Retroactivity. Those sections of this Part that enact the Maine Revised Statutes, Title 22, section 7855, subsection 4, paragraph A-2 and amend Title 22, section 7855, subsection 4, paragraph B apply retroactively to June 3, 2003.

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

Effective April 6, 2004.

CHAPTER 600

H.P. 1426 - L.D. 1926

An Act To Implement the Recommendations of the Joint Standing Committee on State and Local Government Pursuant to the State Government Evaluation Act

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

Sec. 1. 3 MRSA §959, as amended by PL 2003, c. 451, Pt. T, §§1 and 2, is further amended to read:

§959. Scheduling guideline for review of agencies or independent agencies

1. Scheduling guidelines. Except as provided in subsection 2, reviews of agencies or independent agencies must be scheduled in accordance with the following. Subsequent reviews must be scheduled on an ongoing basis every 8 years after the dates specified in this subsection.

A. The joint standing committee of the Legislature having jurisdiction over agriculture, conservation and forestry matters shall use the following list as a guideline for scheduling reviews:

- (1) Baxter State Park Authority in ~~2003~~ 2009;
- (2) Department of Conservation in 2005;
- (3) Blueberry Advisory Committee in 2005;
- (4) Board of Pesticides Control in 2005;
- (5) Wild Blueberry Commission of Maine in 2005;
- (6) Seed Potato Board in 2005;
- (7) Maine Dairy and Nutrition Council in 2007;
- (8) Maine Dairy Promotions Board in 2007;
- (9) Maine Milk Commission in 2007;