

# 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**

Sec. 1. 29-A MRSA §524-A is enacted to read:

**§524-A. Wabanaki registration plates**

No later than November 1, 2005, the Secretary of State shall issue Wabanaki registration plates to members of federally recognized tribes in the State pursuant to this section.

1. **Wabanaki registration plates.** The Secretary of State, upon receiving an application and evidence of payment of the registration fee required by section 501, the excise tax required by Title 36, section 1482 and a statement signed by a tribal official from a federally recognized tribe within the Wabanaki Confederacy proving the applicant's membership in the tribe, shall issue a registration certificate and a set of Wabanaki registration plates to be used in lieu of regular registration plates. These plates must bear identification numbers and letters and the word "Wabanaki."

2. **Reimbursement for production and issuance costs for plates.** The Wabanaki Confederacy shall pay all costs associated with the initial production and issuance of the plates and shall provide payment to the Secretary of State for the costs to replenish the Wabanaki plate inventory.

3. **Design.** The Secretary of State, in consultation with the Wabanaki Confederacy, shall determine a design for the Wabanaki registration plates. The joint standing committee of the Legislature having jurisdiction over transportation matters shall review the final design prior to manufacture of the plates. Upon request, the Secretary of State shall issue Wabanaki plates that are also vanity plates. Wabanaki plates are issued in accordance with the provisions of this section and section 453.

4. **Renewal fee.** The renewal fee for the Wabanaki plate is the regular motor vehicle registration fee required by section 501.

5. **Duplicate plates.** The Secretary of State shall issue Wabanaki plates in a 3-number and 3-letter combination sequence. Vanity plates may not duplicate vanity plates issued in another class of plate.

6. **Weight limit.** A Wabanaki plate may be issued for a motor vehicle that does not exceed 9,000 pounds. A motor vehicle that exceeds 6,000 pounds is subject to the fees in section 504.

See title page for effective date.

**CHAPTER 684**

S.P. 613 - L.D. 1681

**An Act To Make Principles of Reimbursement for Intermediate Care Facilities for the Mentally Retarded Major Substantive Rules**

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

**Sec. 1. 22 MRSA §3187**, as amended by PL 1995, c. 462, Pt. A, §43, is further amended to read:

**§3187. Principles of reimbursement; rules**

The department shall meet annually with providers of ~~community-based~~ community-based intermediate care facilities for the mentally retarded to review current principles of reimbursement under the federal Social Security Act, Title XIX, 42 United States Code, ~~chapter~~ Chapter 7, and discuss necessary and appropriate changes.

Principles of reimbursement established for intermediate care facilities for the mentally retarded ~~shall assure~~ must ensure maximum flexibility enabling facilities to shift variable cost funds within accounts established pursuant to the principles. These principles ~~shall~~ may not set any artificial limits on specific variable cost accounts as long as facility totals are met.

Rules regarding principles of reimbursement for intermediate care facilities for the mentally retarded adopted pursuant to section 3173 are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

See title page for effective date.

**CHAPTER 685**

S.P. 620 - L.D. 1688

**An Act To Clarify the Law Regarding Interpreting Services for People Who Are Deaf or Hard-of-hearing**

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

**Sec. 1. 5 MRSA §48**, as amended by PL 1999, c. 399, §1 and affected by §20, is repealed.

**Sec. 2. 5 MRSA §48-A** is enacted to read:

**§48-A. Communication services for deaf persons and hard-of-hearing persons in court and other legal settings**

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

A. "Advocate" means a person who is not a lawyer and who provides to the public advice or other substantive legal work that is not prohibited by law or regulation.

B. "Agency" means any authority, board, bureau, commission, department or officer of State Government or of any county, municipality, school district or any other political or administrative subdivision.

C. "Bureau" means the Department of Labor, Bureau of Rehabilitation Services.

D. "CART" means computer-assisted real-time transcription using specialized equipment to transcribe real time word-for-word spoken English into written English that can be viewed on a computer screen or projected onto a large screen.

E. "CART provider" means a person who provides CART.

F. "Client" means a deaf person, a hard-of-hearing person or a hearing person who is provided interpreting services by a privileged interpreter.

G. "Confidential communication" means a communication that a client has a reasonable expectation is not being disclosed to persons other than a privileged interpreter and any client to whom the communication is intended to be made.

H. "Deaf interpreter" means a deaf person or hard-of-hearing person with native or near-native fluency in American Sign Language who has training in interpreting and training or experience in the use of gesture, mime, props, drawings and other tools to enhance communication for deaf persons with minimal language skills.

I. "Deaf person" means a person whose sense of hearing is nonfunctional for the purpose of communication and who must depend primarily upon visual communication.

J. "Hard-of-hearing person" means a person who has a hearing loss resulting in a functional loss, but not to the extent that the person must depend primarily upon visual communication.

K. "Interpreting organization" means an organization whose function is to provide qualified legal interpreter services for a fee.

L. "Privileged interpreter" means a person identified by clients as necessary to facilitate accurate communication between the clients and who otherwise has no substantial personal or business interest in the communication.

M. "Qualified legal interpreter" means a person who is licensed under Title 32, chapter 22 as a certified interpreter, certified deaf interpreter or certified transliterator and who:

(1) Is a hearing person who:

(a) Holds a current Specialist Certificate: Legal from the Registry of Interpreters for the Deaf, Inc. or its successor;

(b) Satisfies the eligibility criteria for taking the exam for the specialist certificate described in division (a) as long as, by January 1, 2012, that person obtains the specialist certificate described in division (a); or

(c) Is included on the bureau's list of qualified interpreters on the effective date of this section, as long as that person, by January 1, 2006, meets the eligibility criteria for taking the exam for the specialist certificate described in division (a) and, by January 1, 2012, obtains the specialist certificate described in division (a); or

(2) Is a deaf interpreter who holds a current Certificate of Interpretation from the Registry of Interpreters for the Deaf, Inc. or its successor or a Reverse Skills Certificate from the Registry of Interpreters for the Deaf, Inc. or its successor. Beginning January 1, 2006, a deaf person or hard-of-hearing person must also satisfy the eligibility criteria for taking the exam for the Specialist Certificate: Legal or its successor.

N. "Travel expenses" means actual expenses for transportation reimbursable at the usual state mileage rate, tolls, parking fees or other fees specified in an agreement between an interpreter or an interpreting organization and an agency or court retaining the services of the interpreter at a specific date, time and place.

**2. Interpreter services or CART required for agency or court proceedings.** When any personal or

property interest of a deaf person or hard-of-hearing person or of a minor whose parent or guardian is a deaf person or hard-of-hearing person is the subject of a proceeding before any agency or court, the presiding officer of the proceeding shall appoint a qualified legal interpreter or CART provider.

A. A qualified legal interpreter or CART provider must be appointed under this subsection after consultation with, and giving primary consideration to the request of, the deaf person or hard-of-hearing person. If the appointed qualified legal interpreter does not meet the needs of the deaf person or hard-of-hearing person, the presiding officer shall, with the consent of the deaf person or hard-of-hearing person, appoint another qualified legal interpreter.

B. If a qualified legal interpreter appointed under this subsection for the deaf person or hard-of-hearing person states that the interpretation is not satisfactory and that a qualified legal interpreter who is a deaf person or a hard-of-hearing person will improve the quality of interpretation, the presiding officer shall appoint a qualified legal interpreter who is a deaf person or a hard-of-hearing person to assist the qualified legal interpreter.

C. The presiding officer shall appoint as many qualified legal interpreters under this subsection as are necessary to meet the needs of the deaf person or hard-of-hearing person.

D. A qualified legal interpreter or CART provider appointed under this subsection must be reimbursed by the agency or court conducting the proceeding at a rate negotiated with the qualified legal interpreter or interpreting organization, plus travel expenses; except that employees of the State or any of its political subdivisions, public employees and public or private school, university and college teachers or administrators for interpreting services or anyone who receives a salary during regular work hours may not be reimbursed under this subsection or subsection 3 for interpreter services performed during their regular working hours. This paragraph does not prevent any agency or court from employing a qualified legal interpreter on a full-time basis or under contract at a mutually agreed-upon compensation rate.

E. It is the responsibility of the agency or court conducting the proceeding to ensure compliance with the provisions of this subsection.

**3. Interpreting services or CART for consultation with appointed attorneys.** When a court appoints an attorney to represent a deaf person or

hard-of-hearing person or to represent a juvenile whose parent or guardian is a deaf person or hard-of-hearing person, the court shall provide interpreting services or CART in accordance with this subsection to allow for effective consultation between the attorney and client. Interpreting services or CART provided under this subsection must be paid for directly by the court and is not the responsibility of the attorney.

**4. Legal interpreting fund for services of attorneys and advocates, generally.** The bureau shall maintain a legal interpreting fund, which must be used to reimburse private attorneys and advocates for the cost of interpreting services or CART that assists the attorney or advocate in effectively representing deaf persons or hard-of-hearing persons in cases in which subsection 3 does not apply. This fund may not be used to cover interpreting services or CART for actual proceedings pursuant to subsection 2.

**5. Privileged communication.** Except when a court in the exercise of sound discretion determines the disclosure necessary to the proper administration of justice, a privileged interpreter may not disclose any aspect of a confidential communication facilitated by that privileged interpreter unless all clients of the privileged interpreter privy to that confidential communication consent to the disclosure.

**6. Oath.** Every qualified legal interpreter appointed under subsection 2 shall, before performing the qualified legal interpreter's duties, take an oath that the qualified legal interpreter will make a true interpretation in an understandable manner to the person for whom the qualified legal interpreter is appointed, and that the qualified legal interpreter will repeat the statements of the person in the English language to the best of the qualified legal interpreter's ability.

**7. Provide information.** With the cooperation of the Registry of Interpreters for the Deaf, Inc. or its successor, the bureau shall prepare and continually update a directory listing all qualified legal interpreters in the State. When requested by an agency or court, the bureau shall furnish the agency or court with the directory. The Division of Deafness within the bureau shall also provide information to the public, including state agencies and individuals who work with interpreters, regarding the qualifications necessary to become a qualified legal interpreter.

**Sec. 3. 32 MRSA §1523**, as amended by PL 1999, c. 399, §9 and affected by §20, is further amended to read:

**§1523. Privileged communication**

Individuals licensed under this chapter are included under the evidentiary communications

privilege outlined in Title 5, section 48 ~~48-A~~, subsection ~~4~~ 5.

**Sec. 4. Appropriations and allocations.**

The following appropriations and allocations are made.

**JUDICIAL DEPARTMENT**

**Courts - Supreme, Superior, District & Administrative 0063**

Initiative: Provides for the transfer of funds from the Department of Labor, Bureau of Rehabilitation Services beginning in fiscal year 2004-05 for the purpose of funding American Sign Language interpreting and computer-assisted real-time transcription for people who are deaf or hard-of-hearing who appear before the courts.

<b>General Fund</b>	<b>2003-04</b>	<b>2004-05</b>
All Other	\$0	\$80,000
General Fund Total	\$0	\$80,000

**JUDICIAL DEPARTMENT DEPARTMENT TOTALS**

	<b>2003-04</b>	<b>2004-05</b>
<b>GENERAL FUND</b>	<b>\$0</b>	<b>\$80,000</b>
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>\$80,000</b>

**LABOR, DEPARTMENT OF**

**Rehabilitation Services 0799**

Initiative: Provides for the transfer of funds to the Administrative Office of the Courts beginning in fiscal year 2004-05 for the purpose of funding American Sign Language interpreting and computer-assisted real-time transcription for people who are deaf or hard-of-hearing who appear before the courts.

<b>General Fund</b>	<b>2003-04</b>	<b>2004-05</b>
All Other	\$0	(\$80,000)
General Fund Total	\$0	(\$80,000)

**LABOR, DEPARTMENT OF DEPARTMENT TOTALS**

	<b>2003-04</b>	<b>2004-05</b>
<b>GENERAL FUND</b>	<b>\$0</b>	<b>(\$80,000)</b>
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>(\$80,000)</b>

**SECTION TOTALS**

	<b>2003-04</b>	<b>2004-05</b>
<b>GENERAL FUND</b>	<b>\$0</b>	<b>\$0</b>
<b>SECTION TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>\$0</b>

See title page for effective date.

**CHAPTER 686**

**H.P. 1316 - L.D. 1794**

**An Act To Expand Maine's Homestead Exemption for the Blind**

**Mandate preamble.** This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, 2/3 of all of the members elected to each House have determined it necessary to enact this measure.

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

**Sec. 1. 36 MRSA §654, sub-§1, ¶E**, as amended by PL 1995, c. 545, §1, is further amended to read:

E. The residential real estate up to the just value of \$4,000 of inhabitants of Maine who are legally blind as determined by a properly licensed Doctor of Medicine, Doctor of Osteopathy or Doctor of Optometry. The exemption provided by this paragraph also applies to residential real estate held in a revocable living trust for the benefit of and occupied as a permanent residence by such a person; and

See title page for effective date.

**CHAPTER 687**

**H.P. 1342 - L.D. 1820**

**An Act To Establish the Gambling Control Board To License and Regulate Slot Machines at Commercial Harness Racing Tracks**

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

**PART A**

**Sec. A-1. 5 MRSA §10004, sub-§4-A** is enacted to read:

**4-A. Gambling.** The action is based on a violation of laws or rules at gambling facilities that are cited by the Department of Public Safety, Gambling Control Board, established pursuant to Title 8, chapter 31, or the Gambling Control Board or its designees