

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

Housing Authority shall develop recommendations to create or modify programs with the goal of expanding access to housing for young professionals and young families. The Maine State Housing Authority shall specifically consider strategies to assist renters and first-time home buyers who are under 35 years of age and explore options for linking assistance levels to student loan obligations. The Maine State Housing Authority shall collaborate with the Maine Community College System, vocational high schools and community action programs to encourage the development of affordable housing in high-cost housing areas of the State.

(1) The Maine State Housing Authority shall report its findings and recommendations regarding expanded access to housing for young professionals and young families to the Future for Youth in Maine State Work Action Tactics Team established in Title 5, section 13161 and to the joint standing committee of the Legislature having jurisdiction over housing matters no later than January 15, 2005 and annually thereafter.

Sec. 7. Report. The Future for Youth in Maine State Work Action Tactics Team established in the Maine Revised Statutes, Title 5, section 13161 shall report all findings, accomplishments, future plans and policy recommendations, including its comprehensive action plan developed pursuant to Title 5, section 13162, subsection 1, paragraph B for economic and education policy initiatives, to the presiding officers of the Legislature, who shall refer the reports to the appropriate joint standing committees of the Legislature for review. The team shall make its report to the presiding officers no later than January 15, 2005.

Sec. 8. Comprehensive education plan and report. The Board of Trustees of the Maine Community College System and the Board of Trustees of the University of Maine System shall collaboratively develop a comprehensive plan and implement a formal process to work with public sector and private sector representatives of business, industry and economic development and determine the extent, if any, to which higher education planning and resource allocation can be coordinated with the private sector to better meet the needs of the State's economy and business sector. The Board of Trustees of the Maine Community College System and the Board of Trustees of the University of Maine System shall consult with the Future for Youth in Maine State Work Action Tactics Team established in the Maine Revised Statutes, Title 5, section 13161 in developing the plan. At a minimum, the plan must address the needs of the business sector with respect to research and develop-

ment, the commercialization of new products and services, business development and workforce training. The Board of Trustees of the Maine Community College System and the Board of Trustees of the University of Maine System shall report on this collaborative process and present this comprehensive plan to the Future for Youth in Maine State Work Action Tactics Team, the joint standing committee of the Legislature having jurisdiction over education matters and the joint standing committee of the Legislature having jurisdiction over business matters no later than January 15, 2005.

Sec. 9. Appropriations and allocations.

The following appropriations and allocations are made.

LEGISLATURE, DEPARTMENT OF

Legislature

Initiative: Provides funds on an ongoing basis for the per diem and expenses for legislative advisory members of the Future for Youth in Maine State Work Action Tactics Team, S.W.A.T. team.

General Fund	2003-04	2004-05
Personal Services	\$0	\$1,320
All Other	0	1,200
General Fund Total	\$0	\$2,520

See title page for effective date.

CHAPTER 705

H.P. 1335 - L.D. 1813

An Act To Make Minor Substantive Changes to the Tax Laws

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

Sec. 1. 36 MRSA §111, sub-§1-A, as amended by PL 2003, c. 479, §1 and affected by §8, is further amended to read:

1-A. Code. "Code" means the United States Internal Revenue Code of 1986 and amendments to that Code as of ~~May 28,~~ December 31, 2003.

Sec. 2. 36 MRSA §177, sub-§4, as amended by PL 1999, c. 790, Pt. A, §41, is further amended to read:

4. Revocation for nonsegregation. If any person who is a "~~retailer~~" retailer under Part 3 or a fuel supplier, retailer, distributor or importer subject to Part 5 fails to make the required payments on account to the State Tax Assessor, the assessor may revoke any registration certificate that has been issued to that

person. The revocation is reviewable in accordance with section 151.

Sec. 3. 36 MRSA §191, sub-§2, ¶F, as amended by PL 2001, c. 23, §1, is further amended to read:

F. The transmission of information among employees of the Bureau of Revenue Services for the purposes of enforcing the tax laws of this State and the delivery by a register of deeds to the State Tax Assessor or delivery by the State Tax Assessor to the appropriate municipal assessor or to the Maine Land Use Regulation Commission or the Department of Human Services of "declarations of value" in accordance with section 4641-D. The State Tax Assessor may require entities requesting information pursuant to this paragraph other than municipal assessors to provide resources sufficient to cover the cost of providing the forms;

Sec. 4. 36 MRSA §1760, sub-§16, as amended by PL 2003, c. 588, §6, is further amended to read:

16. Hospitals, research centers, churches and schools. Sales to incorporated hospitals, incorporated nonprofit nursing homes licensed by the Department of Human Services, incorporated nonprofit residential care facilities and incorporated nonprofit assisted housing programs for the elderly licensed by the Department of Human Services, incorporated nonprofit home health agencies certified under the United States Social Security Act of 1965, Title XVIII, as amended, incorporated nonprofit rural community health centers, incorporated nonprofit dental health centers, institutions incorporated as nonprofit corporations for the sole purpose of conducting medical research or for the purpose of establishing and maintaining laboratories for scientific study and investigation in the field of biology or ecology or operating educational television or radio stations, schools, incorporated nonprofit organizations or their affiliates whose purpose is to provide literacy assistance or free clinical assistance to children with dyslexia and regularly organized churches or houses of religious worship, excepting sales, storage or use in activities that are mainly commercial enterprises.

Sec. 5. 36 MRSA §4305, as amended by PL 1997, c. 511, §14, is further amended to read:

§4305. Certification

Every processor or shipper of wild blueberries shall obtain certification from the State Tax Assessor ~~annually~~ before processing or shipping wild blueberries. The assessor shall provide the applications for the certification, which must contain the name under which the processor or shipper is transacting business

in the State, the place or places of business, the names and addresses of the persons constituting a firm or partnership and, if a corporation, the corporate name and names and addresses of its principal officers and agents in the State. A processor or shipper may not process or ship wild blueberries until the certification has been issued. Certification may be suspended or revoked by the assessor for failure to pay the tax imposed by section 4303 or for the filing of false or fraudulent reports or returns. ~~All certification expires each year on June 30th.~~ A certificate issued by the assessor pursuant to this section is not a license within the meaning of that term in the Maine Administrative Procedure Act.

Sec. 6. 36 MRSA §4365, as amended by PL 2001, c. 439, Pt. SSSS, §1 and affected by §4, is further amended to read:

§4365. Rate of tax

A tax is imposed on all cigarettes imported into this State or held in this State by any person for sale at the rate of 47 mills for each cigarette. Payment of the tax is evidenced by the affixing of stamps to the packages containing the cigarettes. ~~If an individual purchases in any one month unstamped packages containing cigarettes in a quantity greater than 2 cartons from a person other than a licensed distributor or dealer, the tax may be assessed directly against the purchaser by the State Tax Assessor within 3 years from the date of the purchase.~~

Sec. 7. 36 MRSA §4384 is enacted to read:

§4384. Reporting and payment of tax

A person who is not a licensed distributor or dealer who imports, receives or otherwise acquires unstamped cigarettes for use or consumption in the State in a quantity greater than 2 cartons in any one month from a person other than a licensed distributor or dealer shall file, on or before the last day of the month following each month in which unstamped cigarettes were acquired, a return on a form prescribed by the State Tax Assessor together with payment of the tax imposed by this chapter at the rate provided in section 4365. The return must report the number of unstamped cigarettes imported, received or otherwise acquired during the previous calendar month and additional information the assessor may require.

Sec. 8. 36 MRSA §5122, sub-§1, ¶V, as enacted by PL 2003, c. 451, Pt. II, §2, is amended to read:

V. For tax years beginning on or after January 1, 2003 and before January 1, 2006, the amount claimed as a federal income adjustment for student loan interest under the Code, Section 62

(a)(17), but only for interest paid after 60 months from the start of the loan repayment period; and

Sec. 9. 36 MRSA §5122, sub-§1, ¶W is enacted to read:

W. For tax years beginning on or after January 1, 2004, for an eligible individual as defined by the Code, Section 223 (c)(1), the amount of contributions to the eligible individual's health savings account under the Code, Sections 106 and 223 to the extent that those contributions, exclusive of rollovers, for the taxable year are not included in the eligible individual's federal adjusted gross income.

Sec. 10. 36 MRSA §5122, sub-§2, ¶B, as amended by PL 2003, c. 390, §31, is further amended to read:

B. An amount equal to the taxpayer's federal work opportunity credit as determined under the Code, Section 51 or empowerment zone employment credit as determined under the laws of the United States Code, Section 1396;

Sec. 11. 36 MRSA §5122, sub-§2, ¶L, as repealed and replaced by PL 2001, c. 358, Pt. CC, §1, is amended to read:

L. For income tax years beginning on or after January 1, 2000 and before January 1, 2004, an amount equal to the total premiums spent for qualified long-term care insurance contracts as defined in the Code, Section 7702B(b), as long as the amount subtracted is reduced by the long-term care premiums claimed as an itemized deduction pursuant to section 5125. For income tax years beginning on or after January 1, 2004, an amount equal to the total premiums spent for qualified long-term care insurance contracts as defined in the Code, Section 7702B(b), as long as the amount subtracted is reduced by any amount claimed as a deduction for federal income tax purposes in accordance with the Code, Section 162(l) and by the long-term care premiums claimed as an itemized deduction pursuant to section 5125;

Sec. 12. 36 MRSA §5122, sub-§2, ¶T, as reallocated by RR 2003, c. 1, §37, is amended to read:

T. For income tax years beginning on or after January 1, 2002 and before January 1, 2004, an amount equal to the total premiums spent for long-term care insurance policies certified under Title 24-A, section 5075-A as long as the amount subtracted is reduced by the long-term care premiums claimed as an itemized deduction pursuant to section 5125.

For income tax years beginning on or after January 1, 2004, an amount equal to the total premiums spent for qualified long-term care insurance contracts certified under Title 24-A, section 5075-A, as long as the amount subtracted is reduced by any amount claimed as a deduction for federal income tax purposes in accordance with the Code, Section 162(l) and by the long-term care premiums claimed as an itemized deduction pursuant to section 5125.

Sec. 13. 36 MRSA §5200-A, sub-§2, ¶C, as amended by PL 2003, c. 390, §42, is further amended to read:

C. An amount equal to the taxpayer's federal work opportunity credit as determined under the Code, Section 51 or empowerment zone employment credit as determined under the laws of the United States Code, Section 1396;

Sec. 14. Application. That section of this Act that amends the Maine Revised Statutes, Title 36, section 111, subsection 1-A applies to tax years beginning on or after January 1, 2003 and to any prior years as specifically provided by the United States Internal Revenue Code. Those sections of this Act that amend Title 36, section 5122, subsection 2, paragraphs B, L and T and section 5200-A, subsection 2, paragraph C apply to tax years beginning on or after January 1, 2004. That section of this Act that amends Title 36, section 1760, subsection 16 applies to sales occurring on or after August 1, 2004.

See title page for effective date.

CHAPTER 706

H.P. 1286 - L.D. 1764

An Act To Improve the Operations of the Department of Corrections and the Safety of State Correctional Facilities

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

PART A

Sec. A-1. 15 MRSA §3101, sub-§4, ¶E-2 is enacted to read:

E-2. If the Juvenile Court binds a juvenile over to Superior Court and has not directed the detention of the juvenile in a section of a jail that is used primarily for the detention of adults pursuant to paragraph E-1, the court shall order that, if the juvenile attains 18 years and 6 months of age