

# MAINE STATE LEGISLATURE

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

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-SECOND LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 1, 2004 to March 30, 2005**

**FIRST SPECIAL SESSION**  
**April 4, 2005 to June 18, 2005**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**JUNE 29, 2005**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST SPECIAL SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 17, 2005**

**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**  
**2005**

**Sec. 1. 1 MRSA §148** is enacted to read:

**§148. Community Giving Week**

The 3rd full week in November of each year is designated as Community Giving Week, and the Governor shall issue annually a proclamation inviting and urging people of the State to observe this week in suitable places with appropriate activity.

See title page for effective date.

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**CHAPTER 21**

**H.P. 672 - L.D. 962**

**An Act To Codify Unallocated Law  
Regarding the Maine State  
Retirement System**

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

**Sec. 1. 5 MRSA §285, sub-§1-C** is enacted to read:

**1-C. Status of employees who have retired and returned to covered employment under Maine State Retirement System.** For purposes of participation in the state employee health insurance program pursuant to this section or in dental insurance coverage offered by the State, recipients of a service retirement benefit under the Maine State Retirement System who are retired state employees and who are reemployed as state employees must be treated as retirees under subsection 1-A for purposes of eligibility for coverage under the group plan.

**Sec. 2. PL 2001, c. 442, §5** is amended to read:

**Sec. 5. Status of employees who have retired and returned to covered employment under the Maine State Retirement System.** Notwithstanding the Maine Revised Statutes, Title 5, section 17651, and, except as provided in Title 5, section 17857, subsection 2, recipients of a service retirement benefit from the Maine State Retirement System who have returned to covered employment under the retirement system in a position that would otherwise be covered by the retirement plan for state employees and teachers may not contribute to the retirement system, do not earn creditable service for their employment after retirement and do not earn any additional retirement benefits as a result of that employment. They may participate in other retirement options available to similar employees, including the state program of tax-deferred arrangements under Title 5, chapter 67, at the discretion of their employer. ~~For purposes of participation in the state employee health~~

~~insurance program pursuant to the Maine Revised Statutes, Title 5, section 285 or in dental health insurance coverage offered by the State, recipients of a service retirement benefit under the Maine State Retirement System who are retired state employees and who are reemployed as state employees must be treated as retirees under section 285, subsection 1-A for purposes of eligibility for coverage under the group plan.~~

See title page for effective date.

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**CHAPTER 22**

**S.P. 71 - L.D. 218**

**An Act To Make Sexual Exploitation  
of Minors a Crime Compensable by  
the Victims' Compensation Board**

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

**Sec. 1. 5 MRSA §3360, sub-§3, ¶F**, as amended by PL 2003, c. 243, §1, is further amended to read:

F. An act of terrorism, as defined in United States Code, Title 18, Section 2331, committed outside of the United States against a resident of this State; or

**Sec. 2. 5 MRSA §3360, sub-§3, ¶G**, as enacted by PL 2003, c. 243, §1, is amended to read:

G. Leaving the scene of a motor vehicle accident involving personal injury or death, in violation of Title 29-A, section 2252; or

**Sec. 3. 5 MRSA §3360, sub-§3, ¶H** is enacted to read:

H. Sexual exploitation of a minor as described in Title 17-A, chapter 12.

See title page for effective date.

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**CHAPTER 23**

**H.P. 476 - L.D. 656**

**An Act To Revise the Salary Range  
of Certain Public Utilities  
Commission Employees**

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

**Sec. 1. 2 MRSA §6-A, sub-§3**, as amended by PL 1985, c. 618, §1, is further amended to read:

**3. Other employees.** The salaries of the following employees ~~shall be~~ are within salary range ~~88 53~~:

- A. General counsel;
- B. Director of finance;
- C. Administrative Director;
- D. Director of technical analysis; ~~and~~
- D-1. Director of energy programs; and
- E. Director of consumer assistance.

See title page for effective date.

**CHAPTER 24**

**S.P. 97 - L.D. 302**

**An Act To Encourage Parties To Agree to the Selection of Independent Medical Examiners in Workers' Compensation Cases**

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

**Sec. 1. 39-A MRSA §312, sub-§2,** as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

**2. Duties.** An independent medical examiner shall render medical findings on the medical condition of an employee and related issues as specified under this section. The independent medical examiner in a case may not be the employee's treating health care provider and may not have treated the employee with respect to the injury for which the claim is being made or the benefits are being paid. Nothing in this subsection precludes the selection of a provider authorized to receive reimbursement under section 206 to serve in the capacity of an independent medical examiner. ~~—A— Unless agreed upon by the parties, a physician who has examined an employee at the request of an insurance company, employer or employee in accordance with section 207 during the previous 52 weeks is not eligible to serve as an independent medical examiner.~~

**Sec. 2. 39-A MRSA §312, sub-§7,** as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

**7. Weight.** ~~If the parties agree to a medical examiner, the examiner's findings are binding. If the board assigns an independent medical examiner, the~~ The board shall adopt the medical findings of the independent medical examiner unless there is clear

and convincing evidence to the contrary in the record that does not support the medical findings. Contrary evidence does not include medical evidence not considered by the independent medical examiner. The board shall state in writing the reasons for not accepting the medical findings of the independent medical examiner.

See title page for effective date.

**CHAPTER 25**

**H.P. 245 - L.D. 322**

**An Act To Amend the Process for Review of Hearing Officer Decisions by the Workers' Compensation Board**

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

**Sec. 1. 39-A MRSA §320, first ¶,** as amended by PL 2003, c. 608, §13, is further amended to read:

~~Within 5 days after issuing a decision, a~~ Δ hearing officer may request that the full board review a decision of the hearing officer if the decision involves an issue that is of significance to the operation of the workers' compensation system. Except when a motion is filed to find the facts specially and state separately the conclusions of law, the request must be made within 25 days of the issuance of a decision. If a motion is filed to find the facts specially and state separately the conclusions of law, the request must be made within 5 days of the issuance of a decision on the motion. There may be no such review of findings of fact made by a hearing officer.

See title page for effective date.

**CHAPTER 26**

**H.P. 319 - L.D. 434**

**An Act To Clarify Maine's Authority To Enforce Its Marine Resources Laws**

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

**Sec. 1. 12 MRSA §6001, sub-§13-I** is enacted to read:

**13-I. Established base of operations.** "Established base of operations" means the location where a vessel has its primary relationship. Among the factors