

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.

Penmor Lithographers
Lewiston, Maine
2005

PART G

Sec. G-1. Funding of municipal sand and salt storage facilities. Notwithstanding any other provision of law, a portion of the increase in funding of the Urban-Rural Initiative Program provided by the Maine Revised Statutes, Title 23, section 1803-B must be used to fund municipal sand and salt storage facilities as provided in this section. The amount of such funding for municipal sand and salt storage facilities must be \$1,000,000 in each of fiscal years 2005-06 and 2006-07, but only if total funding for the Urban-Rural Initiative Program for fiscal years 2005-06 and 2006-07 increases by at least \$2,000,000 over total funding levels for fiscal years 2003-04 and 2004-05. The funding for municipal sand and salt storage facilities provided by this section must be distributed in accordance with Title 23, chapter 19, subchapter 7. All Other Urban-Rural Initiative Program funds must be distributed in accordance with Title 23, section 1803-B.

Sec. G-2. Investigate; report. The Department of Transportation, in conjunction with the Department of Environmental Protection, shall investigate whether the demonstrable environmental and health benefits of constructing some or all Priority 3 sand and salt storage facilities as provided by the Maine Revised Statutes, Title 23, section 1851, subsection 3 and Title 38, section 413, subsection 2-D outweigh the cost of such construction. By January 15, 2006, the Department of Transportation shall deliver to the Joint Standing Committee on Transportation a report including findings and conclusions of the investigation and any related recommended changes in law.

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

Effective April 1, 2005.

CHAPTER 37
H.P. 533 - L.D. 738

**An Act To Make Additional
Allocations from the Highway Fund
and Other Funds for the
Expenditures of State Government
and To Change Certain Provisions of
State Law Necessary to the Proper
Operations of State Government for
the Fiscal Year Ending June 30, 2005**

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

Whereas, the 90-day period may not terminate until after the beginning of the next fiscal year; and

Whereas, certain obligations and expenses incident to the operation of state departments and institutions will become due and payable immediately; 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:

PART A

Sec. A-1. Transfer of excess equity of State Retiree Health Insurance Fund. Notwithstanding any other provision of law, the State Controller shall transfer any excess equity of the State Retiree Health Insurance Fund associated with General Fund contributions not previously identified for transfer, Special Revenue Fund contributions and Enterprise Fund contributions to the General Fund Compensation and Benefit Plan account within the Department of Administrative and Financial Services. Sixty percent in excess equity associated with the Highway Fund must be transferred to the Highway Fund Compensation and Benefit Plan account within the Department of Administrative and Financial Services and the remaining 40% transferred to the Highway Fund as unallocated surplus. Any other excess equity must be transferred to the fund or entity of origin by June 30, 2005.

PART B

Sec. B-1. Allocations. There are allocated from the Highway Fund for the fiscal year ending June 30, 2005, to the departments listed, the sums identified in the following, in order to provide funding for approved reclassifications and range changes.

**ADMINISTRATIVE AND
FINANCIAL SERVICES,
DEPARTMENT OF**

**BUILDINGS AND GROUNDS
OPERATIONS 0080**

**GENERAL FUND -
(INFORMATIONAL)**

Personal Services
All Other

2004-05
\$34,993
(\$34,993)

| | | | |
|---|----------------|---|----------------|
| GENERAL FUND TOTAL | \$0 | HIGHWAY FUND TOTAL | \$0 |
| HIGHWAY FUND | 2004-05 | SECRETARY OF STATE, DEPARTMENT OF | |
| Personal Services | \$2,052 | ADMINISTRATION - MOTOR VEHICLES 0077 | |
| All Other | (\$2,052) | HIGHWAY FUND | 2004-05 |
| HIGHWAY FUND TOTAL | \$0 | Personal Services | \$2,614 |
| PUBLIC SAFETY, DEPARTMENT OF | | All Other | (\$2,614) |
| ADMINISTRATION - PUBLIC SAFETY 0088 | | HIGHWAY FUND TOTAL | \$0 |
| GENERAL FUND - (INFORMATIONAL) | 2004-05 | TRANSPORTATION, DEPARTMENT OF | |
| Personal Services | \$3,936 | HIGHWAY MAINTENANCE 0330 | |
| All Other | (\$531) | HIGHWAY FUND | 2004-05 |
| GENERAL FUND TOTAL | \$3,405 | Personal Services | \$5,076 |
| HIGHWAY FUND | 2004-05 | All Other | (\$5,076) |
| Personal Services | \$5,927 | HIGHWAY FUND TOTAL | \$0 |
| All Other | (\$5,927) | TRAFFIC SERVICE 0331 | |
| HIGHWAY FUND TOTAL | \$0 | HIGHWAY FUND | 2004-05 |
| OTHER SPECIAL REVENUE FUNDS - (INFORMATIONAL) | 2004-05 | Personal Services | \$38 |
| Personal Services | \$10,477 | All Other | (\$38) |
| OTHER SPECIAL REVENUE FUNDS TOTAL | \$10,477 | HIGHWAY FUND TOTAL | \$0 |
| STATE POLICE 0291 | | BRIDGE MAINTENANCE 0333 | |
| GENERAL FUND - (INFORMATIONAL) | 2004-05 | HIGHWAY FUND | 2004-05 |
| Personal Services | \$64,200 | Personal Services | \$1,301 |
| All Other | (\$60,687) | All Other | (\$1,301) |
| GENERAL FUND TOTAL | \$3,513 | HIGHWAY FUND TOTAL | \$0 |
| HIGHWAY FUND | 2004-05 | ADMINISTRATION AND PLANNING 0339 | |
| Personal Services | \$85,585 | HIGHWAY FUND | 2004-05 |
| All Other | (\$85,585) | Personal Services | \$38,050 |
| HIGHWAY FUND TOTAL | \$0 | All Other | (\$38,050) |
| TRAFFIC SAFETY - COMMERCIAL VEHICLE ENFORCEMENT 0715 | | HIGHWAY FUND TOTAL | \$0 |
| HIGHWAY FUND | 2004-05 | HIGHWAY AND BRIDGE IMPROVEMENT 0406 | |
| Personal Services | \$7,841 | HIGHWAY FUND | 2004-05 |
| All Other | (\$7,841) | Personal Services | \$8,909 |
| | | All Other | (\$8,909) |

| | |
|-------------------------------|----------------|
| HIGHWAY FUND TOTAL | \$0 |
| FEDERAL EXPENDITURES | |
| FUND - (INFORMATIONAL) | 2004-05 |
| Personal Services | \$7,260 |
| FEDERAL EXPENDITURES | |
| FUND TOTAL | \$7,260 |

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

Effective April 1, 2005.

CHAPTER 38

H.P. 73 - L.D. 77

An Act To Require Valid Identification for Purchases of Liquor

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

Sec. 1. 28-A MRSA §706, sub-§2 is enacted to read:

2. Age requirement for identification. A licensee or licensee's employee or agent may not sell, furnish, give or deliver liquor or imitation liquor to a person under 27 years of age unless the licensee or licensee's employee or agent verifies the person is not a minor by means of reliable photographic identification containing that person's date of birth.

See title page for effective date.

CHAPTER 39

S.P. 51 - L.D. 145

An Act Concerning Appeal Rights under the Maine Enterprise Option Program

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

Sec. 1. 26 MRSA §1197, sub-§8-B, ¶B-1 is enacted to read:

B-1. A person aggrieved by the decision of the hearing officer may appeal to the commission by filing an appeal in accordance with rules established by the commission as long as the appealing party participated in the hearing by that

hearing officer and was given notice of the effect of the failure to participate in writing prior to the hearing.

Sec. 2. 26 MRSA §1197, sub-§8-B, ¶C, as enacted by PL 1997, c. 130, §2, is amended to read:

C. A person aggrieved by the decision of the ~~hearing officer~~ commission may appeal by commencing an action pursuant to Title 5, chapter 375, subchapter ~~WH~~ 7. The Commissioner of Labor must be made a defendant in any such appeal.

See title page for effective date.

CHAPTER 40

H.P. 141 - L.D. 190

An Act Relating to the Treatment of Employers and Military Personnel in Connection with "Call to Duty" Activity

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

Sec. 1. 26 MRSA §1221, sub-§3, ¶A, as amended by PL 1983, c. 650, §2, is further amended to read:

A. At the time the status of an employing unit is ascertained to be that of an employer, the commissioner shall establish and thereafter maintain, until ~~such the~~ employer status is terminated, for ~~each such the~~ employer an "experience rating record," to which ~~shall be~~ are credited all the contributions ~~which that~~ the employer ~~thereafter~~ pays on ~~his the~~ employer's own behalf. ~~Nothing in this~~ This chapter ~~shall may not~~ be construed to grant any employer or individuals in ~~his the~~ employer's service prior claims or rights to the amounts paid by ~~him the~~ employer into the fund. Benefits paid to an eligible individual under the Maine Employment Security Law ~~shall must~~ be charged against the "experience rating record" of the claimant's most recent subject employer or to the General Fund if the otherwise chargeable "experience rating record" is that of an employer whose status as such has been terminated; except that no charge ~~shall may~~ be made to an individual employer but ~~shall must~~ be made to the General Fund if the commission finds that:

(1) ~~Claimant's~~ The claimant's separation from ~~his the~~ claimant's last employer was for misconduct in connection with ~~his the~~ claimant's employment; or was voluntary