

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals  
(may include minor formatting differences from printed original)

**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**

wild turkey or wild turkey-domestic turkey cross nor does it authorize the permittee to possess, propagate or sell any wild animal taken in accordance with section 11601; or 11602 ~~or 11604~~.

C. A general possession permit does not authorize the permittee to possess, propagate or sell deer, bear, moose, wild turkey, hybrid turkey or wild turkey-domestic turkey cross nor does it authorize the permittee to possess, propagate or sell any wild animal taken in accordance with section 11601; or 11602 ~~or 11604~~.

D. A rehabilitation permit does not authorize the permittee to possess, propagate or sell any wild animal taken in accordance with section 11601; or 11602 ~~or 11604~~.

See title page for effective date.

**CHAPTER 118**

**H.P. 457 - L.D. 624**

**An Act To Amend the Procedure by Which Maine Education Assessment Scores Are Interpreted**

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

**Sec. 1. 20-A MRSA §6202, sub-§1-A** is enacted to read:

**1-A. Interpretation.** The statewide assessment program results may be interpreted in a manner that takes into account the particular role within a school administrative unit of regional special education or regional alternative education programs or schools approved by the commissioner in accordance with section 2501 or section 7253. For these programs or schools, the results may be interpreted by assigning the student and the scores of the student to the school in the community where the student resides. The commissioner shall adopt rules to implement this subsection. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

See title page for effective date.

**CHAPTER 119**

**H.P. 983 - L.D. 1419**

**An Act To Amend the Laws Regarding Certain Employment-related Matters**

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

**Sec. 1. 26 MRSA §824, sub-§1**, as enacted by PL 1983, c. 128, §1, is amended to read:

**1. Request.** An employer who feels that granting the leave of absence required by this subchapter will cause unreasonable hardship for ~~his~~ the employer's business may appeal for relief by filing a written notice of appeal ~~to~~ with the ~~chairman~~ chair of the State Board of Arbitration and Conciliation. If the notice of appeal is not filed within 14 days of receipt of the employee's notice requesting a leave of absence, the employer waives ~~his~~ the right to appeal. The notice of appeal ~~shall~~ must state the name of the employee and the reasons for the alleged unreasonable hardship. Payment for the services of a member of the State Board of Arbitration and Conciliation must be shared by the parties in accordance with section 931. This section provides the exclusive remedy for an employer claiming unreasonable hardship as a result of a request for leave of absence.

**Sec. 2. 26 MRSA §1043, sub-§11, ¶F**, as amended by PL 2003, c. 414, Pt. B, §38 and affected by c. 614, §9, is further amended by amending subparagraph (21), division (i) to read:

(i) Prior to January 1, 1978, service performed in the employ of a school that is not an institution of higher education; after December 31, 1977, service performed in the employ of a governmental entity referred to in paragraph A-1, subparagraph (1) if that service is performed by an individual in the exercise of duties:

- (i) As an elected official;
- (ii) As a member of a legislative body, or a member of the judiciary, of a state or political subdivision of a state;
- (iii) As a member of the State National Guard or Air National Guard;
- (iv) As an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood or similar emergency; ~~or~~
- (v) In a position that, under or pursuant to the laws of this State, is designated as a major nontenured policymaking or advisory position, or a policymaking or advisory position the perform-

ance of the duties of which ordinarily does not require more than 8 hours per week; or

(vi) As an election official or election worker if the amount of remuneration received by the individual during the calendar year for services as an election official or election worker is less than \$1,000;

See title page for effective date.

---



---

## CHAPTER 120

S.P. 335 - L.D. 995

### An Act To Conform Maine Employment Security Law with the Federal SUTA Dumping Prevention Act of 2004

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

**Sec. 1. 26 MRSA §1221, sub-§5-A** is enacted to read:

**5-A. Transfers of experience and assignment of rates.** Notwithstanding subsection 5, the following applies to the assignment of rates and transfers of experience.

A. If:

(1) An employer transfers its trade or business, or a portion of its trade or business, to another employer and, at the time of the transfer, there is substantially common ownership, management or control of the 2 employers, then the unemployment experience attributable to the transferred trade or business is transferred to the employer to whom the business is transferred. The rates of both employers must be recalculated and made effective immediately upon the date of the transfer of the trade or business. The transfer of some or all of an employer's workforce to another employer shall be considered a transfer of trade or business when, as the result of such transfer, the transferring employer no longer performs trade or business with respect to the transferred workforce, and such trade or business is performed by the employer to whom the workforce is transferred; and

(2) Following a transfer of experience under subparagraph (1), the commissioner

determines that the purpose of the transfer or trade or business was to obtain a reduced liability for contributions, then the experience rating accounts of the employers involved must be combined into a single account and a single rate assigned to such account.

B. Whenever a person who is not an employer under this chapter acquires the trade or business of an employer, the unemployment experience of the acquired trade or business is not transferred to that person if the commissioner finds that the person acquired the trade or business solely or primarily for the purpose of obtaining a lower rate of contributions. In such circumstances, the person acquiring the trade or business is assigned the applicable new employer rate under subsection 4-A. In determining whether the trade or business was acquired solely or primarily for the purpose of obtaining a lower rate of contributions, the commissioner shall consider objective factors that may include the cost of acquiring the trade or business, whether the person continued the business enterprise of the acquired trade or business, how long the business enterprise was continued or whether a substantial number of new employees were hired for performance of duties unrelated to the business activity conducted prior to acquisition.

C. If a person knowingly violates or attempts to violate paragraph A or B or any other provision of this chapter related to determining the assignment of a contribution rate or if a person knowingly advises another person in a way that results in a violation of such a provision, the person commits a Class D crime. In addition, the person is subject to the following:

(1) If the person is an employer, then that employer is assigned the highest rate assignable under this chapter for the rate year during which the violation or attempted violation occurred and for the 3 rate years immediately following that rate year, except that, if the person's business is already at the highest rate for any year or if the amount of increase in the person's rate would be less than 2% for such year, then a penalty rate of contributions of 2% of taxable wages is imposed for that year; and

(2) If the person is not an employer, that person is subject to a fine of not more than \$5,000, which must be deposited in the Special Administrative Expense Fund established under section 1164.