

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

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FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 29, 2005

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SEPTEMBER 17, 2005

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IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Penmor Lithographers
Lewiston, Maine
2005

CHAPTER 277

H.P. 202 - L.D. 277

An Act Regarding the Management and Use of Sears Island

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

Sec. 1. 23 MRSA §4206, sub-§1, ¶M, as amended by PL 1995, c. 504, Pt. C, §8, is further amended to read:

M. Acting upon the advice of the State Tax Assessor, to negotiate a compact with other states, the District of Columbia and Canadian provinces for the administration of user license fees on condition that the compact provides for:

- (1) The collection of the annual user license fee for any other state or province by the state or province in which the motor truck is registered;
- (2) The disbursement of revenues due to other states or provinces subject to the compact;
- (3) The free exchange of information between and among the states or provinces subject to the compact; and
- (4) The establishment of identification tags or decals.

The compact must provide for reciprocal enforcement of the laws establishing the annual user license fees and for the auditing of all books, records and logs of the operator of a motor truck by the state or province in which the motor truck is registered, which pertains to travel in it and any other state or province subject to the compact; ~~and~~

Sec. 2. 23 MRSA §4206, sub-§1, ¶N, as enacted by PL 1995, c. 504, Pt. C, §8, is amended to read:

N. To make contracts and enter into agreements with and make assurances and certifications to the Maine Turnpike Authority, and other 3rd parties, necessary in connection with determination of Department of Transportation projects and the issuance of bonds or obligations pursuant to section 1968, subsection 2-A; and

Sec. 3. 23 MRSA §4206, sub-§1, ¶O is enacted to read:

O. To bring before the joint standing committee of the Legislature having jurisdiction over trans-

portation matters for review and approval any proposal that would alter the current land use, ownership or jurisdiction of lands owned by the State within the Port of Searsport presently under the jurisdiction of the department.

See title page for effective date.

CHAPTER 278

H.P. 466 - L.D. 633

An Act To Improve the Surety Bond Requirement for Small Payroll Companies

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

Whereas, this legislation needs to take effect before the expiration of the 90-day period to help prevent small payroll companies from going out of business; 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:

Sec. 1. 10 MRSA §1495-D, sub-§3, as enacted by PL 2003, c. 668, §6 and affected by §12, is amended to read:

3. Proof of surety bond or other security. Except as provided in section 1495-E, subsection 4, an applicant under subsection 1 shall provide to the administrator proof of the surety bond or other security instrument required pursuant to section 1495-E.

Sec. 2. 10 MRSA §1495-D, sub-§3-A is enacted to read:

3-A. Conditional, probationary or provisional licenses. The administrator, within the administrator's discretion, may issue a conditional, probationary or provisional license to an applicant. A conditional, probationary or provisional license may run for any time period the administrator considers appropriate and must be consistent with ensuring the maximum practicable protection for employers.

Sec. 3. 10 MRSA §1495-D, sub-§4, as enacted by PL 2003, c. 668, §6 and affected by §12, is amended to read:

4. Fees. The initial application and annual renewal application must include a fee of ~~\$250~~ \$200 if the payroll processor has fewer than 25 employers as payroll processing clients; \$500 if the payroll processor has from 25 to 500 employers as payroll processing clients; and ~~\$750~~ \$800 for those payroll processors that have more than 500 employers as payroll processing clients. The aggregate of license fees and other fees and assessments provided for by this chapter is appropriated for the use of the administrator. Any balance of these funds does not lapse but must be carried forward to be expended for the same purpose in the following fiscal year.

Sec. 4. 10 MRSA §1495-E, sub-§§1, 2 and 4, as enacted by PL 2003, c. 668, §6 and affected by §12, are amended to read:

1. Bond required; minimum amount; duration. Each application for a license under section 1495-D must be accompanied by evidence of a surety bond, in a form approved by the administrator, in an amount equal to the total of all local, state and federal tax payments and unemployment insurance premiums processed by the payroll processor on behalf of employers in this State in the 3-consecutive-month period of highest volume during the previous calendar year or ~~\$100,000~~ \$50,000, whichever is greater, but not to exceed \$500,000. The bond must designate the administrator as payee. The bond paid to the administrator may be used for the purposes of the administrator and for the benefit of any employer who may have a cause of action against the payroll processor. The terms of the bond must run continuously until cancelled and the aggregate amount of the bond must be maintained at all times during the licensing period.

2. Modification of bond requirement. If bonding is unavailable under the terms and conditions of subsection 1, the administrator, within the administrator's discretion, may modify those terms and conditions or may permit submission of an irrevocable letter of credit or other alternative form of security so as to ensure the maximum practicable protection for employers.

4. Exceptions. A payroll processor that does not have the authority to access, control, direct, transfer or disburse a client's funds is not subject to this section. A payroll processor that arranges for the transfer of funds from an employer's account directly to taxing authorities for payment of the employer's taxes is not subject to this section, as long as the payroll processor is not authorized to arrange for the transfer of funds for any other uses or to any other accounts. The administrator may construe this

subsection through issuance of an advisory ruling or through rules adopted pursuant to section 1495-F.

Sec. 5. 10 MRSA §1495-H, sub-§2, as enacted by PL 2003, c. 668, §6 and affected by §12, is amended to read:

2. Bond or security forfeiture. After notice and hearing, forfeiture of that portion of the required bond or other security instrument as proportionately may make aggrieved parties whole;

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

Effective June 2, 2005.

CHAPTER 279

H.P. 691 - L.D. 981

An Act To Add an Organizational Name to the Governor Baxter School for the Deaf

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

Sec. 1. 5 MRSA §285, sub-§1, ¶A-1, as enacted by PL 2001, c. 239, §1 and affected by §5, is amended to read:

A-1. Any employee of the Maine Educational Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf, unless a different health program is established by collective bargaining agreement or otherwise consistent with applicable law;

Sec. 2. 5 MRSA §931, sub-§1, ¶H, as amended by PL 1989, c. 443, §7 and PL 2003, c. 20, Pt. OO, §2 and affected by §4, is further amended to read:

H. Officers and employees of the unorganized territory school system; the teachers, administrators and professional employees of the state community colleges and the Maine Educational Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf; and the teachers, administrators and professional employees of school systems in other state institutions;

Sec. 3. 5 MRSA §17001, sub-§40, as repealed and replaced by PL 2003, c. 688, Pt. A, §4, is amended to read:

40. State employee. "State employee" means any regular classified or unclassified officer or