

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

CHAPTER 295**S.P. 573 - L.D. 1599****An Act Regarding the Commission
on Governmental Ethics and Election
Practices**

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 in order to ensure that a nomination to the Commission on Governmental Ethics and Election Practices to fill a vacancy created by an expired term is subject to review by the joint standing committee of the Legislature having jurisdiction over legal affairs and to confirmation by the Legislature; 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. 1 MRSA §1002, sub-§1-A, ¶¶F and G, as enacted by PL 2001, c. 470, §2, are amended to read:

F. Upon a vacancy during an unexpired term, the term must be filled as provided in this paragraph for the unexpired portion of the term only. The nominee must be appointed by the Governor from a list of 3 qualified candidates provided by the leader of the party from the body of the Legislature that suggested the appointee who created the vacancy. If the vacancy during an unexpired term was created by the commission member who was appointed from the list of candidates presented to the Governor by the leaders of each party of each body of the Legislature jointly, the nominee must be appointed from a list of 3 qualified candidates provided jointly by the leaders of each party of each body of the Legislature. Nominees appointed pursuant to this paragraph are subject to review by the joint standing committee of the Legislature having jurisdiction over election practices and legislative ethics and to confirmation by the Legislature.

G. Upon a vacancy created by an expired term, the vacancy must be filled as provided in this paragraph. The nominee must be appointed by the Governor from a list of 3 qualified candidates provided by the leader of the party from the body

of the Legislature that suggested the appointee whose term expired. When a vacancy is created by an expired term of the commission member who was appointed from the list of candidates presented to the Governor by the leaders of each party of each body of the Legislature jointly, the nominee must be appointed from a list of 3 qualified candidates provided jointly by the leaders of each party of each body of the Legislature. Nominees appointed pursuant to this paragraph are subject to review by the joint standing committee of the Legislature having jurisdiction over election practices and legislative ethics and to confirmation by the Legislature.

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

Effective June 2, 2005.

CHAPTER 296**H.P. 1166 - L.D. 1652****An Act To Establish a Fair System
for the Protection of Volunteer
Firefighters' Employment**

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

Sec. 1. 26 MRSA c. 7, sub-c. 4-C is enacted to read:

SUBCHAPTER 4-C**VOLUNTEER FIREFIGHTER; ABSENCE
FROM WORK****§809. Absence for emergency response**

1. Definitions. As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

A. "Employer" means any private or public employer, including the State and political subdivisions of the State.

B. "Responding to an emergency" means responding to, working at the scene of or returning from a fire call, a hazardous or toxic materials spill and cleanup or any other situation to which the fire department has been dispatched.

C. "Volunteer firefighter" has the same meaning as in Title 30-A, section 3151.

2. Prohibition against discharge or disciplinary action. An employer may not discharge or take any other disciplinary action against an employee because of the employee's failure to report for work at the beginning of the employee's regular working hours if the employee failed to do so because the employee was responding to an emergency in the employee's capacity as a volunteer firefighter and the employee reported for work as soon as reasonably possible after being released from the emergency. An employer may charge the lost time against the employee's regular pay or against the employee's available leave time. This subsection does not apply to the absence of a volunteer firefighter from the volunteer firefighter's regular employment as a law enforcement officer, a utility worker or medical personnel when the services of that person are essential to protect public health or safety or if the employee has been designated as essential by the employer pursuant to subsection 6.

3. Notification; verification. If time permits, when an employee is responding as a volunteer firefighter to an emergency, the employee, the employee's designee or the fire department supervisor shall notify the employer that the employee will not report to work at the appointed time. At the request of an employer, an employee losing work time as provided in subsection 2 shall provide the employer with a statement from the chief of the volunteer fire department stating that the employee was responding to an emergency call and the time of release from the call.

4. Enforcement; penalty for violation. If an employer has violated subsection 2, the employee may bring an action in Superior Court in the county in which the employee resides or in the county in which the employer's place of business is located. The action must be brought within one year of the date of the alleged violation. If the court finds that the employer violated subsection 2, and if the employee so requests, the court shall order the employer to reinstate the employee in the employee's former position without reduction of pay, seniority or other benefits. The court also shall order any other appropriate remedy necessary to return the employee to the position the employee would have been in had the employer not violated subsection 2, including payment of back pay and reinstatement of any other benefits lost during the period in which the discharge or disciplinary action was in effect.

5. Impact on individual agreements. This section does not apply if the employer and the employee have entered into a written agreement, signed by the employer and the employee, that governs procedures to be followed when the employee is called to respond to an emergency as a volunteer firefighter. This subsection applies only if:

A. The local official in charge of calling out firefighters has a written policy that:

(1) Specifies the circumstances under which firefighters will be ordered to remain at an emergency; and

(2) Affirms that firefighters will be released as soon as practicable; and

B. The employee presents a copy of the policy to the employer upon notifying the employer of the employee's status as a volunteer firefighter.

6. Designation as essential. Upon receiving notice of an employee's volunteer firefighter status, an employer may designate the employee essential to the employer's operations when the absence of the employee would cause disruption of the employer's business.

See title page for effective date.

CHAPTER 297

S.P. 609 - L.D. 1644

An Act Regarding the Unused Pharmaceutical Disposal Program

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

Whereas, the beginning date of July 1, 2005 of the Unused Pharmaceutical Disposal Program, enacted by Public Law 2003, chapter 679, is contingent upon the acquisition of outside funding that has not been obtained; and

Whereas, enactment of a later beginning date of July 1, 2006 will allow for a more orderly beginning for the program; 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. 22 MRSA §2700, sub-§5, as enacted by PL 2003, c. 679, §1 and affected by §4, is amended to read:

5. Unused Pharmaceutical Disposal Program Fund; funding. The Unused Pharmaceutical Disposal Program Fund, referred to in this chapter as "the