

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

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

fund," is established within the agency to be used by the director of the agency to fund or assist in funding the program. Any balance in the fund does not lapse but is carried forward to be expended for the same purposes in succeeding fiscal years. The fund must be deposited with and maintained and administered by the agency. The agency may accept funds into the fund from any non-General Fund, ~~nonpublic fund~~ source, including grants or contributions of money or other things of value, that it determines necessary to carry out the purposes of this chapter. Money received by the agency to establish and maintain the program must be used for the expenses of administering this chapter.

Sec. 2. 22 MRSA §2700, sub-§7 is enacted to read:

7. Contingency. The program must operate with funding solely from the fund provided in subsection 5. The program may begin operation for 2 years on July 1st of any year in which notice is given by April 1st by the director of the agency to the State Budget Officer that funding has been procured for the fund that is sufficient to operate the program for 2 years.

Sec. 3. PL 2003, c. 679, §4 is amended to read:

Sec. 4. Effective date. That section of this Act that enacts the Maine Revised Statutes, Title 22, chapter 604 takes effect July 1, ~~2005~~ 2006.

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

Effective June 2, 2005.

CHAPTER 298

H.P. 454 - L.D. 621

An Act Regarding Divorce and Marital Property

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

Sec. 1. 19-A MRSA §953, sub-§6-A is enacted to read:

6-A. Nonowner spouse interest in certain payments or accounts. After the filing of a divorce complaint under section 901, a nonowner spouse has an inchoate equitable ownership interest, without the need to obtain an attachment, levy or court order, in the individual retirement account or similar plan or contract on account of illness, disability, death, age or

length of service of the owner spouse, to the extent the account or plan is either exempt or beyond the reach of an attaching or judgment lien creditor under state or federal law.

See title page for effective date.

CHAPTER 299

H.P. 182 - L.D. 243

An Act To Allow Emergency Responders To Equip Their Vehicles with 2 Emergency Flashing Lights

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

Sec. 1. 29-A MRSA §2054, sub-§2, ¶F, as amended by PL 2005, c. 14, §3, is further amended to read:

F. Only vehicles listed in this paragraph, rural mail vehicles as provided in paragraph C, subparagraph (5) and school buses may be equipped with, display or use a red auxiliary or emergency light.

(1) Emergency lights used on an ambulance, an emergency medical service vehicle, a fire department vehicle, a fire vehicle, a rescue vehicle or a hazardous material response vehicle must emit a red light or a combination of red and white light.

(2) The municipal officers or a municipal official designated by the municipal officers, with the approval of the fire chief, may authorize an active member of a municipal or volunteer fire department to use a ~~flashing red signal light not more than 5 inches in diameter on a vehicle one red or combination red and white flashing auxiliary light mounted as near as practicable above the front registration plate on the front of the vehicle, behind the rearview mirror or on the dashboard or 2 flashing red or combination red and white auxiliary lights mounted on the front of the vehicle above the front bumper and below the hood. The light or lights may be displayed but may be used only while the member is en route to or at the scene of a fire or other emergency. The light must be mounted as near as practicable above the registration plate on the front of the vehicle or on the dashboard. A light mounted on the dashboard or behind the rearview mirror must be shielded so that the emitted light~~