

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

and activities that improve the economic viability of the potato industry.

Sec. 6. 7 MRSA §976, as enacted by PL 1989, c. 502, Pt. B, §6, is amended to read:

§976. Aroostook County office

The department shall maintain or arrange for the maintenance of an office in Aroostook County located in a town most convenient to the largest number of potential users of the Potato Marketing Improvement Fund and sufficiently close to any local office of the ~~Maine Potato Board~~ board as to foster a close working relationship and provide a convenience to farmers who wish to visit both agencies. This office ~~shall~~ must be staffed by ~~—a— one or more~~ business development ~~specialist~~ specialists whose responsibilities ~~shall be~~ are as defined by the department. The business development ~~specialist~~ specialists shall be available in the Aroostook County office on a regular basis.

Should the performance of the functions of the business development ~~specialist~~ specialists be contracted for, this contract ~~shall~~ must be made by the agency managing the fund and ~~shall~~ must be awarded through competitive bidding.

Sec. 7. 10 MRSA §1023-N, first ¶, as enacted by PL 2001, c. 125, §6, is amended to read:

There is created a fund known as the Potato Marketing Improvement Fund, referred to in this section as the "fund." The fund must be deposited with and maintained by the authority to be used solely for investment in the Maine potato industry. The fund must be administered by the Commissioner of Agriculture, Food and Rural Resources in accordance with Title 7, chapter 103, subchapter ~~× 10~~. All money received by the authority from any source for the development and implementation of ~~—an— improved storage, packing and marketing program and programs~~ and activities that improve the economic viability of the potato industry must be credited to the fund. Any money credited to the fund from the issuance of bonds on behalf of the State for agricultural development may be used only for the purposes of state loans as prescribed by Title 7, section 974-A to provide assistance to potato farmers for the design, construction, improvement, support and operation of storage, packing and marketing facilities; for programs and activities that improve the economic viability of the potato industry; and to pay the administrative costs of processing loan applications and servicing and administering the fund and loans and grants made therein, to the extent that the costs exceed the fee for administrative costs established by Title 7, section 974-A, subsection 2. Repayment of these loans and interest on the loans must be credited to the fund to be available for making additional state loans for the

same purposes, except that any interest earned on the cash balance of the fund may be used for the grants authorized by Title 7, section 975-A. In order to provide additional amounts for loans, the Commissioner of Agriculture, Food and Rural Resources, at the commissioner's discretion, may take such actions and enter into such agreements as may be necessary to sell or assign up to \$2,000,000 in the aggregate principal amount of loans and undivided interests in a pool of loans and assign or pledge any mortgage or other security to the authority, under the terms and conditions the commissioner considers advisable. The assignment and related transactions may not result in indebtedness of the State. The proceeds of the sale or assignment must be credited to the fund and used for the purposes authorized in this section.

See title page for effective date.

CHAPTER 336

S.P. 595 - L.D. 1613

An Act To Promote the Use of Public Safety Telecommunications Equipment by the Deaf and Hard-of-hearing Community

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

Sec. 1. 26 MRSA §1419-A, sub-§2, as amended by PL 2003, c. 553, Pt. A, §3, is further amended to read:

2. Communications Equipment Fund. There is established the Communications Equipment Fund to be used by the Division of Deafness within the Bureau of Rehabilitation Services. The fund is nonlapsing. The fund receives money transferred by the Public Utilities Commission from the universal service fund pursuant to Title 35-A, section 7104. The Division of Deafness may accept gifts or grants, including, but not limited to, federal grants, for the purposes of this section. Funds transferred from the universal service fund pursuant to Title 35-A, section 7104 and all gifts and grants and authorized appropriations must be deposited in the Communications Equipment Fund and disbursed in accordance with this section. The Communications Equipment Fund may be used for purchase, lease, distribution, upgrading, installation, maintenance and repair of specialized customer communications equipment for deaf, hard-of-hearing or speech-impaired persons and persons with disabilities and for training in the use of such equipment, except that funds received for the purposes of subsection 6 pursuant to Title 35-A, section 7104 may be used only in accordance with subsection 6. The Division of Deafness may draw on the Communica-

tions Equipment Fund in accordance with the communications equipment plan required under subsection 3.

Sec. 2. 26 MRSA §1419-A, sub-§6 is enacted to read:

6. Emergency alert telecommunications service. A person who has been certified by the Division of Deafness as being deaf or hard-of-hearing and has an income of less than 135% of the federal poverty level must receive a discount of up to \$10 per month in the service charge for any wireless communications device or 2-way pager that is used to receive emergency alerts issued by any state or federal agency. Such a person must receive a \$10 discount except when the service charge for the wireless communications device or 2-way pager is less than \$10 per month, in which case the person must receive a discount equal to the service charge for the wireless communications device or 2-way pager. A company required to provide the discount is entitled to recover amounts discounted from the Communications Equipment Fund established in subsection 2. The Bureau of Rehabilitation Services shall adopt rules to establish the process for certifying eligibility with the Division of Deafness and for the process to be used by wireless and paging companies in recovering discounted revenue from the Communications Equipment Fund. Administrative costs associated with implementing this subsection may be paid from funds provided to the Communications Equipment Fund for the purposes of this subsection pursuant to Title 35-A, section 7104. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 3. 35-A MRSA §7104, sub-§5, as enacted by PL 2003, c. 553, Pt. A, §4, is amended to read:

5. Funds for Communications Equipment Fund. The commission shall annually transfer \$85,000 from a state universal service fund established pursuant to this section to the Communications Equipment Fund established under Title 26, section 1419-A. ~~In addition to its authority under subsection 3, the commission may require contributions to the state universal service fund in an amount sufficient to collect the \$85,000.~~

If the Department of Labor, Bureau of Rehabilitation Services does not receive from federal or other sources funds in addition to the \$85,000 sufficient to carry out the purposes of Title 26, section 1419-A, the commission, at the request of the Department of Labor, Bureau of Rehabilitation Services, may transfer from the state universal service fund to the Communications Equipment Fund an additional amount as long as \$37,500.

~~A. The total transfer in any year does not exceed \$122,500; and~~

~~B. Any amount in any year in excess of \$85,000 is drawn from funds otherwise available in the universal service fund. The commission is not authorized to require contributions to the state universal service fund for the purposes of this subsection in order to collect any amount in excess of \$85,000 in any year.~~

The commission may, upon the request of the Department of Labor, Bureau of Rehabilitation Services and after a finding that the funds are necessary and that sufficient attempts have been made by the Bureau of Rehabilitation Services to maximize federal support to support emergency alert telecommunications service, transfer up to \$60,000 in fiscal year 2005-06, up to \$90,000 in fiscal year 2006-07 and up to \$120,000 in any subsequent fiscal year from the state universal service fund established by this section to the Communications Equipment Fund established under Title 26, section 1419-A for the exclusive purpose of supporting the discount program established under Title 26, section 1419-A, subsection 6.

The commission may require contributions to the state universal service fund in an amount necessary to collect amounts transferred pursuant to this subsection.

Sec. 4. Recommendations. The Public Utilities Commission, in consultation with the Department of Labor, Bureau of Rehabilitation Services, shall make recommendations to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters prior to January 31, 2008 on whether the amount of funding authorized to be transferred pursuant to this subsection to the discount program established under Title 26, section 1419-A, subsection 6 is appropriate and sufficient and whether adjustments should be made to the authorized amount.

Sec. 5. Appropriations and allocations. The following appropriations and allocations are made.

LABOR, DEPARTMENT OF

Communications Equipment Fund

Initiative: Allocates funds to provide discounts of up to \$10 per month to deaf or hard-of-hearing persons with incomes of less than 135% of the federal poverty level for the service charge for any wireless communications device or 2-way pager that is used to receive emergency alerts issued by any state or federal agency.

OTHER SPECIAL REVENUE

FUNDS	2005-06	2006-07
All Other	\$60,000	\$90,000
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OTHER SPECIAL REVENUE
FUNDS TOTAL \$60,000 \$90,000

See title page for effective date.

CHAPTER 337

S.P. 270 - L.D. 815

An Act To Require That Directors within the Department of Agriculture, Food and Rural Resources Be Unclassified

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

Sec. 1. 5 MRSA §933, sub-§1, ¶A, as amended by PL 1997, c. 643, Pt. NN, §1, is further amended to read:

A. Deputy Commissioner;

Sec. 2. 5 MRSA §933, sub-§1, ¶¶J to N are enacted to read:

J. Director, Office of Agricultural, Natural and Rural Resources;

K. Director, Division of Plant Industry;

L. Director, Division of Animal Health and Industry;

M. Director, Division of Market and Production Development; and

N. Director, Division of Quality Assurance and Regulation.

Sec. 3. 7 MRSA §3, as repealed and replaced by PL 1979, c. 731, §8, is amended by adding after the first paragraph a new paragraph to read:

Directors are unclassified employees and are appointed by the commissioner.

Sec. 4. Transition. Persons serving as division directors within the Department of Agriculture, Food and Rural Resources on the effective date of this Act continue to serve as classified employees until January 2, 2007.

See title page for effective date.

CHAPTER 338

S.P. 294 - L.D. 886

An Act To Promote Parity in the Laws Governing Smoking in the Workplace

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

Sec. 1. 22 MRSA §1541, sub-§3, as enacted by PL 1993, c. 342, §1 and affected by §9, is repealed.

Sec. 2. 22 MRSA §1542, sub-§2, ¶I, as enacted by PL 1993, c. 342, §1 and affected by §9, is repealed.

Sec. 3. 22 MRSA §1580-A, sub-§2, ¶¶A-1 and C-1 are enacted to read:

A-1. "Club" means a reputable group of individuals, including a veterans' service organization chartered under 36 United States Code, Subtitle II, Part B (2004), incorporated and operating in a bona fide manner solely for purposes of a recreational, social, patriotic or fraternal nature and not for pecuniary gain.

C-1. "Member" means a person who, whether as a charter member or admitted in accordance with applicable bylaws, is a bona fide member of a club and who maintains membership in good standing by payment of dues in a bona fide manner in accordance with bylaws and whose name and address are entered on the list of members. A person who does not have full membership privileges may not be considered a bona fide member.

Sec. 4. 22 MRSA §1580-A, sub-§§3 and 4, as enacted by PL 1985, c. 126, are amended to read:

3. Policy; notice. Each employer shall establish, or may negotiate through the collective bargaining process, a written policy concerning smoking and nonsmoking by employees in that portion of any business facility for which ~~he~~ the employer is responsible. In order to protect the employer and employees from the detrimental effects of smoking by others, the policy ~~shall~~ must prohibit smoking except in designated smoking areas. The policy may prohibit smoking throughout the business facility. The employer shall post and supervise the implementation of the policy. The employer shall provide a copy of this policy to any employee upon request. ~~Nothing in this section may affect the right of any employer to establish policies concerning smoking and nonsmoking by members of the public who have access to the business facility.~~ Nothing in this section may be construed to subject an employer to any additional