

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-SECOND LEGISLATURE

SECOND SPECIAL SESSION
July 29, 2005

SECOND REGULAR SESSION
January 4, 2006 to May 24, 2006

THE GENERAL EFFECTIVE DATE FOR
SECOND SPECIAL SESSION
NON-EMERGENCY LAWS IS
OCTOBER 28, 2005

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
AUGUST 23, 2006

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Penmor Lithographers
Lewiston, Maine
2006

Regulation within the Department of Professional and Financial Regulation. In cases in which the payroll processor is a supervised financial organization or a wholly owned subsidiary of a supervised financial organization as defined by Title 9-A, section 1-301, subsection 38-A, "administrator" means the Superintendent of Financial Institutions within the Department of Professional and Financial Regulation. For the purposes of this subsection, "supervised financial organization" has the same meaning as in Title 9-A, section 1-301, subsection 38-A.

Sec. 3. 10 MRSA §1495-E, sub-§2, as amended by PL 2005, c. 278, §4, is further amended to read:

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

Sec. 4. 10 MRSA §1495-E, sub-§2-A is enacted to read:

2-A. Alternative security; Payroll Processor Recovery Fund. The Director of the Office of Consumer Credit Regulation within the Department of Professional and Financial Regulation, referred to in this subsection as "the fund administrator," shall administer the Payroll Processor Recovery Fund, established in section 980-D and referred to in this section as "the fund." Participation in the fund must be made available to any payroll processor that is not a supervised financial organization as defined in Title 9-A, section 1-301, subsection 38-A or a wholly owned subsidiary of such a supervised financial organization. The fund administrator may increase the fund, replenish the fund and seek reimbursement for the fund administrator's initial deposit into the fund through annual or special assessments against payroll processors using the fund. Before being eligible to participate in the fund, a payroll processor must provide a \$10,000 surety bond or irrevocable letter of credit in a form acceptable to the fund administrator. Assessments into the fund must be in amounts equal to 1% of the balance of bond coverage required pursuant to this section. An initial deposit into the fund must be made by the fund administrator in an amount not less than 1/2 of the maximum amount of a surety bond or other security required pursuant to subsection 1. All amounts assessed by the fund administrator must be paid into the fund until the fund reaches the maximum amount of a surety bond or other security required pursuant to subsection 1, after which time assessments must be equally divided between payments into the

fund and payments to the fund administrator until the fund administrator is reimbursed for the fund administrator's initial deposit into the fund. If an employer's loss due to a participating payroll processor's failure to pay taxes or unemployment insurance premiums is demonstrated to the satisfaction of the fund administrator, the fund administrator shall require release of funds to the fund administrator for the benefit of the employer. If employer losses exceed the maximum amount recoverable pursuant to this subsection, funds are distributed to employers on a pro rata basis, based on the magnitude of the demonstrated loss. In the event an initial claim is made against the fund, any other claims arising within 45 days of the initial claim must be treated as having arisen on the same day as the initial claim for purposes of allocating recoveries to affected employers. Total funds released as a result of the failure of any one payroll processor to pay taxes or unemployment insurance premiums may not exceed 50% of the current fund balance. Fund proceeds must be used only for recovery of unpaid taxes and unemployment insurance premiums and may not be used for any other purpose.

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

**PROFESSIONAL AND FINANCIAL REGULATION,
DEPARTMENT OF**

Office of Consumer Credit Regulation 0091

Initiative: Allocates funds for the initial deposit into the Payroll Processor Recovery Fund.

OTHER SPECIAL REVENUE

FUNDS	2005-06	2006-07
All Other	\$0	\$250,000

OTHER SPECIAL REVENUE		
FUNDS TOTAL	\$0	\$250,000

See title page for effective date.

CHAPTER 501

H.P. 1238 - L.D. 1730

**An Act To Ensure Business Equity in
Commercial Vehicle Registration**

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

Sec. 1. 29-A MRSA §513, sub-§1-A is enacted to read:

1-A. Registration required. Special mobile equipment used on public ways, including, but not limited to, equipment that is rented from a location in this State or outside this State, regardless of whether

the main office or headquarters of the owner of the equipment is located in this State or outside this State, must be registered in this State in accordance with this chapter.

Sec. 2. 29-A MRSA §513, sub-§2, ¶C, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

C. For Class B special ~~motor~~ mobile equipment, if the gross weight is in excess of 20,000 pounds, the registrant must obtain a permit as required by section 2382, subsection 5.

See title page for effective date.

CHAPTER 502

H.P. 1216 - L.D. 1709

An Act To Provide for the Issuance of a Bench Warrant upon Failure To Appear for a Hearing on Nonpayment of a County Jail Reimbursement Fee

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

Sec. 1. 17-A MRSA §1341, as amended by PL 1997, c. 88, §1, is further amended to read:

§1341. Assessment of reimbursement fee against prisoners

1. Assessment. When a person is sentenced to incarceration in a county jail, the sentencing court shall consider and may assess as part of the sentence a reimbursement fee to help defray the expenses of the offender's room and board. The fee may not exceed the cost of incarcerating the offender or \$80 per day, whichever is less. Any reimbursement fee assessed must be collected by the county treasurer of the county in which the offender is incarcerated, paid into the treasury of that county and credited to the county responsible for paying for the incarceration of the offender.

2. Evidence. The court, in determining whether a reimbursement fee as set out in subsection 1 is to be assessed and in establishing the amount of that fee, shall consider evidence relevant to the offender's ability to pay that fee, including, but not limited to, the factors set forth in section 1325, subsection 2, paragraph D, subparagraphs (1) to (5). The court shall not consider as evidence the following:

A. Joint ownership, if any, that the offender may have in real property;

B. Joint ownership, if any, that the offender may have in any assets, earnings or other sources of income; and

C. The income, assets, earnings or other property, both real and personal, owned by the offender's spouse or family.

3. Amount of fee. After considering all relevant evidence on the issue of the offender's ability to pay under subsection 2, the court may enter, as part of its sentence, a reimbursement fee that ~~shall~~ **must** be paid by the offender for ~~his~~ incarceration in the county jail. The fee ~~shall~~ **must** bear a reasonable relationship to the offender's ability to pay. Upon petition by the offender, the amount may be modified to reflect any changes in the financial status of the offender.

4. Timing of fee. If an offender is sentenced to pay a reimbursement fee, the court may grant permission for the payment to be made within a specified time or in specified installments. If such permission is not contained in the sentence, the reimbursement fee is payable immediately.

5. Default. An offender who has been sentenced to pay a reimbursement fee and who has defaulted in payment of the fee must be returned to court for further disposition.

A probation officer who knows of a default in payment of a reimbursement fee by an offender shall report the default to the office of the attorney for the State or the attorney for the county. If the reimbursement fee was a condition of probation, the attorney for the State or the attorney for the county may file a motion to enforce payment of the reimbursement fee or, with the written consent of the probation officer, a motion to revoke probation under section 1205. If the reimbursement fee was not a condition of probation, the attorney for the State or the attorney for the county may file a motion to enforce payment of the reimbursement fee.

6. Motion to enforce payment of reimbursement fee. Either the attorney for the State, the attorney for the county or the court may initiate a motion to enforce payment of a reimbursement fee. Notification for the hearing on the motion must be sent by regular mail to the offender's last known address. If the offender does not appear for the hearing after proper notification has been sent, the court may issue a bench warrant.

A. Unless the offender shows by a preponderance of the evidence that the default was not attributable to an intentional or knowing refusal to obey the court's order or to a failure on the offender's part to make a good-faith effort to obtain the funds required to make payment, the court shall find that the default was unexcused and