

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-THIRD LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 6, 2006 to June 21, 2007**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 20, 2007**

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

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**Penmor Lithographers**  
**Lewiston, Maine**  
**2007**

of the Department of Public Safety; the Department of Defense, Veterans and Emergency Management, Maine Emergency Management Agency; the Criminal Law Advisory Commission; the Office of the Attorney General; and the Maine Sheriffs' Association. The Department of Health and Human Services shall report by January 31, 2008 to the Joint Standing Committee on Criminal Justice and Public Safety regarding the review and any recommendations. Upon receipt of the recommendations, the Joint Standing Committee on Criminal Justice and Public Safety may submit implementing legislation if necessary.

See title page for effective date.

**CHAPTER 360**  
**H.P. 913 - L.D. 1295**

**An Act To Amend the Labor  
Laws Regarding Automobile  
Dealerships**

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

**Sec. 1. 26 MRSA §663, sub-§11**, as enacted by PL 1985, c. 76, §1, is amended to read:

**11. Automobile salesperson.** "Automobile ~~salesman~~ salesperson" means a person who is primarily engaged in selling automobiles or trucks as an employee of an establishment primarily engaged in the business of selling these vehicles to the ultimate purchaser. "Automobile salesperson" includes a person who is primarily engaged in assisting in the financing and providing of insurance products to the ultimate purchaser.

**Sec. 2. 26 MRSA §663, sub-§12**, as enacted by PL 1985, c. 76, §1, is amended to read:

**12. Automobile mechanic.** "Automobile mechanic" means a person who is primarily engaged in the servicing of automobiles or trucks as an employee of an establishment primarily engaged in the business of selling automobiles or trucks to the ultimate purchaser, as long as the person's annual compensation exceeds 3,000 times the state minimum hourly wage or the annualized rate established by the United States Department of Labor under the federal Fair Labor Standards Act, whichever is higher, except when the employee is paid by the employer on an hourly basis.

**Sec. 3. 26 MRSA §663, sub-§13**, as enacted by PL 1991, c. 507, §1, is amended to read:

**13. Automobile parts clerk.** "Automobile parts clerk" means a person employed for the purpose of and primarily engaged in requisitioning, stocking and dispensing automobile parts as an employee of an establishment primarily engaged in the business of sell-

ing automobiles or trucks to the ultimate purchaser, as long as the person's annual compensation exceeds 3,000 times the state minimum hourly wage or the annualized rate established by the United States Department of Labor under the federal Fair Labor Standards Act, whichever is higher, except when the employee is paid by the employer on an hourly basis.

**Sec. 4. 26 MRSA §663, sub-§14** is enacted to read:

**14. Automobile service writer.** "Automobile service writer" means a person employed for the purpose of and primarily engaged in receiving, analyzing and referencing requests for service, repair or analysis of motor vehicles as an employee of an establishment primarily engaged in the business of selling automobiles or trucks to the ultimate purchaser, as long as the person's annual compensation exceeds 3,000 times the state minimum hourly wage or the annualized rate established by the United States Department of Labor under the federal Fair Labor Standards Act, whichever is higher, except that "automobile service writer" does not include an employee who is paid by the employer on a hourly basis.

**Sec. 5. 26 MRSA §664, sub-§3, ¶A**, as amended by PL 2001, c. 336, §1, is further amended to read:

A. Automobile mechanics, automobile parts clerks, automobile service writers and automobile ~~salesmen~~ salespersons as defined in section 663. The interpretation of these terms must be consistent with the interpretation of the same terms under federal overtime law, 29 United States Code, Section 213;

See title page for effective date.

**CHAPTER 361**  
**H.P. 935 - L.D. 1327**

**An Act To Amend Survivors'  
Benefits under the Workers'  
Compensation Laws**

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

**Sec. 1. 39-A MRSA §215**, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

**§215. Death benefits**

**1. Death of employee.** If death results from the injury of an employee, the employer shall pay or cause to be paid to the dependents of the employee who were wholly dependent upon the employee's earnings for support at the time of the injury, a weekly payment equal to 80% of the employee's after-tax average

weekly wage, but not more than the maximum benefit under section 211, for a period of 500 weeks from the date of death. If the employee leaves dependents only partially dependent upon the employee's earnings for support at the time of injury, the employer shall pay weekly compensation equal to the same proportion of the weekly payments for the benefit of persons wholly dependent, as 80% of the amount contributed by the employee to such partial dependents bears to the annual earnings of the deceased at the time of injury. If, at the expiration of the 500-week period, any wholly or partially dependent person is less than 18 years of age, the employer shall continue to pay or cause to be paid the weekly compensation until that person reaches the age of 18.

If a dependent spouse dies or becomes a dependent of another person, the payments must cease upon the payment to the spouse of the balance of the compensation to which the spouse would otherwise have been entitled but in no event to exceed the sum of \$500.00. The remaining weeks of compensation, if any, are payable to those persons either wholly or partially dependent upon the employee for support at the employee's death. ~~The board shall determine the amount of compensation or portion thereof that is payable weekly to the wholly or partially dependent person.~~ When, at the expiration of the 500-week period, any wholly or partially dependent person is less than 18 years of age, the employer shall continue to pay or cause to be paid the weekly compensation, until that person reaches the age of 18. The payment of compensation to any dependent child after the expiration of the 500-week period ceases when the child reaches the age of 18 years, if at the age of 18 years the child is neither physically nor mentally incapacitated from earning, or when the child reaches the age of 16 years and thereafter is self-supporting for 6 months. If the child ceases to be self-supporting thereafter, the dependency must be reinstated. As long as any of the 500 weeks of compensation remain, that compensation is payable to the person either wholly or partially dependent upon the deceased employee for support at the time of the employee's death, with the exception of a dependent spouse who becomes a dependent of another. If a wholly dependent or partially dependent child who reaches 18 years of age is either physically or mentally incapacitated so as to be unable to earn a living as determined by the board, the payments must continue until such time as the child either dies or is no longer physically or mentally incapacitated from earning.

**2. Death of an injured employee.** The death of the injured employee prior to the expiration of the period within which the employee would receive weekly payments ends the disability and all liability for the remainder of the payments that the employee would have received in case the employee had lived is terminated, but the employer is liable for the following

death benefits in lieu of any further disability indemnity.

A. If the injury received by the employee was the proximate cause of the employee's death and the deceased employee leaves dependents wholly or partially dependent on the employee for support, the death benefit ~~must be a sum sufficient, when added to the indemnity benefits that at the time of death have been paid or become payable under section 212 or 213 to the deceased employee, to make the total compensation for the injury and death~~ is equal to the full amount that the dependents would have been entitled to receive under subsection 1 if the injury had resulted in immediate death. Benefits under this paragraph are payable in the same manner as if the injury resulted in immediate death.

B. If an application for benefits has been filed but has not been decided by the board or is on appeal and the employee dies from a cause unrelated to the employee's injury, the proceedings may be continued in the name of the employee's personal representative. In such a case, any benefits awarded are payable up to time of death and must be paid to the same beneficiaries and in the same amounts as would have been payable if the employee had suffered a compensable injury resulting in death.

**Sec. 2. Application.** This Act applies to claims filed on or after the effective date of this Act.

See title page for effective date.

**CHAPTER 362  
H.P. 1009 - L.D. 1440**

**An Act To Prohibit the Sale or Distribution of Software That Contains Inappropriate Advertising of Prescription Drugs**

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

**Sec. 1. 22 MRSA §2700-A, sub-§1, ¶B-1** is enacted to read:

B-1. "Prescriber" means a person who is licensed, registered or otherwise authorized in the appropriate jurisdiction to prescribe and administer drugs in the course of professional practice.

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

**2-A. Software prohibition.** Beginning January 1, 2008, a person may not sell or distribute in the State computer software that influences or attempts to influ-