

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-THIRD LEGISLATURE

SECOND REGULAR SESSION
January 2, 2008 to March 31, 2008

FIRST SPECIAL SESSION
April 1, 2008 to April 18, 2008

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 30, 2008

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
JULY 18, 2008

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

Penmor Lithographers
Lewiston, Maine
2008

Whereas, limited liability companies in distress are not afforded the same assistance under the law as domestic corporations; 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. 31 MRSA §751, sub-§26, as amended by PL 2007, c. 231, §31, is further amended to read:

26. Late filing penalty. For failing to deliver an annual report by its due date, in addition to the annual report filing fee, a fee of \$50; ~~and~~

Sec. 2. 31 MRSA §751, sub-§27, as enacted by PL 2007, c. 231, §32, is amended to read:

27. Certificate of revival after dissolution. Certificate of revival after dissolution for a domestic limited liability company, as provided in section 608-F, §150;

Sec. 3. 31 MRSA §751, sub-§28 is enacted to read:

28. Application for excuse. For filing an application for excuse under section 757, subsection 4, a fee of \$40; and

Sec. 4. 31 MRSA §751, sub-§29 is enacted to read:

29. Certificate of resumption. For filing a certificate of resumption under section 757, subsection 5, a fee of \$100.

Sec. 5. 31 MRSA §757, sub-§4 is enacted to read:

4. Certificate of excuse. The Secretary of State, upon application by a domestic limited liability company and satisfactory proof that it has ceased to transact business and that it is not indebted to this State for failure to file an annual report and to pay any fees or penalties accrued, shall file a certificate of the fact and shall give a duplicate certificate to the limited liability company, after which the limited liability company is excused from filing annual reports with the Secretary of State, as long as the limited liability company in fact transacts no business. The name of a limited liability company remains in the Secretary of State's records of entity names and is protected for a period of 5 years following excuse.

Sec. 6. 31 MRSA §757, sub-§5 is enacted to read:

5. Resume transaction of business. The managers or, if no managers, members of a domestic lim-

ited liability company that has been excused from filing annual reports pursuant to subsection 4 may vote to resume transacting business at a meeting duly called and held for that purpose. A certificate executed and filed as provided in section 627 setting forth that a meeting was held, the date and location of the meeting and that a majority of the managers or, if no managers, members voted to resume transacting business authorizes that domestic limited liability company to transact business. After that certificate is filed, the domestic limited liability company is required to file annual reports beginning with the next reporting deadline following resumption.

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

Effective March 14, 2008.

CHAPTER 497

H.P. 1382 - L.D. 1946

An Act To Address Uncertified Practice of Underground Oil Storage Tank Installation and Inspection

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

Sec. 1. 32 MRSA §10012, sub-§2, as amended by PL 2001, c. 231, §14, is further amended to read:

2. Disposal of fees and civil penalties. All fees received by the board under subsection 1 and civil penalties as authorized by section 10015 received by the board related to underground oil storage tank installers, underground gasoline storage tank removers or underground oil storage tank inspectors imposed under sections 10015 or 10016 must be paid to the Treasurer of State to be deposited into the Ground Water Oil Clean-up Fund and used for the purpose of carrying out all applicable provisions of this chapter. Any balance of fees and civil penalties as authorized by section 10015 does not lapse but must be carried forward as a continuing account to be expended for the same purposes in the following fiscal years.

Sec. 2. 32 MRSA §10016 is enacted to read:

§10016. Uncertified practice

1. Complaints. The board may receive or initiate complaints of uncertified practice as an underground oil storage tank installer or inspector.

2. Investigation. Complaints of uncertified practice under subsection 1 may be investigated by the board, the department or the Attorney General. If sufficient evidence of uncertified practice is uncovered,

the evidence must be compiled and presented to the Attorney General or the local district attorney's office for prosecution.

3. Criminal penalties. Notwithstanding any other provision of law:

A. A person who practices or represents to the public that the person is authorized to practice as an underground oil storage tank installer or inspector and intentionally, knowingly or recklessly fails to obtain certification as required by this chapter or intentionally, knowingly or recklessly practices or represents to the public that the person is authorized to practice after the certification required by this chapter has expired or been suspended or revoked commits a Class E crime; and

B. A person who violates paragraph A when the person has a prior conviction under this subsection commits a Class D crime. Title 17-A, section 9-A governs the use of prior convictions when determining a sentence, except that, for purposes of this paragraph, the date of the prior conviction must precede the commission of the offense being enhanced by no more than 3 years.

4. Civil violations. A person who practices or represents to the public that the person is authorized to practice as an underground oil storage tank installer or inspector without first obtaining certification as required by this chapter or after the certification has expired or has been suspended or revoked commits a civil violation for which a fine of not less than \$100 and not more than \$2,000 for each violation may be adjudged. An action under this subsection may be brought in District Court or Superior Court.

5. Injunctions. The Attorney General may bring an action in District Court or Superior Court to enjoin a person from violating subsection 4 and to restore to a person who has suffered any ascertainable loss by reason of that violation any money or personal or real property that may have been acquired by means of that violation and to compel the return of compensation received for engaging in that unlawful conduct.

A person who violates the terms of an injunction issued under this subsection shall pay to the State a fine of not more than \$10,000 for each violation. In an action under this subsection, when a permanent injunction has been issued, the court may order the person against whom the permanent injunction is issued to pay to the Ground Water Oil Clean-up Fund under Title 38, chapter 3, subchapter 2-B the costs of the investigation of that person by the Attorney General and the costs of suit, including attorney's fees. In an action by the Attorney General brought against a person for violating the terms of an injunction issued under this subsection, the court may make the necessary orders or judgments to restore to a person who has suffered any ascertainable loss any money or personal

or real property or to compel the return of compensation received by reason of such conduct found to be in violation of an injunction.

See title page for effective date.

CHAPTER 498

H.P. 1408 - L.D. 2024

An Act To Clarify the Licensure of Advanced Practice Registered Nurses

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

Sec. 1. 32 MRSA §2102, sub-§4, as amended by PL 1985, c. 724, §4, is further amended to read:

4. License. A "license" is an authorization to practice nursing as a professional nurse or practical nurse or advanced practice registered nurse.

Sec. 2. 32 MRSA §2102, sub-§5-A, as enacted by PL 1995, c. 379, §5 and affected by §11, is amended to read:

5-A. Advanced practice registered nurse. "Advanced practice registered nurse" means an individual who is currently licensed under this chapter ~~and approved by the board~~ to practice advanced practice registered nursing as defined in subsection 2-A. "A.P.R.N." is the abbreviation for the title of "advanced practice registered nurse." An advanced practice registered nurse may use the abbreviation "A.P.R.N." or the title or abbreviation designated by the national certifying body.

"Advanced practice registered nurse" includes a certified nurse practitioner, a certified nurse midwife, a certified clinical nurse specialist and a certified nurse anesthetist who are licensed under this chapter ~~and are approved by the board~~ to practice advanced practice registered nursing.

Sec. 3. Effective date. This Act takes effect September 1, 2008.

Effective September 1, 2008.

CHAPTER 499

S.P. 786 - L.D. 1992

An Act To Amend the Laws Governing Agricultural Marketing and Bargaining

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