

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

§629. Unfair agreements

1. Work without compensation; return of compensation. A person, firm or corporation may not require or permit any person as a condition of securing or retaining employment to work without monetary compensation or when having an agreement, oral, written or implied, that a part of such compensation should be returned to the person, firm or corporation for any reason other than for the payment of a loan, debt or advance made to the person, or for the payment of any merchandise purchased from the employer or for sick or accident benefits, or life or group insurance premiums, excluding compensation insurance, that an employee has agreed to pay, or for rent, light or water expense of a company-owned house or building. This section does not apply to work performed in agriculture or in or about a private home.

2. Debt. For purposes of this subchapter, "debt" means a benefit to the employee. "Debt" does not include items incurred by the employee in the course of the employee's work or dealing with customers on the employer's behalf, such as cash shortages, inventory shortages, dishonored checks, dishonored credit cards, damages to the employer's property in any form or any merchandise purchased by a customer. "Debt" does not include uniforms, personal protective equipment or other tools of the trade that are considered to be primarily for the benefit or convenience of the employer. As used in this subsection, "uniforms" means shirts or other items of clothing bearing the company name or logo. The employer may not mandate that an employee pay for the cleaning and maintenance of a uniform, but may have a written agreement whereby the employee chooses to have a payroll deduction for the cost of cleaning and maintenance.

3. Penalty. An employer is liable to an employee for the amount returned to the employer by that employee as prohibited in this section.

4. Deduction of service fees. Public employers may deduct service fees owed by an employee to a collective bargaining agent from the employee's pay, without signed authorization from the employee, and remit those fees to the bargaining agent, as long as:

A. The fee obligation arises from a lawfully executed and implemented collective bargaining agreement; and

B. In the event a fee payor owes any arrears on the payor's fee obligations, the deduction authorized under this subsection may include an installment on a payment plan to reimburse all arrears, but may not exceed in each pay period 10% of the gross pay owed.

See title page for effective date.

CHAPTER 525

S.P. 836 - L.D. 2176

An Act Relating to Studded Tires

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

Sec. 1. 29-A MRSA §1919, sub-§1, as enacted by PL 2003, c. 452, Pt. Q, §24 and affected by Pt. X, §2, is amended to read:

1. Prohibited May 1st to October 1st. Except as provided in subsections 2 and 3, from the first day of May to the first day of October, a person may not operate a vehicle with tires having metal studs, wires, spikes or other metal protruding from the tire tread. Pneumatic tires that feature embedded blocks, studs, flanges, cleats, spikes or other protuberances that are retractable may be used any time of the year, except that the protuberances may not be engaged or extended from the first day of May to the first day of October.

See title page for effective date.

CHAPTER 526

H.P. 1567 - L.D. 2197

An Act To Comprehensively Address Grand Jury Territorial Authority To Indict for Crimes

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

Sec. 1. 15 MRSA §1255-A is enacted to read:
§1255-A. Grand jury territorial authority to indict for crimes

1. General rule. Grand jury territorial authority to indict for crimes coming within the jurisdiction of the Superior Court must be exercised by the grand jury serving the county where the crime was committed.

2. Exceptions. The following are exceptions to subsection 1.

A. If the Chief Justice of the Supreme Judicial Court creates judicial regions for venue purposes pursuant to Title 4, section 19, each grand jury in a multicounty judicial region may share authority to indict for crimes committed in that judicial region.

B. Grand jury territorial authority to indict for crimes may also be exercised as otherwise provided by law.

3. Administration. The Supreme Judicial Court shall establish by rule or administrative order how and

to what extent the shared authority of each grand jury in a multicounty judicial region to indict under subsection 2 may be exercised.

Sec. 2. 15 MRSA §1256, as amended by PL 1973, c. 567, §20, is further amended to read:

§1256. Grand jury to present all crimes

Grand juries shall present all offenses cognizable by the court at which they attend crimes for which by law they are given territorial authority to indict, and may appoint one of their number to take minutes of their proceedings to be delivered to the attorney, if the jury so directs. When they are dismissed before the court adjourns, they may be summoned again, on any special occasion, at such time as the court directs. Evidence relating to offenses cognizable by the court may be offered to the grand jury by the Attorney General, the district attorney, the assistant district attorney and, at the discretion of the presiding justice, by such other persons as said presiding justice may permit.

See title page for effective date.

CHAPTER 527

H.P. 1589 - L.D. 2223

An Act To Expand the Natural Resources Protection Act Compensation Program

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

Sec. 1. 38 MRSA §480-Z, as amended by PL 2005, c. 592, §§3 and 4, is further amended to read:

§480-Z. Compensation

The department may establish a program providing for compensation of unavoidable freshwater or coastal wetland losses to an area listed in subsection 7 due to a proposed activity. Compensation must include the restoration, enhancement, creation or preservation of wetlands an area or areas that have functions or values similar to the wetlands area impacted by the activity, unless otherwise approved by the department. Preservation may include protection of uplands adjacent to wetlands an area.

The department may require that compensation include the design, implementation and maintenance of a compensation project or, in lieu of such a project, may allow the applicant to purchase credits from a mitigation bank or to pay a compensation fee. If compensation is required, the completion and maintenance of a project, purchase of credits or payment of a compensation fee must be a condition of the permit.

The department shall identify an appropriate project, or determine the amount of credits or compen-

sation fee, based upon the compensation that would be necessary to restore, enhance, create or preserve wetlands areas with functions or values similar to the wetlands areas impacted by the activity. However, the department may allow the applicant to conduct a project of equivalent value, or allow the purchase of credits or payment of a compensation fee of equivalent value, to be used for the purpose of restoring, enhancing, creating or preserving other wetland functions or values of the area that are environmentally preferable to the functions and values impacted by the activity, as determined by the department. The loss of functions or values of one type of area may not be compensated for by the restoration, enhancement, creation or preservation of another type of area. For example, the loss of functions or values of a coastal wetland may not be compensated for by the restoration, enhancement, creation or preservation of freshwater wetland functions or values.

A project undertaken pursuant to this section must be approved by the department. The department shall base its approval of a wetlands compensation project on the wetland management priorities identified by the department for the watershed or biophysical region in which the project is located. The department shall base its approval of a compensation project concerning an area listed in subsection 7, paragraph C, D or E on the management priorities identified by the department for the type of habitat. The department may not approve a compensation project for unavoidable losses to an area until the applicant has complied with all other applicable provisions of this article and all applicable rules adopted by the department pursuant to this article. For purposes of this section, "biophysical region" means a region with shared characteristics of climate, geology, soils and natural vegetation.

1. Location of project. A compensation project must be located on or adjacent to the project site, unless otherwise approved by the department. A compensation project must be located in the same watershed as the wetlands area affected by the activity unless the department determines, based on regional hydrological or ecological priorities, that there is a scientific justification for locating the compensation project outside of the same watershed.

2. Approval of mitigation bank. A mitigation bank from which any credits are purchased must be approved by the department consistent with all applicable federal rules and regulations.

3. Compensation fee program. The department may develop a wetlands compensation fee program for the areas listed in subsection 7, paragraphs A and B in consultation with the State Planning Office, the United States Army Corps of Engineers and state and federal resource agencies, including the United States Fish and Wildlife Service and the United States Environmental Protection Agency. The department may de-