

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

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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

Sec. 28. 30-A MRSA §900-N, sub-§1, as enacted by PL 2005, c. 124, §1, is amended to read:

1. Public hearing. The county commissioners shall hold one or more public hearings on the budget at times convenient for the residents of the county and ~~before December 16th of each~~ no later than 15 days before the end of the county's fiscal year.

Sec. 29. 30-A MRSA §900-N, sub-§2, as enacted by PL 2005, c. 124, §1, is amended to read:

2. Budget; submission to budget committee. The Penobscot County commissioners shall submit a budget for the coming year to the budget committee no later than ~~November 10th of each~~ 50 days before the end of the county's fiscal year. The budget committee shall review the budget with the county commissioners ~~prior to November 30th~~ no later than 30 days before the end of the county's fiscal year and make additions or deletions to the budget by a majority vote of the budget committee. A unanimous vote of the county commissioners is required to override the budget committee.

See title page for effective date.

CHAPTER 664

H.P. 1648 - L.D. 2285

An Act To Implement the Recommendations of a Task Force Convened To Evaluate and Recommend Revisions Regarding the Statutory Definition of "Service Dog"

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

Sec. 1. 5 MRSA §4553, sub-§9-D is enacted to read:

9-D. Service animal. "Service animal" means:

A. Any animal that has been determined necessary to mitigate the effects of a physical or mental disability by a physician, psychologist, physician's assistant, nurse practitioner or licensed social worker; or

B. Any animal individually trained to do work or perform tasks for the benefit of an individual with a physical or mental disability, including, but not limited to, guiding individuals with impaired vision, alerting individuals who are deaf or hard of hearing to intruders or sounds, providing reasonable protection or rescue work, pulling a wheelchair or fetching dropped items.

Sec. 2. 5 MRSA §4582-A, sub-§1, as amended by PL 2007, c. 243, §2, is further amended to read:

1. Modifications. For any owner, lessee, sublessee, managing agent or other person having the right to sell, rent, lease or manage a housing accommodation or any of their agents to refuse to permit, at the expense of a person with physical or mental disability, reasonable modifications of existing premises occupied or to be occupied by that person if the modifications may be necessary to give that person full enjoyment of the premises, except that, with a rental, the landlord, when it is reasonable to do so, may condition permission for a modification on the renter's agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted; ~~or~~

Sec. 3. 5 MRSA §4582-A, sub-§2, as amended by PL 2007, c. 243, §3, is further amended to read:

2. Accommodations. For any owner, lessee, sublessee, managing agent or other person having the right to sell, rent, lease or manage a housing accommodation or any of their agents to refuse to make reasonable accommodations in rules, policies, practices or services when those accommodations are necessary to give a person with physical or mental disability equal opportunity to use and enjoy the housing; ~~or~~

Sec. 4. 5 MRSA §4582-A, sub-§3 is enacted to read:

3. Service animals. For any owner, lessee, sublessee, managing agent or other person having the right to sell, rent, lease or manage a housing accommodation or any of their agents to refuse to permit the use of a service animal or otherwise discriminate against an individual with a physical or mental disability who uses a service animal at the housing accommodation unless it is shown by defense that the service animal poses a direct threat to the health or safety of others or the use of the service animal would result in substantial physical damage to the property of others or would substantially interfere with the reasonable enjoyment of the housing accommodation by others. The use of a service animal may not be conditioned on the payment of a fee or security deposit, although the individual with a physical or mental disability is liable for any damage done to the premises or facilities by such a service animal.

Sec. 5. 5 MRSA §4592, sub-§6, as enacted by PL 1995, c. 393, §24, is amended to read:

6. Association. For a covered entity to exclude or otherwise deny equal goods, services, facilities, privileges, advantages, accommodations or other opportunities to an individual or entity because of the known disability of an individual with whom the indi-

vidual or entity is known to have a relationship or association; and

Sec. 6. 5 MRSA §4592, sub-§7, as enacted by PL 1995, c. 393, §24, is amended to read:

7. Administrative methods. For an individual or an entity, directly or through contractual or other arrangements, to utilize standards or criteria or methods of administration:

A. That have the effect of discrimination on the basis of disability; or

B. That perpetuate the discrimination of others who are subject to common administrative control; and

Sec. 7. 5 MRSA §4592, sub-§8 is enacted to read:

8. Service animals. For any public accommodation or any person who is the owner, lessor, lessee, proprietor, operator, manager, superintendent, agent or employee of any place of public accommodation to refuse to permit the use of a service animal or otherwise discriminate against an individual with a physical or mental disability who uses a service animal at the public accommodation unless it is shown by defense that the service animal poses a direct threat to the health or safety of others or the use of the service animal would result in substantial physical damage to the property of others or would substantially interfere with the reasonable enjoyment of the public accommodation by others. The use of a service animal may not be conditioned on the payment of a fee or security deposit, although the individual with a physical or mental disability is liable for any damage done to the premises or facilities by such a service animal.

Sec. 8. 7 MRSA §3907, sub-§13, as enacted by PL 1987, c. 383, §3, is amended to read:

13. Service dog kept for breeding purposes. "~~Guide Service dog or hearing dog~~ kept for breeding purposes" means a male or female dog owned by a nonprofit organization for the purpose of producing puppies to be trained as ~~guide service dogs or hearing dogs~~ and living with a resident of the State.

Sec. 9. 7 MRSA §3907, sub-§14, as enacted by PL 1987, c. 383, §3, is amended to read:

14. Service dog kept prior to training. "~~Guide Service dog or hearing dog~~ kept prior to training" means a dog under 18 months of age, owned by a nonprofit organization for the purpose of training as a ~~guide service dog or hearing dog~~ and living temporarily with a resident of the State prior to training.

Sec. 10. 7 MRSA §3907, sub-§24-A is enacted to read:

24-A. Service dog. "Service dog" means a dog that meets the definition of "service animal" set forth in Title 5, section 4553, subsection 9-D.

Sec. 11. 7 MRSA §3922, sub-§4, as amended by PL 1995, c. 409, §4, is further amended to read:

4. Service dogs. If a ~~trained~~ service dog has not been previously registered or licensed by the municipal clerk to whom the application is being made, the clerk ~~shall~~ may not register the dog nor issue to its owner or keeper a license and tag that identifies the dog as a service dog unless the applicant presents written evidence is provided to the municipal clerk that the dog is trained and educated and intended to perform guide service for the applicant. meets the definition of "service dog." For the purpose of this subsection "written evidence" means a service dog certification form approved by the department in consultation with the Maine Human Rights Commission.

Sec. 12. 7 MRSA §3923-A, sub-§3, as amended by PL 2001, c. 422, §9, is further amended to read:

3. Exemption from fees. A municipal clerk or a veterinary licensing agent shall issue a license upon application and without payment of a license fee required under this section for:

A. A ~~trained guide service dog~~ owned or kept by a ~~visually impaired person or such a dog awaiting training~~ with a physical or mental disability;

B. ~~A trained hearing dog owned or kept by a hearing impaired person or such a dog awaiting training;~~

C. ~~A trained service dog owned or kept by a physically impaired person or such a dog awaiting training;~~

D. A trained search and rescue dog recognized by the Department of Inland Fisheries and Wildlife or by the statewide association of search and rescue that cooperates with the Department of Inland Fisheries and Wildlife in developing standards for search and rescue or such a dog awaiting training; and

E. A dog certified by the State and used for law enforcement purposes.

Sec. 13. 7 MRSA §3961-A, as enacted by PL 2001, c. 220, §2, is amended to read:

§3961-A. Attack on service animal

A person who owns or keeps a dog that attacks, injures or kills a ~~dog~~ service animal while the ~~dog~~ service animal is in discharge of its duties commits a civil violation for which a forfeiture of not more than \$1,000 may be adjudged.

When a person is adjudicated of a violation of this section, the court shall order the person to make resti-

tution to the owner of the service ~~dog~~ animal for any veterinary bills and necessary retraining costs or replacement costs of the ~~dog~~ service animal if it is disabled or killed.

For the purposes of this section, "service ~~dog~~ animal" means a ~~guide dog for the visually impaired, a hearing dog trained to alert a person with impaired hearing or a personal care dog as defined in Title 17, section 1312, subsection 7~~ has the same meaning as set forth in Title 5, section 4553, subsection 9-D.

Sec. 14. 17 MRSA §1011, sub-§13, as enacted by PL 1987, c. 383, §4, is amended to read:

13. Service dog kept for breeding purposes. "Guide ~~Service~~ dog or hearing dog kept for breeding purposes" means a male or female dog owned by a nonprofit organization for the purpose of producing puppies to be trained as guide service dogs or hearing dogs and living with a resident of the State.

Sec. 15. 17 MRSA §1011, sub-§14, as enacted by PL 1987, c. 383, §4, is amended to read:

14. Service dog kept prior to training. "~~Guide Service~~ dog or hearing dog kept prior to training" means a dog under 18 months of age, owned by a nonprofit organization for the purpose of training as a guide service dog or hearing dog and living temporarily with a resident of the State prior to training.

Sec. 16. 17 MRSA §1011, sub-§24-A is enacted to read:

24-A. Service dog. "Service dog" means a dog that meets the definition of "service animal" set forth in Title 5, section 4553, subsection 9-D.

Sec. 17. 17 MRSA §1312, sub-§3, as amended by PL 1997, c. 611, §1, is further amended to read:

3. Service dogs. Every totally or partially blind or otherwise physically or mentally disabled person has the right to be accompanied by a ~~guide or personal care~~ service dog, especially trained for the purpose, in any of the places listed in subsection 2 without being required to pay an extra charge for the ~~guide or personal care~~ service dog; however, the person is liable for any damage done to the premises or facilities by such a dog.

Sec. 18. 17 MRSA §1312, sub-§4, as amended by PL 1997, c. 611, §2, is further amended to read:

4. Especially trained service dog trainer; access to public facilities; responsibilities. An especially trained ~~guide dog trainer or personal care~~ service dog trainer, while engaged in the actual training process and activities of ~~guide or personal care~~ service dogs, has the same rights, privileges and responsibilities described in this section with respect to access to and use of public facilities as are applicable to a blind,

visually handicapped or otherwise physically or mentally disabled person.

Sec. 19. 17 MRSA §1312, sub-§5, as amended by PL 1997, c. 611, §3, is further amended to read:

5. Housing accommodations; persons with service dogs. Every blind or visually handicapped or otherwise physically or mentally disabled individual who has a ~~sight assistance or assistance~~ service animal, such as a ~~guide or personal care~~ service dog, is entitled to full and equal access to all housing accommodations provided for in this section. Blind or visually impaired or otherwise physically or mentally disabled individuals may not be required to pay extra compensation to keep ~~sight assistance or personal care~~ service animals. A blind or visually impaired or otherwise physically or mentally disabled person is liable for any damages done to the premises by the service animal.

Sec. 20. 17 MRSA §1312, sub-§7, as enacted by PL 1997, c. 611, §4, is amended to read:

7. Service dog; definition. As used in this section, "~~personal care~~ service dog" means a dog that ~~provides assistance with activities of daily living for a person who is physically disabled~~ meets the definition of "service animal" in Title 5, section 4553, subsection 9-D.

Sec. 21. 17 MRSA §1313, as amended by PL 1997, c. 611, §5, is further amended to read:

§1313. Motor vehicle drivers

The driver of a vehicle approaching a totally or partially blind or otherwise physically disabled pedestrian who is carrying a cane predominantly white or metallic in color, with or without a red tip, or using a ~~guide or personal care~~ service dog as defined in section 1312 shall take all necessary precautions to avoid injury to that blind or otherwise physically disabled pedestrian, and any driver who fails to take such precautions is liable in damages for any injury caused the pedestrian. A totally or partially blind or otherwise physically disabled pedestrian, not carrying such a cane or using a ~~guide or personal care~~ service dog in any of the places, accommodations or conveyances listed in section 1312, has all of the rights and privileges conferred by law upon other persons, and the failure of a totally or partially blind or otherwise physically disabled pedestrian to carry such a cane or to use a ~~guide or personal care~~ service dog in any such places, accommodations or conveyances may not be held to constitute nor be evidence of contributory negligence.

Sec. 22. 17 MRSA §1314-A, as enacted by PL 2003, c. 452, Pt. I, §28 and affected by Pt. X, §2, is amended to read:

§1314-A. Misrepresentation of service dog

A person who fits a dog with a harness, collar, vest or sign of the type commonly used by blind persons in order to represent that the dog is a guide service dog; or commonly used by persons with disabilities to represent that the dog is a service dog when training of the type that guide dogs normally receive has not been provided; or when the dog does not meet the definition of "service dog" as defined in section 1312 commits a civil violation for which a fine of not more than ~~\$100~~ \$500 may be adjudged.

Sec. 23. 17 MRSA §3966, 2nd ¶, as enacted by PL 2005, c. 318, §1, is amended to read:

For the purposes of this section, "service animal" ~~means an animal that has been prescribed for an individual with a disability by a physician, psychiatrist or psychologist and a guide dog, signal dog or other animal individually trained to do work or perform tasks for the benefit of an individual with a disability, including, but not limited to, guiding individuals with impaired vision, alerting individuals with impaired hearing to intruders or sounds, providing minimal protection or rescue work, pulling a wheelchair or fetching items~~ has the same meaning as set forth in Title 5, section 4553, subsection 9-D.

Sec. 24. 26 MRSA §1420-A, sub-§3, as amended by PL 2003, c. 414, Pt. B, §6 and affected by c. 614, §9, is repealed.

Sec. 25. 26 MRSA §1420-A, sub-§4, as enacted by PL 1995, c. 560, Pt. F, §13, is repealed.

Sec. 26. 26 MRSA §1420-A, sub-§5, as enacted by PL 1995, c. 560, Pt. F, §13, is repealed.

Sec. 27. 26 MRSA §1420-D, as enacted by PL 2003, c. 452, Pt. O, §7 and affected by Pt. X, §2, is repealed.

See title page for effective date.

CHAPTER 665

S.P. 918 - L.D. 2300

An Act To Facilitate the Provision of Educational Loans for Maine Students and Families

Emergency preamble. **Whereas**, acts and resolutions of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, there has been unprecedented turbulence in the capital markets that has made it necessary to replace existing auction rate bond financing for fed-

erally guaranteed student loans with financing supported by a capital reserve fund; and

Whereas, if financing supported by a capital reserve fund cannot be made available, the availability, rates and terms of federally guaranteed student loans to Maine borrowers may be adversely affected, resulting in increased costs to students and families or even unavailability of federally guaranteed student loans; 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. 20-A MRSA §11496-A is enacted to read:

§11496-A. Capital reserve funds; obligation of the State

1. Capital reserve fund. The authority may create and establish one or more capital reserve funds and may pay into any capital reserve fund any money appropriated and made available by the State for the purposes of any such fund, any proceeds of the sale by the authority of bonds to the extent determined by the authority and any other money available to the authority. The authority may not create or establish any capital reserve fund under this subsection after June 30, 2009.

2. Application. Money held in any capital reserve fund established pursuant to subsection 1, except as provided in this subsection, must be used solely with respect to bonds, the repayment of which is secured by any such fund, and solely for the payment of principal of the securities, the purchase or redemption of the securities, including any fees or premiums, or the payment of interest on the securities. In addition, if the authority obtains a letter of credit, insurance contract, surety bond or similar financial undertaking to establish and fund a capital reserve fund under subsection 1, money in that capital reserve fund may be used to pay, as and when due, all reimbursement obligations of the authority established in connection with that letter of credit, insurance contract, surety bond or similar financial undertaking, including, but not limited to, all fees, expenses, indemnities and commissions. Money in excess of the reserve requirement established pursuant to subsection 3 may be transferred to other funds and accounts of the authority.

3. Capital reserve requirement. For purposes of this section, the capital reserve requirement applicable to a capital reserve fund established pursuant to subsection 1 is: