

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE

FIRST REGULAR SESSION
December 3, 2008 to June 13, 2009

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FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
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PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Augusta, Maine
2009

C. Specifically set a minimum temperature for heat, which may not be less than 62 degrees Fahrenheit; and

D. Set forth a stated reduction in rent that must be fair and reasonable under the circumstances.

An agreement under this subsection may not be entered into or maintained if a person over 65 years of age or under 5 years of age resides on the premises. A landlord is not responsible if a tenant who controls the temperature on the premises reduces the heat to an amount less than 68 degrees Fahrenheit as long as the landlord complies with subsection 6, paragraph B or if the tenant fails to inform the landlord that a person over 65 years of age or under 5 years of age resides on the premises.

See title page for effective date.

CHAPTER 140

H.P. 556 - L.D. 820

An Act To Prohibit Smoking in Outdoor Eating Areas

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

Sec. 1. 22 MRSA §1542, sub-§1, as amended by PL 2005, c. 257, §2, is further amended to read:

1. Prohibition. Smoking is prohibited in all enclosed areas of public places, outdoor eating areas as provided in section 1550 and all rest rooms made available to the public. In the case of a child care facility that is not home-based, smoking is also prohibited in a facility-designated motor vehicle within 12 hours before transporting a child who is in the care of the child care facility, and whenever such a child is present in the vehicle. Smoking is also prohibited in outdoor areas of the facility where children may be present.

Sec. 2. 22 MRSA §1550 is enacted to read:

§1550. Smoking in outdoor eating areas

1. Definition. As used in this section, "outdoor eating area" means a patio, deck or other property that is partially enclosed or open to the sky that is permitted for outdoor eating or drinking under the control of an eating establishment, as defined in section 2491, subsection 7, as long as food or drink is served by the eating establishment to the public for consumption on the premises.

2. Smoking prohibited. Smoking is prohibited in an outdoor eating area if the outdoor eating area or any portion thereof is open and available for dining and beverage service.

3. Notification; request for compliance. An eating establishment with an outdoor eating area shall post signs in accordance with section 1543, notify its patrons of the prohibition on smoking in outdoor eating areas and request that all persons within an outdoor eating area comply with this section.

See title page for effective date.

CHAPTER 141

H.P. 840 - L.D. 1215

An Act To Correct Administrative Procedures Regarding the Dental Care Access Credit

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

Whereas, Public Law 2007, chapter 690 enacted an income tax credit for new dentists who agree to practice in underserved areas of the State; and

Whereas, provisions of the credit regarding administration of the law need changes in order for the credit to be implemented; and

Whereas, the credit applies to income tax years beginning in 2009; and

Whereas, it is critical to implement the credit as soon as possible to provide an incentive to dentists to locate in areas of the State that are in desperate need of dental practitioners; 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. 36 MRSA §5219-BB, as enacted by PL 2007, c. 690, §1 is repealed.

Sec. 2. 36 MRSA §5219-DD is enacted to read:

§5219-DD. Dental care access credit

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Eligible dentist" means a person licensed as a dentist under Title 32, chapter 16, subchapter 3 who, after January 1, 2009;

(1) First begins practicing dentistry in the State by joining an existing dental practice in an underserved area or establishing a new dental practice or purchasing an existing dental practice in an underserved area;

(2) Agrees to practice full time for at least 5 years in an underserved area; and

(3) Is certified under subsection 3 to be eligible by the oral health program.

B. "Oral health program" means the program within the Department of Health and Human Services with responsibility for oral health promotion and dental disease prevention activities.

C. "Underserved area" means an area in the State that is a dental health professional shortage area as defined by the federal Department of Health and Human Services, Health Resources and Services Administration.

2. Credit. An eligible dentist is allowed a credit, not to exceed \$15,000, against the taxes due under this Part. The credit may be claimed in the first year that the eligible dentist meets the conditions of eligibility for at least 6 months and each of the 4 subsequent years. The credit is not refundable.

3. Eligibility limitation; certification. The oral health program shall certify up to 5 eligible dentists in 2009 and up to 5 additional eligible dentists in 2010. Additional dentists may not be certified after 2010. The oral health program shall monitor certified dentists to ensure that they continue to be eligible for the credit under this section and shall decertify any dentist who ceases to meet the conditions of eligibility. The oral health program shall notify the bureau whenever a dentist is certified or decertified. A decertified dentist ceases to be eligible for the credit under this section beginning with the tax year during which the dentist is decertified.

4. Review. By March 1, 2011, the oral health program shall submit to the joint standing committee of the Legislature having jurisdiction over taxation matters a report that analyzes the effectiveness of the credit provided by this section in attracting dentists to underserved areas and recommending whether the credit should be retained, repealed or amended. The committee may submit legislation to the First Regular Session of the 125th Legislature related to the report.

5. Rules. The Department of Health and Human Services may adopt rules to implement this section. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

6. Repeal. This section is repealed December 31, 2015.

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

Effective May 14, 2009.

CHAPTER 142

H.P. 445 - L.D. 631

An Act To Amend the Laws Relating to the Department of Corrections

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

Sec. 1. 17-A MRSA §2, sub-§3-C is enacted to read:

3-C. Adult probation supervisor. "Adult probation supervisor" means any person who:

A. Is an employee of the Department of Corrections;

B. Supervises adult probation officers; and

C. Is trained, qualified and authorized by the Commissioner of Corrections to use deadly force.

Sec. 2. 17-A MRSA §2, sub-§17, as amended by PL 1989, c. 113, §2, is further amended to read:

17. "Law enforcement officer" means any person who by virtue of public employment is vested by law with a duty to maintain public order, to prosecute offenders, to make arrests for crimes whether that duty extends to all crimes or is limited to specific crimes, to perform probation functions or to perform intensive supervision functions or who is an adult probation supervisor.

Sec. 3. 17-A MRSA §15, sub-§1, ¶A, as amended by PL 2007, c. 518, §4, is further amended to read:

A. Any person who the officer has probable cause to believe has committed or is committing:

(1) Murder;

(2) Any Class A, Class B or Class C crime;

(3) Assault while hunting;

(4) Any offense defined in chapter 45;

(5) Assault, criminal threatening, terrorizing or stalking, if the officer reasonably believes that the person may cause injury to others unless immediately arrested;

(5-A) Assault, criminal threatening, terrorizing, stalking, criminal mischief, obstructing the report of a crime or injury or reckless conduct if the officer reasonably believes that