

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

THE GENERAL EFFECTIVE DATE FOR
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

tion criteria and amounts and procedures for certification and verification of removal and possible replacement of eligible outdoor wood boilers. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 6. Outdoor wood boiler rules. The Department of Environmental Protection shall adopt rule amendments to Chapter 150: Control of Emissions from Outdoor Wood Boilers, a rule of the Department of Environmental Protection, Bureau of Air Quality Control, that:

1. Change the current requirement that any person intending to install or operate a commercial outdoor wood boiler must obtain an evaluation, a report and installation recommendations from a professional engineer to a requirement that the evaluation, report and installation recommendations must be obtained from a qualified professional, including a professional engineer or a master solid fuel burner technician;

2. Amend the definition of "commercial outdoor wood boiler" to exclude outdoor wood boilers used solely for space heating or domestic hot water; and

3. Allow a person who upgrades or replaces a nuisance outdoor wood boiler when money is not available from the Outdoor Wood Boiler Fund to be eligible for reimbursement from the fund when money is available.

Notwithstanding anything to the contrary in the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A and Title 38, section 610-B, last paragraph, the Department of Environmental Protection is not required to hold hearings or conduct other formal proceedings prior to adopting the rules amendments in accordance with subsections 1 and 2. Notwithstanding Title 38, section 610-B, last paragraph, the initial rule amendments adopted pursuant to subsection 3 are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. After adoption of the initial rule amendments pursuant to this section, any further rule amendment adopted pursuant to this section is considered a major substantive rule and is subject to legislative review in accordance with Title 5, chapter 375, subchapter 2-A.

See title page for effective date.

CHAPTER 210 H.P. 979 - L.D. 1400

An Act To Designate July 12th as Wyeth Day

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

Whereas, this legislation needs to take effect before July 12, 2009, the birthday of Andrew Wyeth; 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. 1 MRSA §150-D is enacted to read:

§150-D. Wyeth Day

The Governor shall annually issue a proclamation designating July 12th of each year as Wyeth Day in recognition of the birthday of Andrew Wyeth, one of America's great artists. The observance is created to honor Andrew Wyeth, who had long and lasting ties with this State, and his family and their strong contributions to the State's artistic and cultural heritage and is meant to coincide with appropriate commemorative activities throughout the State. The Department of Education shall make appropriate information available to the people and the schools within the limits of its budget.

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

Effective May 26, 2009.

CHAPTER 211 S.P. 182 - L.D. 479

An Act To Recognize Maine Youth Camps

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

PART A

Sec. A-1. 22 MRSA §2491, sub-§7, as amended by PL 1979, c. 672, Pt. A, §59, is further amended to read:

7. Eating establishment. "Eating establishment" means any place where food or drink is prepared and served, or served to the public for consumption on the premises, or catering establishments, or establishments dispensing food from vending machines, or establishments preparing foods for vending machines dispensing foods other than in original sealed packages, such as hotels, motels, boarding homes, restaurants, mobile eating places, coffee shops, cafeterias, short order cafes, luncheonettes, grills, tearooms, sandwich shops, soda fountains, bars, cocktail lounges, night clubs, roadside stands, industrial feeding establishments,

private or public institutions routinely serving foods, retail frozen dairy product establishments, airports, parks, theaters, ~~vacation~~ recreational camps, youth camps or any other catering or nonalcoholic drinking establishments or operations where food is prepared and served or served for consumption on the premises, or catering establishments where food is prepared, or where foods are prepared for vending machines dispensing food other than in original sealed packages.

Sec. A-2. 22 MRSA §2491, sub-§11, as enacted by PL 1975, c. 496, §3, is amended to read:

11. Recreational camp. "Recreational camp" means and includes ~~day camps, boys' and girls', family, hunting, fishing and similar camps.~~

Sec. A-3. 22 MRSA §2491, sub-§16 is enacted to read:

16. Youth camp. "Youth camp" means a combination of program and facilities established for the primary purpose of providing an outdoor group living experience for children with social, recreational, spiritual and educational objectives and operated and used for 5 or more consecutive days during one or more seasons of the year. "Youth camp" includes day camps, residential camps and trip and travel camps.

Sec. A-4. 22 MRSA §2492, sub-§1, ¶D, as enacted by PL 2003, c. 452, Pt. K, §20 and affected by Pt. X, §2, is amended to read:

D. A recreational camp; ~~or~~

Sec. A-5. 22 MRSA §2492, sub-§1, ¶E, as enacted by PL 2003, c. 452, Pt. K, §20 and affected by Pt. X, §2, is amended to read:

E. A camping area; ~~or~~

Sec. A-6. 22 MRSA §2492, sub-§1, ¶F is enacted to read:

F. A youth camp.

Sec. A-7. 22 MRSA §2494, first ¶, as amended by PL 2007, c. 539, Pt. F, §1, is further amended to read:

Each application for, or for renewal of, a license to operate an eating establishment, eating and lodging place, lodging place, recreational camp, youth camp or camping area within the meaning of this chapter must be accompanied by a fee, appropriate to the size of the establishment, place, camp or area of the licensee, determined by the department and not to exceed the fees listed below. All fees collected by the department must be deposited into a special revenue account established for this purpose. No such fee may be refunded. No license may be assignable or transferable. The fees may not exceed:

Sec. A-8. 22 MRSA §2495, first ¶, as amended by PL 1983, c. 553, §21, is further amended to read:

The department shall, within 30 days following receipt of application, issue an annual license to operate any eating establishment, eating and lodging place, lodging place, recreational camp, youth camp or camping area ~~which that~~ is found to comply with this chapter and the ~~regulations~~ rules adopted by the department.

Sec. A-9. 22 MRSA §2496, sub-§2, as enacted by PL 2005, c. 140, §1, is amended to read:

2. Youth camps; emergency medication. A ~~recreational youth camp for boys or girls~~ must have a written policy authorizing campers to self-administer emergency medication, including, but not limited to, an asthma inhaler or an epinephrine pen. The written policy must include the following requirements:

A. A camper who self-administers emergency medication must have the prior written approval of the camper's primary health care provider and the camper's parent or guardian;

B. The camper's parent or guardian must submit written verification to the youth camp from the camper's primary health care provider confirming that the camper has the knowledge and the skills to safely self-administer the emergency medication in camp;

C. The youth camp health staff must evaluate the camper's technique to ensure proper and effective use of the emergency medication in camp; and

D. The emergency medication must be readily available to the camper.

Sec. A-10. 22 MRSA §2498, sub-§1, ¶A, as amended by PL 2003, c. 673, Pt. X, §3, is further amended to read:

A. The department may impose penalties for violations of this chapter, or the rules ~~enacted~~ adopted pursuant to this chapter, on any eating establishment, eating and lodging place, lodging place, recreational camp, youth camp or camping area. The penalties may not be greater than \$100 for each violation. Each day that the violation remains uncorrected may be counted as a separate offense. Penalties may be imposed for each violation of the rules.

Sec. A-11. 22 MRSA §2498, sub-§1, ¶B, as enacted by PL 1991, c. 528, Pt. J, §5 and affected by Pt. RRR and enacted by c. 591, Pt. J, §5, is amended to read:

B. The department may direct an eating establishment, eating and lodging place, lodging place, recreational camp, youth camp or camping area to correct any violations in a manner and within a time frame that the department determines is appropriate to ensure compliance with state rules or to protect the public health. Failure to correct vio-

lations within the time frames constitutes a separate finable violation.

Sec. A-12. 22 MRSA §2498, sub-§1, ¶C, as corrected by RR 2005, c. 2, §17, is amended to read:

C. Any person, corporation, firm or copartnership that operates any eating establishment, eating and lodging place, lodging place, recreational camp, youth camp or camping area without first obtaining a license as required by this chapter must be punished, upon adjudication of unlicensed operation, by a fine of not less than \$25 nor more than \$200, and upon a 2nd or subsequent adjudication of unlicensed operation must be punished by a fine of not less than \$200 nor more than \$500. Each day any such person, corporation, firm or copartnership operates without obtaining a license constitutes a separate offense.

Sec. A-13. Maine Revised Statutes headnote amended; revision clause. In the Maine Revised Statutes, Title 22, chapter 562, in the chapter headnote, the words "camping areas and eating establishments" are amended to read "camping areas, recreational camps, youth camps and eating establishments" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

PART B

Sec. B-1. 5 MRSA §12004-I, sub-§24, as amended by PL 2003, c. 414, Pt. B, §9 and affected by c. 614, §9, is further amended to read:

24.

Environment:	Junior	Expenses	12 MRSA
Natural	Maine	Only	§10154
Resources	Guides and		
	<u>Youth</u>		
	<u>Camp</u> Trip		
	Leaders		
	Curriculum		
	Advisory		
	Board		

Sec. B-2. 5 MRSA §13090-F, sub-§1, ¶C, as amended by PL 2005, c. 33, §1, is further amended to read:

C. Thirteen members of major tourism trade associations, including:

- (1) At least one member representing a statewide organization of hotels, motels and inns;
- (2) At least one member representing a statewide organization of restaurants;

(3) At least one member representing a statewide organization of campground owners;

(4) At least one member representing the retail sector in the State;

(5) At least one member representing the motorcoach industry;

(6) At least one member representing the air transportation industry;

(7) At least one member representing arts and cultural organizations; and

(8) At least one member representing a statewide organization of children's youth camps; and

Sec. B-3. 12 MRSA §1806, sub-§4, ¶H, as corrected by RR 2003, c. 2, §15, is amended to read:

H. Violates the requirements for a youth camp trip leader permit issued under section 12860; or

Sec. B-4. 12 MRSA §9001-A, sub-§1, as enacted by PL 1995, c. 586, §3, is amended to read:

1. Licensed camping facility. "Licensed camping facility" means a recreational camp, youth camp or camping area licensed under Title 22, ~~chapter 562~~ section 2495.

Sec. B-5. 12 MRSA §10154, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9 and amended by c. 689, Pt. B, §6, is further amended to read:

§10154. Junior Maine Guides and Youth Camp Trip Leaders Curriculum Advisory Board

1. Board established. The commissioner shall appoint a board of 5 members to be known as the "Junior Maine Guides and Youth Camp Trip Leaders Curriculum Advisory Board" and referred to in this section as "the board," as established by Title 5, section 12004-I, subsection 24.

2. Membership. The board consists of one member from the department, one member from the Department of Health and Human Services and 3 members of the public, one of whom must be a Maine youth camp director. Appointments to the board are for 3 years or until successors are appointed.

3. Duties. The board has the duty to advise the commissioner on the adoption of a youth camp trip leader safety course curriculum and on the adoption of rules for the administration of this section and sections 12859 and 12860.

4. Compensation. The public members of the board are entitled to compensation as provided in Title 5, chapter 379.

Sec. B-6. 12 MRSA §10910, sub-§2, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9 and amended by c. 689, Pt. B, §6, is further amended to read:

2. Exception. This section does not apply to any person who operates a watercraft in connection with a ~~boys or girls~~ youth camp located in this State and licensed by the Department of Health and Human Services or located in another state and licensed in a similar manner in that state.

Sec. B-7. 12 MRSA §12502, as amended by PL 2003, c. 655, Pt. B, §248 and affected by §422, is further amended to read:

§12502. Youth camp fishing license

1. Issuance of youth camp fishing license. Upon application, the commissioner shall issue to a ~~boys or girls~~ youth camp licensed under Title 22, section 2495 a youth camp fishing license that will permit any of the ~~boys or girls~~ campers, under 16 years of age, to fish in the lake or pond adjacent to the main location of the youth camp. The fee for this permit is \$75. Persons who fish under a youth camp fishing license, as provided in this subsection, are subject to this Part.

2. Penalties. The following penalties apply to violations of this section.

A. A person who violates the terms of a special privilege under this section commits a civil violation for which a fine of not less than \$100 nor more than \$500 may be adjudged.

B. A person who violates the terms of a special privilege under this section after having been adjudicated as having committed 3 or more civil violations under this Part within the previous 5-year period commits a Class E crime.

Each day a person violates the terms of a special privilege under this section is a separate offense.

Sec. B-8. 12 MRSA §12852, first ¶, as affected by PL 2003, c. 614, §9 and repealed and replaced by c. 655, Pt. B, §315 and affected by §422, is amended to read:

The following penalties apply to violations of rules regulating licensed guides or youth camp trip leaders and course instructor certificates.

Sec. B-9. 12 MRSA §12852, sub-§1, as enacted by PL 2003, c. 655, Pt. B, §315 and affected by §422, is amended to read:

1. Civil. Notwithstanding section 10650, a person who violates a rule regulating licensed guides or youth camp trip leaders and course instructor certificates commits a civil violation for which a fine of not less than \$100 nor more than \$500 may be adjudged.

Sec. B-10. 12 MRSA §12852, sub-§2, as enacted by PL 2003, c. 655, Pt. B, §315 and affected by §422, is amended to read:

2. Criminal. A person who violates a rule regulating licensed guides or youth camp trip leaders and course instructor certificates after having been adjudicated as having committed 3 or more civil violations under this Part within the previous 5-year period commits a Class E crime.

Sec. B-11. 12 MRSA §12853, as amended by PL 2005, c. 12, Pt. III, §30, is further amended to read:

§12853. License, fees and requirements; youth camp trip leader exception

1. Prohibition. Except as provided in subsection 7, a person may not act as a guide without a valid license issued under this chapter.

2. Penalty. A person who violates subsection 1 commits a Class D crime for which the court shall impose a sentencing alternative involving a term of imprisonment of 3 days, none of which may be suspended. The court shall also impose a fine of \$1,000, none of which may be suspended. A person violates subsection 1 each day that person acts as a guide without a valid license issued under this chapter.

3. New applications. A person wishing to be licensed as a guide shall submit an application to the commissioner.

A. The commissioner shall provide application forms that request all relevant information the commissioner considers necessary.

B. Failure or refusal to satisfactorily answer any question in the application is a basis for the commissioner not to accept the application.

C. The commissioner shall decide whether the application is acceptable within 5 working days of receipt.

D. The commissioner shall notify each applicant at least 2 weeks prior to the examination required under section 12855.

4. Qualifications. In order to qualify for a guide license, a person must:

A. Be at least 18 years of age;

B. Pass the guide examination in accordance with section 12855;

C. If a first-time applicant, be currently certified in first aid through completion of any standard first aid course that meets the criteria established by rule of the commissioner;

D. If not a first-time applicant, submit satisfactory evidence, as determined by the commissioner, of having held a guide license in this State; and

E. Meet all requirements established by rules of the commissioner.

For purposes of this subsection, "first-time applicant" means an applicant who has not previously been issued a guide license in this State.

5. Fee. The fee for a 3-year guide license is \$81.

6. Term of license. A guide license entitles a person to act as a guide through December 31st of the 2nd complete year following the year of issuance.

7. Exception. A person holding a youth camp trip leader permit under section 12860 may, without a guide license, conduct trips including adults under the auspices of the ~~boys and girls~~ youth camp that employs those adults, subject to all the requirements of section 12860.

Sec. B-12. 12 MRSA §12860, as amended by PL 2005, c. 12, Pt. III, §31, is further amended to read:

§12860. Youth camp trip leader permit

1. When permit required. ~~Boys and girls~~ Youth camps licensed by the Department of Health and Human Services under Title 22, section 2495, or located in another state and licensed in a similar manner, if the laws of the other state so require, conducting trip camping shall:

A. Provide at least one staff member over 18 years of age for each 6 campers; and

B. Ensure that the staff member in charge of the trip holds a valid youth camp trip leader permit.

1-A. Prohibition. A person may not conduct trip camping under subsection 1 without a youth camp trip leader permit issued under this section. Each day a person violates this subsection, that person commits a Class E crime for which a minimum fine of \$50 and an amount equal to twice the applicable license fee must be imposed.

2. Application. A person wishing a youth camp trip leader permit ~~shall~~ must submit an application on forms provided by the commissioner and ~~shall~~ pay the application fee.

3. Qualifications. To qualify initially for a youth camp trip leader permit, an applicant must:

A. Show successful completion of an approved youth camp trip leader safety course or complete an application provided by the commissioner outlining in detail the applicant's experience and training as a youth camp trip leader; and

B. Meet any other requirements established by rule by the commissioner.

4. Special waiver. Waiver of the course requirement by the commissioner on the basis of the applicant's experience and payment of the application

fee qualifies the applicant for a youth camp trip leader permit.

5. Curriculum. With the advice of the Junior Maine Guides and Youth Camp Trip Leaders Curriculum Advisory Board, the commissioner shall review and adopt a youth camp trip leader safety course curriculum that includes, but is not limited to:

A. Training in first aid;

B. Training in water safety, including lifesaving techniques as appropriate; and

C. ~~Trip~~ Youth camp trip leader qualifications and required experience for the special waiver procedure in subsection 4.

The commissioner shall publish the curriculum adopted or approved by the Junior Maine Guides and Youth Camp Trip Leaders Curriculum Advisory Board and a current list of courses, with the approved curriculum, by name and address.

6. Fee. The initial qualifying fee for a youth camp trip leader permit is \$20. The permit may be renewed upon payment of \$15 if requirements of the department are met.

7. Enforcement. Wardens of the department, the rangers of the Bureau of Forestry and rangers of the Department of Conservation, Bureau of Parks and Lands may enforce this section and may terminate any trip that is considered unsafe or in violation of this section. The commissioner shall adopt standards for what is considered an unsafe trip. The commissioner shall consider previous violations of this section when issuing or reissuing youth camp trip leader permits.

Sec. B-13. 12 MRSA §12904, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by Pt. D, §7 and c. 614, §9, is further amended to read:

§12904. Exceptions

This chapter does not apply to the operation of canoes or kayaks. This chapter does not apply to guides or youth camp trip leaders licensed under chapter 927 or motorboat operators licensed under chapter 935, unless those persons are in the business of conducting commercial white-collar trips.

Sec. B-14. 12 MRSA §13068-A, sub-§4, ¶B, as amended by PL 2003, c. 689, Pt. B, §6, is further amended to read:

B. Notwithstanding paragraph A:

(1) Canoes, owned by a ~~boys or girls summer~~ youth camp located upon internal waters in the State and duly licensed by the Department of Health and Human Services and utilized by campers under the direction and supervision of a youth camp counselor at least 18 years of age or older during training and instruction periods on waters adjacent to the main loca-

tion of the youth camp within a distance of 500 feet from the shoreline of that camp, are exempt from this subsection; and

(2) Log rafts, carrying not more than 2 persons and used on ponds or lakes or internal waters of less than 50 acres in area, are exempt from carrying personal flotation devices.

Sec. B-15. 17-A MRSA §253, sub-§2, ¶G, as amended by PL 2001, c. 383, §15 and affected by §156, is further amended to read:

G. The other person, not the actor's spouse, has not attained the age of 18 years and is a resident in or attending a children's home, day care facility, residential child care facility, drug treatment center, youth camp licensed under Title 22, section 2495 or similar school, facility or institution regularly providing care or services for children, and the actor is a teacher, employee or other person having instructional, supervisory or disciplinary authority over the other person. Violation of this paragraph is a Class C crime;

Sec. B-16. 17-A MRSA §261, sub-§4, as enacted by PL 2007, c. 393, §1, is amended to read:

4. For purposes of this section, "sex offender restricted zone" means the real property comprising a public or private elementary or middle school; the real property comprising a child care center, a child care facility, a day care operated by a family child care provider, a nursery school or a small child care facility as defined under Title 22, section 8301-A; or an athletic field, park, playground, recreational facility, ~~children's youth camp licensed under Title 22, section 2495~~ or other place where children are the primary users.

Sec. B-17. 22 MRSA §1711-C, sub-§6, ¶M, as enacted by PL 1999, c. 512, Pt. A, §5 and affected by §7, is amended to read:

M. To schools, educational institutions, youth camps licensed under section 2495, correctional facilities, health care practitioners and facilities, providers of emergency services or a branch of federal or state military forces, information regarding immunization of an individual;

Sec. B-18. 22 MRSA §4011-A, sub-§1, ¶A, as amended by PL 2009, c. 41, §1, is further amended to read:

A. When acting in a professional capacity:

- (1) An allopathic or osteopathic physician, resident or intern;
- (2) An emergency medical services person;
- (3) A medical examiner;
- (4) A physician's assistant;

- (5) A dentist;
- (6) A dental hygienist;
- (7) A dental assistant;
- (8) A chiropractor;
- (9) A podiatrist;
- (10) A registered or licensed practical nurse;
- (11) A teacher;
- (12) A guidance counselor;
- (13) A school official;
- (14) A ~~children's summer youth~~ camp administrator or counselor;
- (15) A social worker;
- (16) A court-appointed special advocate or guardian ad litem for the child;
- (17) A homemaker;
- (18) A home health aide;
- (19) A medical or social service worker;
- (20) A psychologist;
- (21) Child care personnel;
- (22) A mental health professional;
- (23) A law enforcement official;
- (24) A state or municipal fire inspector;
- (25) A municipal code enforcement official;
- (26) A commercial film and photographic print processor;
- (27) A clergy member acquiring the information as a result of clerical professional work except for information received during confidential communications;
- (28) A chair of a professional licensing board that has jurisdiction over mandated reporters;
- (29) A humane agent employed by the Department of Agriculture, Food and Rural Resources;
- (30) A sexual assault counselor;
- (31) A family or domestic violence victim advocate; and
- (32) A school bus driver or school bus attendant;

Sec. B-19. 22 MRSA §8101, sub-§1, ¶B, as enacted by PL 1981, c. 260, §4, is amended to read:

B. A ~~children's youth camp established solely for recreational and educational purposes licensed under section 2495;~~ or

Sec. B-20. 22 MRSA §8301-A, sub-§1-A, ¶B, as amended by PL 2007, c. 324, §16, is further amended to read:

B. "Child care facility" means a child care center, small child care facility or nursery school. "Child care facility" does not include a facility operated by a family child care provider, a ~~summer youth camp established solely for recreational and educational purposes~~ licensed under section 2495, programs offering instruction to children for the purpose of teaching a skill such as karate, dance or basketball, a formal public or private school in the nature of a kindergarten or elementary or secondary school approved by the Commissioner of Education in accordance with Title 20-A or a private school recognized by the Department of Education as a provider of equivalent instruction for the purpose of compulsory school attendance. Any program for children under 5 years of age that is located in a private school and programs that contract with one or more Child Development Services System sites are required to be licensed as a child care facility.

Sec. B-21. 22 MRSA §8301-A, sub-§1-A, ¶D, as enacted by PL 2001, c. 645, §6, is amended to read:

D. "Nursery school" means a house or other place in which a person or combination of persons maintains or otherwise carries out for consideration during the day a regular program that provides care for 3 or more children 33 months of age or older and under 8 years of age, provided that:

- (1) No session conducted for the children is longer than 3 1/2 hours in length;
- (2) No more than 2 sessions are conducted per day;
- (3) Each child in attendance at the nursery school attends only one session per day; and
- (4) No hot meal is served to the children.

"Nursery school" does not include any facility operated as a child care center or small child care facility licensed under subsection 2, a ~~summer youth camp established solely for recreational and educational purposes~~ licensed under section 2495 or a public or private school in the nature of a kindergarten approved by the Commissioner of Education, in accordance with Title 20-A.

Sec. B-22. 26 MRSA §663, sub-§3, ¶F, as repealed and replaced by PL 1975, c. 92, is repealed and the following enacted in its place:

F. Those employees who are counselors or junior counselors or counselors-in-training at organized camps licensed under Title 22, section 2495 and

those employees of organized camps and similar seasonal recreation programs not requiring such licensure that are operated as or by nonprofit organizations who are under 18 years of age;

Sec. B-23. 26 MRSA §774, sub-§4, as amended by PL 1993, c. 434, §5, is further amended to read:

4. Exemptions. Work performed in the planting, cultivating or harvesting of field crops or other agricultural employment, including the initial processing of farm crops, not in direct contact with hazardous machinery or hazardous substances, work performed as an employed or in-training theatrical actor or film actor or work performed as a summer camp employee in a ~~children's youth camp~~ licensed under Title 22, section 2495 is exempt from this section, provided a minor under 16 years of age has been excused by the local superintendent of schools in accordance with the policy established by the Commissioner of Education and the Director of the Bureau of Labor Standards. Work performed in the taking or catching of lobsters, fish or other marine organisms by any methods or means, or in the operating of ferries or excursion boats, is exempt from subsection 1, paragraphs A and C.

Sec. B-24. 26 MRSA §1043, sub-§11, ¶F, as amended by PL 2007, c. 230, §1, is further amended to read:

F. The term "employment" does not include:

- (1) Service performed in the employ of this State, or of any political subdivision thereof, or of any instrumentality of this State or its political subdivisions, except as provided by this subsection;
- (2) Service performed in the employ of the United States Government or an instrumentality of the United States immune under the Constitution of the United States from the contributions imposed by this chapter, except that on and after January 1, 1940 to the extent that the Congress of the United States has permitted states to require any instrumentalities of the United States to make payments into an unemployment compensation fund under a state unemployment compensation or employment security law, all of the provisions of this chapter are applicable to such instrumentalities and to services performed for such instrumentalities in the same manner, to the same extent and on the same terms as to all other employers, employing units, individuals and services. If this State is not certified for any year by the Secretary of Labor under section 3304 of the Federal Internal Revenue Code, the payments required of such instrumentalities with respect to that year

must be refunded by the commissioner from the fund in the same manner and within the same period as is provided in section 1225, subsection 5, with respect to contributions erroneously collected;

(3) Service with respect to which unemployment compensation is payable under an unemployment compensation system or employment security system established by an Act of Congress. The commissioner is authorized and directed to enter into agreements with the proper agencies under such an Act of Congress, which agreements become effective 10 days after publication thereof in the manner provided in section 1082, subsection 2, for regulations, to provide reciprocal treatment to individuals who have, after acquiring potential rights to benefits under this chapter, acquired rights to unemployment compensation under such an Act of Congress, or who have, after acquiring potential rights to unemployment compensation under such an Act of Congress, acquired rights to benefits under this chapter;

(4) Agricultural labor as defined in subsection 1, except as provided in paragraph A-2;

(4-1) Agricultural labor, if performed by an individual who is an alien, other than a citizen of a contiguous country with which the United States has an agreement with respect to unemployment compensation, admitted to the United States to perform agricultural labor pursuant to the United States Immigration and Nationality Act, Sections 214(c) and 101(a) (15) (H);

(5) Domestic service in a private home, except as provided in paragraph A-3;

(6) Service performed by an individual in the employ of that individual's son, daughter or spouse and service performed by a child under the age of 18 in the employ of that child's father or mother, except for periods of such service for which unemployment insurance contributions are paid;

(6-1) Services performed by a student attending an elementary, secondary or postsecondary school while participating in a cooperative program of education and occupational training or on-the-job training that is part of the school curriculum;

(9) Service performed with respect to which unemployment compensation is payable under the Railroad Unemployment Insurance Act (52 Stat. 1094);

(10) Services performed in the employ of any other state, or any political subdivision thereof, or any instrumentality of any one or more of the foregoing that is wholly owned by one or more states or political subdivisions and any services performed in the employ of any instrumentality of one or more other states or their political subdivisions to the extent that the instrumentality is, with respect to such a service, immune under the Constitution of the United States from the tax imposed by section 3301 of the Federal Internal Revenue Code, except as provided in paragraph A-1, subparagraph (1);

(11) Service performed in any calendar quarter in the employ of any organization exempt from income tax under section 501(a) of the Federal Internal Revenue Code other than an organization described in section 401(a) or under section 521 of the Code, if the remuneration for such service is less than \$150;

(16) Service performed in the employ of a foreign government, including service as a consular or other officer or employee or a nondiplomatic representative;

(17) Service performed in the employ of an instrumentality wholly owned by a foreign government:

(a) If the service is of a character similar to that performed in foreign countries by employees of the United States Government or an instrumentality thereof; and

(b) If the commissioner finds that the United States Secretary of State has certified to the United States Secretary of the Treasury that the foreign government, with respect to whose instrumentality exemption is claimed, grants an equivalent exemption with respect to similar service performed in the foreign country by employees of the United States Government and of instrumentalities thereof;

(18) Service performed as a student nurse in the employ of a hospital or a nurses' training school by an individual who is enrolled and is regularly attending classes in a nurses' training school chartered or approved pursuant to state law and service performed as an intern in the employ of a hospital by an individual who has completed a 4 years' course in a medical school chartered or approved pursuant to state law;

(19) Service performed by an individual for a person as a real estate broker, a real estate sales representative, an insurance agent or an insurance solicitor, if all such service per-

formed by that individual for that person is performed for remuneration solely by way of commission;

(20) Service performed by an individual under the age of 18 in the delivery or distribution of newspapers or shopping news except delivery or distribution to any point for subsequent delivery or distribution;

(21) Service performed in the employ of any organization that is excluded from the term "employment" as defined in the Federal Unemployment Tax Act solely by reason of section 3306(c)(7) or (8) if:

(a) Service is performed in the employ of a church or convention or association of churches or an organization that is operated primarily for religious purposes and that is operated, supervised, controlled or principally supported by a church or convention or association of churches;

(b) Service is performed by a duly ordained, commissioned or licensed minister of a church in the exercise of that minister's ministry or by a member of a religious order in the exercise of duties required by that order;

(c) Prior to January 1, 1978, service is performed in the employ of a school primarily operated as an elementary, secondary or preparatory school for higher education that is not an institution of higher education;

(d) Service is performed in a facility conducted for the purpose of carrying out a program of rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury or providing remunerative work for individuals who, because of their impaired physical or mental capacity, cannot be readily absorbed in the competitive labor market by an individual receiving such rehabilitation or remunerative work;

(e) Service is performed as part of an unemployment work-relief or work-training program assisted or financed in whole or in part by any federal agency or an agency of a state or political subdivision thereof by an individual receiving that work-relief or work-training;

(f) Service is performed in the employ of a hospital as defined in subsection 26 by a patient of that hospital;

(g) Services are performed prior to January 1, 1978 for a hospital in a state prison or other state correctional institution by an inmate of that prison or correctional institution and after December 31, 1977 by an inmate of a custodial or penal institution;

(h) Service is performed in the employ of a school, college or university if that service is performed by a student who is enrolled and is regularly attending classes at such a school, college or university; or

(i) Prior to January 1, 1978, service is performed in the employ of a school that is not an institution of higher education and after December 31, 1977, service is performed in the employ of a governmental entity referred to in paragraph A-1, subparagraph (1) if that service is performed by an individual in the exercise of duties:

(i) As an elected official;

(ii) As a member of a legislative body or a member of the judiciary of a state or political subdivision of a state;

(iii) As a member of the State National Guard or Air National Guard;

(iv) As an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood or similar emergency;

(v) In a position that, under or pursuant to the laws of this State, is designated as a major nontenured policymaking or advisory position or a policymaking or advisory position the performance of the duties of which ordinarily does not require more than 8 hours per week; or

(vi) As an election official or election worker if the amount of remuneration received by the individual during the calendar year for services as an election official or election worker is less than \$1,000;

(29) Services performed by a hairdresser who holds a booth license and operates within another hairdressing establishment if operated under a booth rental agreement or other rental agreement;

(30) Services performed by a barber who holds a booth license and operates within an-

other barbering establishment if operated under a booth rental agreement or other rental agreement;

(31) Services performed by a contract interviewer engaged in marketing research or public opinion interviewing when such interviewing is conducted in the field or over the telephone on premises not used or controlled by the person for whom such contract services are being provided;

(32) After December 31, 1981, services performed by an individual on a boat engaged in catching fish or other forms of aquatic animal life, unless those services would be included in the definition of "employment" for federal unemployment tax purposes under the Federal Unemployment Act, United States Code, Title 26, Section 3306(c), as it may be amended. Also included in this exemption are services performed in harvesting shellfish for depuration from designated areas as authorized by Title 12, section 6856;

(33) Services performed by a member or leader of a musical group, band or orchestra or an entertainer when the services are performed under terms of a contract entered into by the leader or an agent of the musical group, band, orchestra or entertainer with an employing unit for whom the services are being performed, provided the leader or agent is not an employer by reason of subsection 9 or of section 1222, subsection 3;

(34) Services performed in the delivery or distribution of newspapers or magazines to the ultimate consumer by an individual who is compensated by receiving or retaining a commission or profit on the sale of the newspaper or magazine;

(35) Services performed by a homemaker in the knitted outerwear industry as those terms are defined, on the effective date of this subparagraph, in 29 Code of Federal Regulations, Part 530, Section 530.1;

(36) Service performed by a full-time student, as defined in subsection 30, in the employ of ~~an organized~~ a youth camp licensed under Title 22, section 2495 if the full-time student performed services in the employ of the camp for less than 13 calendar weeks in the calendar year and the camp:

(a) Did not operate for more than 7 months in the calendar year and did not operate for more than 7 months in the preceding calendar year; or

(b) Had average gross receipts for any 6 months in the preceding calendar year that were not more than 33 1/3% of its average gross receipts for the other 6 months in the preceding calendar year;

(37) Services performed by an individual as a home stitcher as long as that employment is not subject to federal unemployment tax;

(38) Services performed by a person licensed as a guide as required by Title 12, section 12853, as long as that employment is not subject to federal unemployment tax;

(39) Services performed by a direct seller as defined in 26 United States Code, Section 3508, Subsection (b), Paragraph (2). This subparagraph does not include a person selling major improvements or renovations to the structure of a home, business or property;

(40) Services performed by lessees of taxicabs, as long as that employment is not subject to federal unemployment tax. This subparagraph may not be construed to affect a determination regarding a lessee's status as an independent contractor for workers' compensation purposes;

(41) Services provided by a dance instructor to students of a dance studio when there is a contract between the instructor and the studio under which the instructor's services are not offered exclusively to the studio, the studio does not control the scheduling of the days and times of classes other than beginning and end dates, the instructor is paid by the class and not on an hourly or salary basis, the compensation rate is the result of negotiation between the instructor and the studio and the instructor is given the freedom to develop the curriculum;

(42) Services performed by participants enrolled in programs or projects under the national service laws including the federal National and Community Service Act of 1990, as amended, 42 United States Code, Section 12501 et seq., and the federal Domestic Volunteer Service Act, as amended, 42 United States Code, Section 4950 et seq.;

(43) Services of an author in furnishing text or other material to a publisher who:

(a) Does not control the author's work except to propose topics or to edit material submitted;

(b) Does not restrict the author from publishing elsewhere;

(c) Furnishes neither a place of employment nor equipment for the author's use;

(d) Does not direct or control the time devoted to the work; and

(e) Pays only for material that is accepted for publication.

This exception does not apply if the employment is subject to federal unemployment tax; and

(44) Services provided by an owner-operator of a truck or truck tractor while it is leased to a motor carrier, as defined in 49 Code of Federal Regulations, 390.5 (2000), as long as that employment is not subject to federal unemployment tax.

Sec. B-25. 26 MRSA §1251, sub-§3, ¶A, as amended by PL 1997, c. 293, §9, is further amended to read:

A. Any hotel, motel, inn, variety store, trading post, sporting camp or other lodging facility, including youth camps ~~operated for boys and girls licensed under Title 22, section 2495~~, restaurants and other eating establishments, which customarily conducts operations that are primarily related to the production of characteristic goods or services for a regularly recurring period or periods of less than 26 weeks in any one calendar year is deemed seasonal.

Sec. B-26. 32 MRSA §82, sub-§2, ¶E, as amended by PL 1993, c. 130, §1, is further amended to read:

E. A person serving as an industrial nurse or safety officer, a school or youth camp nurse, a life guard, a member of a ski patrol, a nurse or technician in a hospital or a physician's office, or other similar occupation in which the person provides on-site emergency treatment at a single facility to the patrons or employees of that facility;

Sec. B-27. 32 MRSA §2575, as amended by PL 2001, c. 492, §4, is further amended to read:

§2575. Youth camp physicians

An osteopathic physician who is a graduate of a school or college of osteopathic medicine approved by the American Osteopathic Association and who is of good repute may, at the discretion of the board, make application for a temporary license to practice as a youth camp physician at a specified youth camp licensed under Title 22, section 2495. Such an osteopathic physician is entitled to practice only on the patients at the youth camp. The license must be obtained each year. Applications for such a temporary license must be made in the same manner as for regular licenses. An examination may not be exacted from ap-

plicants for temporary licenses. The fee may not be more than \$600.

Sec. B-28. 32 MRSA §3277, as amended by PL 2005, c. 162, §5, is further amended to read:

§3277. Youth camp physicians

A physician who is qualified under section 3275 may, at the discretion of the board, be temporarily licensed as a youth camp physician so that the physician may care for the campers in that particular youth camp licensed under Title 22, section 2495 for which the physician was hired and retained as a youth camp physician. That physician is entitled to practice only on patients in the youth camp. The temporary license must be obtained each year. Application for this temporary license must be made in the same form and manner as for regular licensure. An examination may not be exacted from applicants for these temporary licenses. The fee for temporary licensure may not be more than \$400 annually.

Sec. B-29. 32 MRSA §14203, sub-§2, ¶B, as enacted by PL 1991, c. 397, §6, is amended to read:

B. On residents of ~~summer~~ youth camps;

Sec. B-30. 36 MRSA §1760, sub-§6, ¶F, as enacted by PL 2007, c. 529, §3, is amended to read:

F. Served by youth camps licensed by the Department of Health and Human Services ~~and defined in rules adopted by the Department of Health and Human Services as a combination of program and facilities established for the primary purpose of providing an outdoor group living experience with social, recreational, spiritual and educational objectives for children and operated and used for 5 or more consecutive days during one or more seasons of the year, including day camps, residential camps and trip and travel camps and defined in Title 22, section 2491, sub-section 16.~~

Sec. B-31. 36 MRSA §1760, sub-§59, as amended by PL 1989, c. 700, Pt. A, §169, is further amended to read:

59. Sales to certain incorporated nonprofit educational organizations. Incorporated nonprofit educational organizations ~~which that~~ are receiving, or have received, funding from the Department of Education, and ~~which that~~ provide educational programs specifically designed for teaching young people how to make decisions about drugs, alcohol and interpersonal relationships at a residential youth camp setting.

Sec. B-32. 36 MRSA §2557, sub-§19, as enacted by PL 2003, c. 673, Pt. V, §25 and affected by §29, is amended to read:

19. Certain incorporated nonprofit educational organizations. Sales to incorporated nonprofit educational organizations that are receiving, or have received, funding from the Department of Education and that provide educational programs specifically designed for teaching young people how to make decisions about drugs, alcohol and interpersonal relationships at a residential youth camp setting;

Sec. B-33. Maine Revised Statutes headnote amended; revision clause. In the Maine Revised Statutes, Title 12, chapter 927, in the chapter headnote, the words "guides and trip leaders" are amended to read "guides and youth camp trip leaders" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

See title page for effective date.

CHAPTER 212

S.P. 422 - L.D. 1131

An Act To Clarify the Law Regarding the Passing of School Buses by Bicyclists

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

Sec. 1. 29-A MRSA §2063, sub-§9 is enacted to read:

9. Passing a school bus. A person operating a bicycle on a way, in a parking area or on school property, on meeting or overtaking a school bus from either direction when the bus has stopped with its red lights flashing to receive or discharge passengers, shall stop the bicycle before reaching the school bus. The person may not proceed until the school bus resumes motion or until signaled by the school bus operator to proceed.

The operator of a bicycle on a way separated by curbing or other physical barrier need not stop on meeting or passing a school bus traveling in a lane separated by the barrier from the lane in which that person is traveling.

See title page for effective date.

CHAPTER 213

H.P. 274 - L.D. 353

An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2009, June 30, 2010 and June 30, 2011

Mandate preamble. This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, 2/3 of all of the members elected to each House have determined it necessary to enact this measure.

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

Whereas, the 90-day period may not terminate until after the beginning of the next fiscal year; and

Whereas, certain obligations and expenses incident to the operation of state departments and institutions will become due and payable immediately; 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:

PART A

Sec. A-1. Appropriations and allocations. The following appropriations and allocations are made.

ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF

Accident - Sickness - Health Insurance 0455

Initiative: BASELINE BUDGET