

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
SEPTEMBER 12, 2009

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

Augusta, Maine
2009

Homes also are authorized to provide nonnursing facility care and services to Maine veterans if approved by appropriate state and federal authorities. The Board of Trustees of the Maine Veterans' Homes shall plan and develop the Machias home and any nonnursing facility care and services using any funds available for that purpose, except for the Augusta facility's funded depreciation account. The Maine Veterans' Homes are authorized to construct community-based outpatient clinics for Maine veterans in cooperation with the United States Department of Veterans Affairs and may construct and operate veterans hospice facilities, veterans housing facilities and other facilities authorized by the Board of Trustees of the Maine Veterans' Homes, using available funds. Any funds loaned to the Maine Veterans' Homes for operating purposes from the funded depreciation accounts of the Maine Veterans' Homes must be reimbursed from any funds received by the Maine Veterans' Homes and available for that purpose. The primary purpose of the Maine Veterans' Homes is to provide support and care for honorably discharged veterans who served on active duty in the United States Armed Forces or who served in the Reserves of the United States Armed Forces on active duty for other than training purposes or are entitled to retired pay under 10 United States Code, Chapter 1223 regardless of the age of such persons.

PART B

Sec. B-1. Develop recommendations for changes in statutory language. The Department of Health and Human Services, referred to in this Part as "the department," shall review the Maine Revised Statutes to identify those sections that use the term "mental retardation" or "mentally retarded" and develop recommendations for removal of the terms or substitutions of language that reflect the recommendations of the respectful language working group in the report submitted by the Maine Developmental Disabilities Council to the Joint Standing Committee on Health and Human Services pursuant to Resolve 2007, chapter 62. The department shall seek input from interested stakeholders in the development of those recommendations.

Sec. B-2. Report and recommendations. By January 15, 2010, the department shall submit a report to the Joint Standing Committee on Health and Human Services regarding recommended changes for the Maine Revised Statutes pursuant to section 1.

Sec. B-3. Authority for legislation. After receipt and review of the recommendations submitted pursuant to section 2, the Joint Standing Committee on Health and Human Services may submit legislation to the Second Regular Session of the 124th Legislature.

See title page for effective date.

CHAPTER 300 S.P. 513 - L.D. 1429

An Act To Strengthen the Workplace Smoking Laws and Other Laws Governing Smoking

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

Sec. 1. 22 MRSA §1542, sub-§2, ¶F, as enacted by PL 1993, c. 342, §1 and affected by §9, is repealed.

Sec. 2. 22 MRSA §1542, sub-§2, ¶J, as amended by PL 2005, c. 257, §4, is further amended to read:

J. Smoking is not prohibited in a private residence, subject to section 1580-A, unless the private residence is used as a day care or baby-sitting service. If a private residence is used as a day care or baby-sitting service, smoking is prohibited:

- (1) In the residence, during the hours of operation as a day care or baby-sitting service;
- (2) In outdoor areas on the property of that private residence, wherever a child under care may be present; and
- (3) During the facility's hours of operation, in a motor vehicle owned or operated by the facility whenever a child under care is in the vehicle.

Sec. 3. 22 MRSA §1580, as reallocated by PL 1983, c. 816, Pt. A, §15, is repealed.

Sec. 4. 22 MRSA §1580-A, sub-§2, ¶A, as enacted by PL 1985, c. 126, is amended to read:

A. "Business facility" means a structurally enclosed location or portion thereof at which employees perform services for their employer. A business facility ~~shall~~ does not include any workplace or portion of a workplace ~~which~~ that also serves as the employee's or employer's personal residence. A business facility is a place of employment. Notwithstanding this paragraph, a personal residence or unit or apartment in a residential facility is a business facility only during the period of time that an employee is physically present to perform work there. A residential facility, nursing home or a hospital is a business facility.

Sec. 5. 22 MRSA §1580-A, sub-§2, ¶A-2 is enacted to read:

A-2. "Designated smoking area" means an outdoor area where smoking is permitted, which

must be at least 20 feet from entryways, vents and doorways.

Sec. 6. 22 MRSA §1580-A, sub-§2, ¶C-3 is enacted to read:

C-3. "Residential facility" means a facility with one or more residential units or apartments that is licensed by the Department of Health and Human Services.

Sec. 7. 22 MRSA §1580-A, sub-§3, as amended by PL 2005, c. 338, §4, is repealed and the following enacted in its place:

3. Policy; notice. Each employer shall establish, or may negotiate through the collective bargaining process, a written policy concerning smoking and non-smoking by employees in that portion of any business facility for which the employer is responsible, subject to paragraph A. In order to protect the employer and employees from the detrimental effects of smoking by others, the policy must prohibit smoking indoors subject to paragraph A, prevent environmental tobacco smoke from circulating into enclosed areas and prohibit smoking outdoors except in designated smoking areas. The policy may prohibit smoking throughout the business facility, including outdoor areas. The employer shall post and supervise the implementation of the policy. The employer shall provide a copy of this policy to any employee upon request. Nothing in this section may be construed to subject an employer to any additional liability, other than liability that may exist by law, for harm to an employee from smoking by others in any business facility covered by this section.

A. All areas of a business facility into which members of the public are invited or allowed are governed by the provisions of chapter 262.

B. The Maine Center for Disease Control and Prevention shall accept inquiries from employers and employees and shall, when requested, assist employers in developing a policy.

Sec. 8. 22 MRSA §1580-B, as amended by PL 2001, c. 59, §§1 to 3, is repealed.

Sec. 9. 22 MRSA §1825, as enacted by PL 1983, c. 293, is repealed.

See title page for effective date.

CHAPTER 301

S.P. 500 - L.D. 1384

An Act To Clarify Apportionment of Benefits for Multiple Work Injuries

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

Sec. 1. 39-A MRSA §354, sub-§3, as amended by PL 1999, c. 354, §9, is further amended to read:

3. Subrogation. Any insurer determined to be liable for benefits under subsection 2 must be subrogated to the employee's rights under this Act for all benefits the insurer has paid and for which another insurer may be liable. Apportionment decisions made under this subsection may not affect an employee's rights and benefits under this Act. There may be no reduction of an employee's entitlement to any benefits under this Act payable by an insurer based on a prior work-related injury that was the subject of a lump sum settlement approved by the board prior to the date of the injury for which the insurer is responsible. The board has jurisdiction over proceedings to determine the apportionment of liability among responsible insurers.

Sec. 2. Retroactivity. This Act applies retroactively to all injuries including pending cases and cases on appeal.

See title page for effective date.

CHAPTER 302

S.P. 536 - L.D. 1451

An Act To Amend the Maine Clean Election Act and the Enforcement Procedures of the Commission on Governmental Ethics and Election Practices

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

Sec. 1. 21-A MRSA §1004-A, last ¶, as amended by PL 2007, c. 443, Pt. A, §2, is further amended to read:

When the commission has reason to believe that a violation has occurred, the commission shall provide written notice to the candidate, party committee, political action committee, committee treasurer or other respondent and shall afford them an opportunity to appear before the commission before assessing any penalty. In determining any penalty under subsections 3, 4 and 5, the commission shall consider, among other things, the level of intent to mislead, the penalty necessary to deter similar misconduct in the future and the harm suffered by the public from the incorrect disclosure. A final determination by the commission may be appealed to the Superior Court in accordance with Title 5, chapter 375, subchapter 7 and the Maine Rules of Civil Procedure Rule 80C.