

# 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.**

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**Augusta, Maine**  
**2009**

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**Sec. 7. 22 MRSA §1580-A, sub-§3**, as amended by PL 2005, c. 338, §4, is repealed and the following enacted in its place: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**Sec. 8. 22 MRSA §1580-B**, as amended by PL 2001, c. 59, §§1 to 3, is repealed.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.

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**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.

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**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.