

# 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**

equipment, as defined in Title 29-A, section 101, subsections 69 and 70, is identified by the potentially responsible party (PRP) group at the waste motor oil disposal site or, in the case when the response action was or will be undertaken by the State is identified by the Department of Environmental Protection, as qualified under this subsection and certifies to the authority under oath and subject to the provisions of Title 17-A, section 451 that it is qualified under this subsection.

**Sec. 6. Appropriations and allocations.**

The following appropriations and allocations are made.

**ENVIRONMENTAL PROTECTION,  
DEPARTMENT OF**

**Remediation and Waste Management 0247**

Initiative: Deallocates funds in response to transaction cost savings generated from allowing direct reimbursement from the waste motor oil disposal site remediation program at the Finance Authority of Maine to the Department of Environmental Protection, which eliminates negotiating with responsible parties.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2009-10</b>	<b>2010-11</b>
All Other	(\$200,000)	(\$300,000)
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OTHER SPECIAL REVENUE FUNDS TOTAL	(\$200,000)	(\$300,000)

See title page for effective date.

**CHAPTER 305**

**S.P. 547 - L.D. 1469**

**An Act To Ensure Fair  
Calculation of Severance Pay  
for Maine Workers**

**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 the expiration of the 90-day period in order to ensure the fair calculation of severance pay for workers of this State as soon as possible in light of the current economic conditions and to provide relief to affected workers; 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 preserva-

tion of the public peace, health and safety; now, therefore,

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

**Sec. 1. 26 MRSA §625-B, sub-§1, ¶E**, as enacted by PL 1979, c. 663, §157, is amended to read:

E. "Physical calamity" means any calamity such as fire, flood or other natural disaster, ~~or the final order of any federal, state or local governmental agency including adjudicated bankruptcy.~~

**Sec. 2. 26 MRSA §625-B, sub-§1, ¶H**, as enacted by PL 1979, c. 663, §157, is amended to read:

H. "Week's pay" means an amount equal to ~~1/52nd part of the employee's gross wages paid to an employee~~ earnings during the 12 months prior to relocation or termination previous to the date of termination or relocation as established by the director or the date of the termination or layoff of the employee, should it occur earlier, divided by the number of weeks in which the employee worked during that period.

**Sec. 3. 26 MRSA §625-B, sub-§3**, as amended by PL 2003, c. 624, §1 and affected by §2, is further amended to read:

**3. Mitigation of severance pay liability.** There is no liability under this section for severance pay to an eligible employee if:

A. Relocation or termination of a covered establishment is necessitated by a physical calamity;

B. The employee is covered by, and has been paid under the terms of, an express contract providing for severance pay that is equal to or greater than the severance pay required by this section;

C. That employee accepts employment at the new location; ~~or~~

D. That employee has been employed by the employer for less than 3 years; ~~or~~

E. A covered establishment files for protection under 11 United States Code, Chapter 11 unless the filing is later converted to a filing under 11 United States Code, Chapter 7.

**Sec. 4. 26 MRSA §625-B, sub-§10** is enacted to read:

**10. Mass layoff.** Whenever an employer lays off 100 or more employees at a covered establishment, the employer within 7 days of such a layoff shall report to the director the expected duration of the layoff and whether it is of indefinite or definite duration. The director shall, from time to time, but no less frequently than every 30 days, require the employer to report such facts as the director considers relevant to a determination as to whether the layoff constitutes a ter-

mination or relocation under this section or whether there is a substantial reason to believe the affected employees will be recalled within a reasonable time.

**Sec. 5. Retroactivity.** This Act applies retroactively to March 31, 2009.

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

Effective June 8, 2009.

## CHAPTER 306

S.P. 554 - L.D. 1479

### An Act Relating to Biomass Gasification

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

**Sec. 1. 38 MRSA §585-K, sub-§1, ¶A,** as enacted by PL 2007, c. 584, §1, is amended to read:

A. "Coal gasification facility" means a facility that uses a process other than the biological degradation of waste to convert carbonaceous coal or coal-derived materials into a synthesis gas or a product made from synthesis gas, including, without limitation, electricity, liquid fuels and chemicals.

See title page for effective date.

## CHAPTER 307

H.P. 188 - L.D. 234

### An Act To Expand Access to Oral Health Care

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

**Sec. 1. 24 MRSA §2317-B, sub-§12-E** is enacted to read:

**12-E. Title 24-A, sections 2765 and 2847-Q.** Coverage for services provided by independent practice dental hygienists, Title 24-A, sections 2765 and 2847-Q:

**Sec. 2. 24-A MRSA §2765** is enacted to read:

#### **§2765. Coverage for services provided by independent practice dental hygienist**

**1. Services provided by independent practice dental hygienist.** An insurer that issues individual dental insurance or health insurance that includes coverage for dental services shall provide coverage for dental services performed by an independent practice

dental hygienist licensed under Title 32, chapter 16, subchapter 3-B when those services are covered services under the contract and when they are within the lawful scope of practice of the independent practice dental hygienist.

**2. Limits; coinsurance; deductibles.** A contract that provides coverage for the services required by this section may contain provisions for maximum benefits and coinsurance and reasonable limitations, deductibles and exclusions to the extent that these provisions are not inconsistent with the requirements of this section.

**3. Coordination of benefits with dental insurance.** If an enrollee eligible for coverage under this section is eligible for coverage under a dental insurance policy or contract and a health insurance policy or contract, the insurer providing dental insurance is the primary payer responsible for charges under subsection 1 and the insurer providing individual health insurance is the secondary payer.

**4. Application.** The requirements of this section apply to all policies, contracts and certificates executed, delivered, issued for delivery, continued or renewed in this State. For purposes of this section, all contracts are deemed to be renewed no later than the next yearly anniversary of the contract date.

**Sec. 3. 24-A MRSA §2847-Q** is enacted to read:

#### **§2847-Q. Coverage for services provided by independent practice dental hygienist**

**1. Services provided by independent practice dental hygienist.** An insurer that issues group dental insurance or health insurance that includes coverage for dental services shall provide coverage for dental services performed by an independent practice dental hygienist licensed under Title 32, chapter 16, subchapter 3-B when those services are covered services under the contract and when they are within the lawful scope of practice of the independent practice dental hygienist.

**2. Limits; coinsurance; deductibles.** A contract that provides coverage for the services required by this section may contain provisions for maximum benefits and coinsurance and reasonable limitations, deductibles and exclusions to the extent that these provisions are not inconsistent with the requirements of this section.

**3. Coordination of benefits with dental insurance.** If an enrollee eligible for coverage under this section is eligible for coverage under a dental insurance policy or contract and a health insurance policy or contract, the insurer providing dental insurance is the primary payer responsible for charges under subsection 1 and the insurer providing group health insurance is the secondary payer.