

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

2. Acceptance of delivery of tobacco products. Only a licensed tobacco distributor or licensed tobacco retailer may accept delivery of tobacco products in this State.

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

A. A person who violates this section commits a civil violation for which a fine of not less than \$1,000 and not more than \$5,000 may be adjudged for each violation.

B. An employer of a person who, while working and within the scope of that person's employment, violates this section commits a civil violation for which a fine of not less than \$1,000 and not more than \$5,000 may be adjudged for each violation.

C. For purposes of this section, each shipment or transport of tobacco products constitutes a separate violation.

D. The Attorney General may bring an action to enforce this section in District Court or Superior Court and may seek injunctive relief, including preliminary or final injunction, and fines, penalties and equitable relief and may seek to prevent or restrain actions in violation of this section by any person or any person controlling such person. In addition, a violation of this section is a violation of the Maine Unfair Trade Practices Act.

E. If a court determines that a person has violated the provisions of this section, the court shall order any profits, gains, gross receipts or other benefits from the violation to be disgorged and paid to the Treasurer of State for deposit in the General Fund. Unless otherwise expressly provided, the penalties or remedies or both under this section are in addition to any other penalties and remedies available under any other law of this State.

4. Rulemaking. The department and the Department of Administrative and Financial Services shall adopt rules to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

5. Forfeiture. Any tobacco product sold or attempted to be sold in violation of this section is deemed to be contraband and is subject to forfeiture in the same manner as and in accordance with the provisions of Title 36, section 4372-A.

6. Exemption. The provisions of this section do not apply to the delivery sale of premium cigars to a consumer.

Sec. 6. Effective date. This Act takes effect October 1, 2009.

Effective October 1, 2009.

CHAPTER 399

H.P. 657 - L.D. 954

An Act To Clarify the Role of the Public Advocate

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

Sec. 1. 35-A MRSA §1701, sub-§1, as enacted by PL 1987, c. 141, Pt. A, §6, is repealed.

Sec. 2. 35-A MRSA §1701, sub-§1-A is enacted to read:

1-A. Appointment of the Public Advocate; term; removal. This subsection governs the appointment, term of service and removal of the Public Advocate.

A. The Governor shall appoint the Public Advocate, subject to review by the joint standing committee of the Legislature having jurisdiction over public utilities matters and to confirmation by the Legislature.

B. The Public Advocate shall serve for a 4-year term of office, beginning on February 1, 2013 and every 4 years thereafter.

C. The Public Advocate may continue to serve beyond the end of the 4-year term until a successor is appointed and qualified.

D. Any vacancy occurring must be filled by appointment for the unexpired portion of the term.

E. Any willful violation of this chapter by the Public Advocate constitutes sufficient cause for removal of the Public Advocate by the Governor, on the address of both branches of the Legislature or by impeachment pursuant to the Constitution of Maine, Article IX, Section 5.

Sec. 3. Transition of Public Advocate. Notwithstanding the Maine Revised Statutes, Title 35-A, section 1701, subsection 1-A, paragraph B, the term of the Public Advocate holding that office on the effective date of this Act ends on January 31, 2013.

See title page for effective date.

CHAPTER 400

H.P. 731 - L.D. 1056

An Act To Simplify the Assessment of E-9-1-1 Surcharges on Prepaid Wireless Telecommunications Service