

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
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IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Augusta, Maine
2009

§1871-A. Licensing requirements

A license issued annually by the department is required before any person may initiate deposits under section 1863-A, operate a redemption center under section 1867 or act as a contracted agent for the collection of beverage containers under section 1866, subsection 5, paragraph B.

1. Procedures; licensing fees. The department shall adopt rules establishing the requirements and procedures for issuance of licenses and annual renewals under this section, including a fee structure. Initial rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. Rules adopted effective after calendar year 2003 are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A and are subject to review by the joint standing committee of the Legislature having jurisdiction over business and economic development matters.

2. Criteria for licensing rules. In developing rules under subsection 1 for licensing redemption centers, the department shall consider at least the following:

A. The health and safety of the public, including sanitation protection when food is also sold on the premises; ~~and~~

B. The convenience for the public, including standards governing the distribution of centers by population or by distance, or both;

C. The proximity of the proposed redemption center to existing redemption centers and the potential impact that the location of the proposed redemption center may have on an existing redemption center;

D. The proposed owner's record of compliance with this chapter and rules adopted by the department pursuant to this chapter; and

E. The hours of operation of the proposed redemption center and existing redemption centers in the proximity of the proposed redemption center.

3. Location of redemption centers; population requirements. The department may grant a license to a redemption center if the following requirements are met:

A. The department may license up to 5 redemption centers in a municipality with a population over 30,000;

B. The department may license up to 3 redemption centers in a municipality with a population over 20,000 but no more than 30,000; and

C. The department may license up to 2 redemption centers in a municipality with a population over 5,000 but no more than 20,000.

For a municipality with a population of no more than 5,000, the department may license redemption centers in accordance with rules adopted by the department. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

4. Exceptions. Notwithstanding subsection 3:

A. An owner of a redemption center who is renewing the license of a redemption center licensed by the department as of April 1, 2009 need not comply with subsection 3;

B. An entity that is a food establishment or distributor licensed by or registered with the department need not comply with subsection 3;

C. A reverse vending machine is not considered a redemption center for purposes of subsection 3 when it is located in a licensed redemption center; and

D. The department may grant a license that is inconsistent with the requirements set out in subsection 3 only if the applicant has demonstrated a compelling public need for an additional redemption center in the municipality.

Sec. 8. 32 MRSA §1871-D is enacted to read:

§1871-D. Denial of redemption center license

1. Denial of application. The department shall notify an applicant denied a license for a redemption center of the reasons for the denial. Written notification must be sent to the mailing address given by the applicant in the application for a redemption center license.

2. Aggrieved applicants. An applicant aggrieved by a decision made by the department may appeal the decision by filing an appeal with the Superior Court and serving a copy of the appeal upon the department in accordance with the Maine Rules of Civil Procedure, Rule 80C. The appeal must be filed and served within 30 days of the mailing of the department's decision.

See title page for effective date.

CHAPTER 406**H.P. 931 - L.D. 1327**

**An Act To Update Department
of Defense, Veterans and
Emergency Management Laws**

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

Sec. 1. 37-B MRSA §264, sub-§3, ¶K, as enacted by PL 2007, c. 167, §1, is amended to read:

K. The Bath Armory, or any portion thereof, located on Lincoln Street, Bath, by means of a quitclaim deed as long as the purchaser agrees to indemnify and hold harmless the State from all claims, including any environmental clean-up costs that may arise in connection with the land or the buildings constituting the armory;

Sec. 2. 37-B MRSA §264, sub-§3, ¶N, as enacted by PL 2007, c. 167, §1, is amended to read:

N. The Presque Isle Armory located on North Main Street, Presque Isle, by means of a quitclaim deed as long as the purchaser agrees to indemnify and hold harmless the State from all claims, including any environmental clean-up costs that may arise in connection with the land or the buildings constituting the armory; ~~and~~

Sec. 3. 37-B MRSA §264, sub-§3, ¶O, as enacted by PL 2007, c. 167, §1, is amended to read:

O. The Caribou Armory, also known as the "Solman Armory," located on York Street, Caribou, by means of a quitclaim deed as long as the purchaser agrees to indemnify and hold harmless the State from all claims, including any environmental clean-up costs that may arise in connection with the land or the buildings constituting the armory;

Sec. 4. 37-B MRSA §264, sub-§3, ¶P is enacted to read:

P. The Fort Kent Armory, located on Armory Road, Fort Kent, by means of a quitclaim deed as long as the purchaser agrees to indemnify and hold harmless the State from all claims, including any environmental clean-up costs that may arise in connection with the land or the buildings constituting the armory; and

Sec. 5. 37-B MRSA §264, sub-§3, ¶Q is enacted to read:

Q. The Gardiner Armory, located on Brunswick Avenue, Gardiner, by means of a quitclaim deed as long as the purchaser agrees to indemnify and hold harmless the State from all claims, including any environmental clean-up costs that may arise in connection with the land or the buildings constituting the armory.

Sec. 6. 37-B MRSA §264, sub-§5 is enacted to read:

5. Special provisions for the Portland Armory. Notwithstanding subsection 1, the Adjutant General may execute a like-kind exchange of the Portland Ar-

mory, or any portion thereof, located on Stevens Avenue, Portland, for real property of substantially equal value, subject to the provisions of subsection 3, paragraph L.

Sec. 7. 37-B MRSA §460 is enacted to read:

§460. Behavior that is prejudicial to good order and discipline of military forces or that discredits military forces

Any person subject to this Code who behaves in a manner that is prejudicial to the good order and discipline of the military forces or that discredits the military forces must be punished as a court-martial may direct.

Sec. 8. 37-B MRSA §503, sub-§1, as amended by PL 2001, c. 662, §61, is further amended to read:

1. Employment of personnel. The director may employ, subject to approval of the appointing authority and the Civil Service Law, the personnel necessary to administer this chapter. The director may employ a ~~director~~ superintendent of the cemetery system, a veteran claims specialist and veteran ~~advocates~~ service officers. The director and other employees referred to in this subsection must be veterans as defined by 38 United States Code, Section 101 (2) who were separated with an honorable discharge.

Sec. 9. 37-B MRSA §504, sub-§2, as amended by PL 2001, c. 662, §63, is further amended to read:

2. Superintendent of the cemetery system. The director, with approval of the appointing authority, shall appoint a competent and trustworthy ~~director~~ superintendent of the cemetery system and shall arrange for personnel, material and equipment necessary for adequate maintenance of the cemeteries.

Sec. 10. 37-B MRSA §505, sub-§2, ¶H is enacted to read:

H. A school that provides tuition assistance pursuant to this subsection shall provide any information, such as enrollment verification, current contact information, semester grade point average, accumulated credit hours and transcripts, to the bureau as necessary for the bureau to properly administer the educational benefits described in this subsection in accordance with current laws.

Sec. 11. 37-B MRSA §508, as enacted by PL 2001, c. 662, §71, is amended to read:

§508. Veteran service officers

Veteran ~~advocates~~ service officers shall serve, assist and advocate for all veterans. A veteran ~~advocate~~ service officer must be trained and conversant on the issues, benefits and definitions affecting all veterans,

including atomic, Vietnam, Desert Storm and female veterans.

Sec. 12. 37-B MRSA §536 is enacted to read:

§536. Case Review Team

There is created within the commission the Case Review Team, referred to in this section as "the team."

1. Composition of Case Review Team. The team consists of the chair of the commission and, as determined by the chair of the commission, may consist of any current or advisory members of the commission, as described in section 532, subsections 1 and 2, depending upon the nature and requirements of each case review. If the team includes advisory members of the commission, those members serve as nonvoting members of the team.

2. Meetings; officers. The team shall meet at such time or times as may be reasonably necessary to carry out its duties, as the team determines, and it shall meet at the call of the chair of the commission.

3. Powers and duties. The team shall examine cases involving Maine National Guard noncombat death and disability associated with military service in the Maine National Guard. The purpose of the examinations must be consistent with the provisions of this chapter. In addition, the team shall assist specific individual Maine National Guard service members as necessary.

4. Confidentiality. For the purposes of Title 1, section 402, proceedings and records of the team are confidential and are not subject to disclosure under any state law, subpoena, discovery or introduction into evidence in a civil or criminal action and must be sealed. The chair of the commission shall disclose statistical information and conclusions of the team upon request but may not disclose the materials that are otherwise confidential.

Sec. 13. 37-B MRSA §601, as amended by PL 2007, c. 167, §9, is further amended to read:

§601. Home established; purpose

There must be public homes for veterans in Maine known as "Maine Veterans' Homes." In addition to the existing 120-bed home located in Augusta, a 120-bed home located in Scarborough, a home not to exceed 40 beds located in Caribou, a home located in Bangor not to exceed 120 beds, of which 40 beds are dedicated to senile dementia patients, and a home located in South Paris not to exceed 90 beds, of which 30 beds are dedicated to senile dementia patients, may be constructed if federal Veterans' Administration funds are available to meet part of the costs of each facility for construction or operation. In addition, a home located in Machias not to exceed 60 beds may be constructed if federal Veterans' Administration funds or funds from any other state, federal or private

source are available to meet part of the costs of the facility for construction or operation, except that the Machias home may not begin operation prior to July 1, 1995 and the construction and funding of the Machias home may not in any way jeopardize the construction, funding or financial viability of any other home. The Maine Veterans' 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.~~

See title page for effective date.

CHAPTER 407

H.P. 255 - L.D. 319

**An Act To Track the
Prevalence of Childhood
Obesity in Maine**

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

Sec. 1. 20-A MRSA §6455 is enacted to read:

§6455. Body mass index data

1. Collection of data. A school nurse or trained screener shall collect body mass index data from students in the school administrative unit in accordance with rules of the Department of Health and Human Services. Data may not be collected from a student whose parent or guardian objects on religious or philosophical grounds.