

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals
(may include minor formatting differences from printed original)

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

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.

2. Confidentiality. Except as provided in subsection 3, body mass index data collected pursuant to subsection 1 are confidential and are not subject to disclosure pursuant to Title 1, chapter 13.

3. Reporting of data. A school nurse shall report the data collected under subsection 1 to the Department of Health and Human Services, Maine Center for Disease Control and Prevention. Data reported pursuant to this subsection may be reported in the aggregate only and may not identify an individual student.

4. Funding. In the event federal funds are not available for collecting and reporting data pursuant to this section, the State, municipality or school administrative unit is under no obligation to use any state, municipal or school administrative unit funds to carry out the purposes of this section.

5. Rules. The Department of Health and Human Services shall adopt routine technical rules in accordance with Title 5, chapter 375, subchapter 2-A to implement this section. The rules must at a minimum:

A. Establish a schedule and protocol for the collection of data from students; and

B. Provide a method for uniform reporting of the collected data to the Maine Center for Disease Control and Prevention.

See title page for effective date.

**CHAPTER 408
S.P. 235 - L.D. 621**

**An Act Allowing Workers'
Compensation Benefits for
Firefighters Who Contract
Cancer**

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

Sec. 1. 39-A MRSA §328-B is enacted to read:

§328-B. Cancer suffered by a firefighter

Cancer suffered by a firefighter is governed by this section.

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Cancer" means kidney cancer, non-Hodgkin's lymphoma, colon cancer, leukemia, brain cancer, bladder cancer, multiple myeloma, prostate cancer, testicular cancer or breast cancer.

B. "Employed" means to be employed as an active duty firefighter or to be an active member of a

volunteer fire association with no compensation other than injury and death benefits.

C. "Firefighter" means a member of a municipal fire department or volunteer fire association whose duties include the extinguishment of fires.

2. Presumption. If a firefighter who contracts cancer has met the requirements of subsections 3, 6 and 7, there is a rebuttable presumption that the firefighter contracted the cancer in the course of employment as a firefighter and as a result of that employment, that sufficient notice of the cancer has been given and that the disease was not occasioned by any willful act of the firefighter to cause the disease.

3. Medical tests. In order to be entitled to the presumption in subsection 2, during the time of employment as a firefighter, the firefighter must have undergone a standard, medically acceptable test for evidence of the cancer for which the presumption is sought or evidence of the medical conditions derived from the disease, which test failed to indicate the presence or condition of cancer.

4. Liability if services performed for more than one employer. If a firefighter who contracts cancer was employed as a firefighter by more than one employer and qualifies for the presumption under subsection 2, and that presumption has not been rebutted, the employer and insurer at the time of the last substantial exposure to the risk of the cancer are liable under this Part.

5. Retired firefighter. This section applies to a firefighter who is diagnosed with cancer within 10 years of the firefighter's last active employment as a firefighter or prior to attaining 70 years of age, whichever occurs first.

6. Length of service. In order to qualify for the presumption under subsection 2, the firefighter must have been employed as a firefighter for 5 years and regularly responded to firefighting or emergency calls.

7. Written verification. In order to qualify for the presumption under subsection 2, a firefighter must sign a written affidavit declaring, to the best of the firefighter's knowledge and belief, that the firefighter's diagnosed cancer is not prevalent among the firefighter's blood-related parents, grandparents or siblings and that the firefighter has no substantial lifetime exposures to carcinogens that are associated with the firefighter's diagnosed cancer other than exposure through firefighting.

See title page for effective date.