

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE

SECOND REGULAR SESSION
January 6, 2010 to April 12, 2010

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SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JULY 12, 2010

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Augusta, Maine
2010

Sec. 4. 5 MRSA §933, sub-§1, ¶N, as enacted by PL 2005, c. 337, §2 and affected by §4, is amended to read:

N. Director, Division of Quality Assurance and Regulation;

Sec. 5. 5 MRSA §933, sub-§1, ¶O is enacted to read:

O. Director, Division of Agriculture Resource Development; and

Sec. 6. 5 MRSA §933, sub-§1, ¶P is enacted to read:

P. Director, Division of Animal and Plant Health.

Sec. 7. Resolve 2009, c. 63, Sec. 1 is amended to read:

Sec. 1. Commissioner of Agriculture, Food and Rural Resources to develop best management practices for poultry production. Resolved: That the Commissioner of Agriculture, Food and Rural Resources shall develop best management practices for the production and maintenance of poultry at facilities with more than 10,000 birds ~~and adopt rules to establish standards for these facilities based on the best management practices.~~ The best management practices must be available on the Department of Agriculture, Food and Rural Resources' publicly accessible website and included in the next publication of the Manual of Best Management Practices for Maine Agriculture by the department's division of animal health and industry. ~~Rules adopted in accordance with this section are major substantive rules as defined in the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A; and be it further~~

See title page for effective date.

CHAPTER 553

H.P. 899 - L.D. 1296

An Act To Strengthen the Job Creation Through Educational Opportunity Program

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

PART A

Sec. A-1. 20-A MRSA §12541, sub-§1, as enacted by PL 2007, c. 469, Pt. A, §1, is amended to read:

1. Accredited Maine community college, college or university. "Accredited Maine ~~junior community~~ college, college or university" means an institution that is accredited by a regional accrediting association or by one of the specialized accrediting agen-

cies recognized by the United States Secretary of Education and is:

A. Any campus of the Maine Community College System;

B. Any campus of the University of Maine System;

C. The Maine Maritime Academy;

D. Any educational institution that is located in this State and has authorization to confer an associate degree or a bachelor's degree, in accordance with sections 10704 and 10704-A;

E. Any educational institution that is located in this State and is exempted from chapter 409 under section 10708, subsections 1 and 2; and

F. Any educational institution that is located in this State and is operating under a certificate of temporary approval from the state board under section 10703, to the extent that a student is ultimately able either to obtain an associate or a bachelor's degree at that institution or to transfer to and obtain a degree from an institution described in paragraphs A to E.

Sec. A-2. 20-A MRSA §12541, sub-§2, as enacted by PL 2007, c. 469, Pt. A, §1, is amended to read:

2. Benchmark loan payment. "Benchmark loan payment" means the figure described in section 12542, subsection ~~2~~ 2-A, paragraph ~~C~~ D.

Sec. A-3. 20-A MRSA §12541, sub-§2-A is enacted to read:

2-A. Educational cost-of-living adjustment. "Educational cost-of-living adjustment" means for any calendar year an amount equal to the average tuition and fees at the University of Maine System for a bachelor's degree or at the Maine Community College System for an associate degree for the academic year beginning in the prior calendar year, divided by the average tuition and fees for that degree in that system for the academic year beginning in the calendar year immediately preceding the prior calendar year.

Sec. A-4. 20-A MRSA §12541, sub-§4-A is enacted to read:

4-A. Financial aid package. "Financial aid package" means all financial aid received by a student and includes any loans that are certified by an accredited Maine community college, college or university's financial aid office, subject to any changes made by that institution's financial aid office. These loans may include private loans for the cost of attendance at an accredited Maine community college, college or university or less than the full amount of loans under federal programs, depending on the practices of the ac-

credited Maine community college, college or university.

Sec. A-5. 20-A MRSA §12541, sub-§5, as enacted by PL 2007, c. 469, Pt. A, §1, is amended to read:

5. Maine resident. "Maine resident" means an individual who qualifies for Maine residence under Title 21-A, section 112. An individual is a Maine resident if, at the time the individual commences the relevant degree program, the individual is registered to vote in the State or occupies a dwelling in the State and continues to occupy a dwelling in the State during the school year, except periods when it is reasonably necessary for the individual to live elsewhere as part of an accredited Maine community college, college or university's academic programs.

Sec. A-6. 20-A MRSA §12541, sub-§6, as enacted by PL 2007, c. 469, Pt. A, §1, is repealed.

Sec. A-7. 20-A MRSA §12541, sub-§7, as enacted by PL 2007, c. 469, Pt. A, §1, is amended to read:

7. Principal cap. "Principal cap" means the cap described in section 12542, subsection ~~2~~ 2-A.

Sec. A-8. 20-A MRSA §12542, sub-§2, as enacted by PL 2007, c. 469, Pt. A, §1, is repealed.

Sec. A-9. 20-A MRSA §12542, sub-§2-A is enacted to read:

2-A. Principal cap. The principal cap limits the loan principal for purposes of claiming the educational opportunity tax credit. The University of Maine System and the Maine Community College System shall publish on their respective publicly accessible websites the average in-state tuition and mandatory fees applicable to their respective programs and provide those figures to the State Tax Assessor and all accredited Maine community colleges, colleges and universities by September 1st each year.

A. For an individual graduating in 2010, the individual's principal cap is \$7,865 for a bachelor's degree earner or \$3,300 for an associate degree earner, multiplied by the number of years of full-time attendance to obtain the relevant degree.

B. Beginning in 2010, by November 1st annually the State Tax Assessor shall multiply the educational cost-of-living adjustment by the principal cap applicable to individuals who graduate in that calendar year; the result is the principal cap for individuals who graduate during the following calendar year.

C. For an individual earning a degree from an accredited Maine community college, college or university, the relevant accredited Maine community college, college or university shall certify, once the individual has earned the degree, the to-

tal principal of loans the individual received as part of that individual's financial aid package.

D. For an individual whose student loans exceed the principal cap, a benchmark loan payment must be calculated as described in this paragraph. The State Tax Assessor shall annually by November 1st calculate what the monthly payment would be on a loan for the amount of the principal cap, to be paid over 10 years, at the interest rate offered for federally subsidized Stafford loans under 20 United States Code, Section 1077a, during the individual's last year of enrollment at an accredited Maine community college, college or university.

Sec. A-10. 20-A MRSA §12542, sub-§3, as enacted by PL 2007, c. 469, Pt. A, §1, is amended to read:

3. Eligibility for the program. ~~The state board shall draft an opportunity contract for use in enrolling individuals in the program. The terms of the opportunity contract must require an individual who wishes To be eligible to participate in the program to:~~

~~A. Certify that that An individual is must be a Maine resident;~~

~~B. Agree to An individual must attend and to obtain a specified degree, either an associate degree or a bachelor's degree, from an accredited Maine junior community college, college or university. The individual need not obtain the degree from the institution in which that individual originally enrolled, so as long as all course work toward the degree is performed at accredited Maine junior community colleges, colleges or universities;~~

~~C. Agree to An individual must live in this State while pursuing the degree, excepting periods when it is reasonably necessary for the individual to live elsewhere as part of the relevant institution's academic programs. The individual shall must also agree to live in this State after obtaining the degree during any period when that individual seeks to take advantage of the educational opportunity tax credit; and~~

~~D. Agree to An individual must maintain records relating to loan payments claimed under the educational opportunity tax credit for 5 years after those payments are claimed; and~~

~~E. With respect to educational loans, agree to the following:~~

~~(1) The individual may claim the educational opportunity tax credit only with respect to loans that are part of that individual's financial aid package and that have a term of at least 8 years;~~

~~(2) If the individual in any way accelerates repayment, the individual forfeits any right to~~

~~claim an educational opportunity tax credit for that taxable year or any future taxable year; and~~

~~(3) The individual may refinance said loans only if they remain separate from other debt and if the effect of the refinancing is to decrease both the annual repayment and the total remaining indebtedness.~~

~~In exchange for the consideration outlined in paragraphs B to E, the State shall agree to permit the individual to take advantage of the educational opportunity tax credit.~~

~~The opportunity contract must leave space for the accredited Maine junior college, college or university to certify that the individual has obtained the relevant degree, and to certify whether or not the loan principal that the individual incurs in pursuing the relevant degree exceeds the principal cap.~~

Sec. A-11. 20-A MRSA §12542, sub-§3-A is enacted to read:

3-A. Educational loans. The following provisions apply with respect to an individual's educational loans.

A. The individual may claim the educational opportunity tax credit only with respect to loans that are part of that individual's financial aid package and that have a term of at least 8 years.

B. If the individual makes any prepayment, that prepayment is not eligible for the educational opportunity tax credit.

C. The individual, including an individual who has graduated from an accredited Maine community college, college or university after January 1, 2008, may refinance educational loans only if they remain separate from other debt, whether noneducational debt or educational debt incurred in a program other than the degree program for which the educational opportunity tax credit is claimed.

Sec. A-12. 20-A MRSA §12542, sub-§4, as enacted by PL 2007, c. 469, Pt. A, §1, is repealed.

Sec. A-13. 20-A MRSA §12542, sub-§4-A is enacted to read:

4-A. Administration. The program must be administered as described in this subsection.

A. The department, in consultation with the State Tax Assessor, shall make information about the program available on the department's publicly accessible website. The department shall refer any questions regarding the program to the relevant accredited Maine community college, college or university's financial aid office. The assessor shall provide to an accredited Maine community

college, college or university information that is necessary to document a student's eligibility for the educational opportunity tax credit.

B. A Maine resident who enrolls in an accredited Maine community college, college or university who receives financial aid in the form of loans must have the opportunity to participate in the program. An accredited Maine community college, college or university shall, at a minimum, provide information about the program in financial aid award materials, entrance interviews, exit interviews, materials listing financial aid resources and, as appropriate, any promotional materials provided by state agencies, to the extent such contacts with students are already part of the accredited Maine community college, college or university's procedures.

C. An accredited Maine community college, college or university must document for the student information required for purposes of the educational opportunity tax credit. The accredited Maine community college, college or university shall provide an original or certified copy to the student and shall retain a copy of the documentation in its files for at least 10 years after the student graduates.

D. An individual may take advantage of any forbearance or deferment provisions in the relevant loan agreements without forfeiting the right to claim the educational opportunity tax credit when the individual resumes repayment. This paragraph applies to a student that obtained a bachelor's or associate degree from an accredited Maine community college, college or university after September 20, 2007.

Sec. A-14. 20-A MRSA §12542, sub-§5, as enacted by PL 2007, c. 469, Pt. A, §1, is amended to read:

5. Effective date; participation by individual already enrolled in degree program. The program must commence for the first semester that begins after the effective date of this chapter. A Maine residents resident who when the program commences are is enrolled in an associate or a bachelor's degree program at an accredited Maine junior community college, college or university may participate, subject to the same essential terms as other program participants. When such an individual obtains the relevant degree, it must be specified in the individual's opportunity contract what percentage of the course work completed in pursuit of the degree was performed while the individual was participating in the program. The principal cap and benchmark loan payment must be calculated in the ordinary way as provided in this chapter, but the individual must then apply the percentage in this subsection to actual payments or to the benchmark loan payment, whichever applies, in determining the amount

~~the individual can claim under the educational opportunity tax credit for a given year. Such an individual need only meet the eligibility requirements in subsection 3 from January 1, 2008 forward.~~

Sec. A-15. 20-A MRSA §12542, sub-§6 is enacted to read:

6. Promotion by state agencies. The department, the Finance Authority of Maine, the Department of Economic and Community Development and any other agency engaging in education-related outreach shall integrate promotion of the program into existing educational opportunity outreach efforts to the extent possible in a manner consistent with the scope of the program and its centrality to the State's efforts to raise educational attainment.

Sec. A-16. 20-A MRSA §12543, as enacted by PL 2007, c. 469, Pt. A, §1, is amended to read:

§12543. Effect on funding of higher education

It is the intent of the Legislature that neither the existence of the program nor the benefits provided under the educational opportunity tax credit serve as justification to decrease other funds appropriated or allocated to accredited Maine ~~junior~~ community colleges, colleges or universities, including institutions in the Maine Community College System and the University of Maine System, or to other higher education programs.

Sec. A-17. 20-A MRSA §12544, as enacted by PL 2007, c. 469, Pt. A, §1, is repealed.

Sec. A-18. Report on progress in implementation. An accredited Maine community college, college or university, as defined in the Maine Revised Statutes, Title 20-A, section 12541, subsection 1, shall report to the Department of Education in writing by February 1, 2011 and by February 1, 2012 on efforts to promote and enroll individuals in the Job Creation Through Educational Opportunity Program and to train admissions and financial aid staff about the program. The department shall convey the information gathered pursuant to this section to the joint standing committee of the Legislature having jurisdiction over education and cultural affairs by March 1, 2011 and March 1, 2012. The State Tax Assessor shall report on implementation of the program to the joint standing committee of the Legislature having jurisdiction over education and cultural affairs by March 1, 2011 and March 1, 2012.

Sec. A-19. Repeal of current rules. The State Board of Education shall repeal Chapter 145 of Title 05-071 of the Code of Maine Rules.

PART B

Sec. B-1. 36 MRSA §5122, sub-§2, ¶FF is enacted to read:

FF. To the extent included in federal adjusted gross income, student loan payments made by the taxpayer's employer in accordance with section 5217-D.

Sec. B-2. 36 MRSA §5217-D, sub-§1, ¶F, as enacted by PL 2007, c. 469, Pt. B, §1, is repealed.

Sec. B-3. 36 MRSA §5217-D, sub-§1, ¶G, as enacted by PL 2007, c. 469, Pt. B, §1, is amended to read:

G. "Opportunity program participant" means an individual who ~~enters into an opportunity contract with the State~~, obtains the specified degree and complies with the requirements under Title 20-A, section 12542, ~~subsections 3 to 5.~~

Sec. B-4. 36 MRSA §5217-D, sub-§3, as enacted by PL 2007, c. 469, Pt. B, §1, is amended to read:

3. Calculation of the credit. ~~The following provisions govern the calculation of the credit in this section is determined on the basis of the amount under paragraph A or paragraph B, whichever is less, multiplied by the proration factor. For purposes of this subsection, the proration factor is the amount derived by dividing the total number of academic credit hours earned for a bachelor's or associate degree after December 31, 2007 by the total number of academic credit hours earned for the bachelor's or associate degree.~~

A. ~~If the relevant opportunity program participant's opportunity contract limits the amount of the credit to a benchmark loan payment, and the relevant opportunity program participant's is less than the actual monthly payment due is higher than that amount, then the credit claimed may not exceed the product of the benchmark loan payment and the number of months during the taxable year in which the taxpayer made loan payments.~~

B. ~~If the relevant opportunity program participant's opportunity contract certifies that the principal for the relevant loans is at or below the level of the principal cap, or if the relevant opportunity program participant's actual monthly loan payment amount is below less than the benchmark loan payment, the taxpayer may claim a credit must be based only on regularly scheduled the actual loan payments actually made during the taxable year.~~

C. ~~If the credit is claimed on behalf of an individual who was already enrolled in an associate or a bachelor's degree program at an accredited Maine junior college, college or university, as defined in Title 20 A, section 12541, subsection 1, on the commencement of the Job Creation Through Educational Opportunity Program under Title 20 A, chapter 428 C, the percentage figure~~

~~listed in the opportunity contract, as specified under Title 20-A, section 12542, subsection 5, must be applied to the amount determined under paragraph A or B.~~

Sec. B-5. Application. This Part applies to tax years beginning on or after January 1, 2010.

See title page for effective date.

CHAPTER 554

S.P. 581 - L.D. 1503

**An Act To Establish
Emergency Zones on Public
Ways To Minimize Accidents**

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

Sec. 1. 29-A MRSA §2074, sub-§1-A is enacted to read:

1-A. Emergency zone. A person shall operate a vehicle at a careful and prudent speed not greater than is reasonable and proper when approaching or passing through an emergency zone, having due regard for the safety of any individual present in the emergency zone and the physical characteristics of the emergency zone.

For purposes of this subsection, "emergency zone" means any portion of a way where at least one stationary ambulance or emergency medical service, fire department, hazardous material response or police vehicle is located with emergency lights in use for the purpose of rendering medical assistance or responding to an event when the situation presents a risk of harm to a person using the way or an area immediately adjacent to the way. An emergency zone may be identified by any method reasonably visible to an approaching operator, including, but not limited to, vehicle emergency lights, signs, traffic cones, flaggers or mobile lighting.

A person who violates this subsection commits a traffic infraction punishable by a fine of not less than \$250.

See title page for effective date.

CHAPTER 555

H.P. 1223 - L.D. 1722

**An Act To Strengthen
Protection from Abuse and
Protection from Harassment
Laws**

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

Sec. 1. 5 MRSA §4654, sub-§8 is enacted to read:

8. Service of order; use of electronic copies. Notwithstanding any other provision of law, service of an order may be made pursuant to this section through the use of electronically transmitted printed copies of orders that have been transmitted directly from the court to the law enforcement agency or correctional facility making service. Return of proof of service may be made by electronic transmission of the proof of service directly to the court from the law enforcement officer making service or the chief administrative officer, or the chief administrative officer's designee, of the correctional facility making service.

In any subsequent criminal prosecution for violation of this section when the service of an order was made through the use of an electronically transmitted printed copy of the order, with 10 days' advance written notice to the prosecution, the defendant may request that the prosecution call as a witness the law enforcement officer who served the order or the chief administrative officer, or the chief administrative officer's designee, of the correctional facility that served the order.

Sec. 2. 5 MRSA §4655, sub-§6, ¶A is enacted to read:

A. Notwithstanding any other provision of law, service of an order may be made pursuant to this section through the use of electronically transmitted printed copies of orders that have been transmitted directly from the court to the law enforcement agency or correctional facility making service. Return of proof of service may be made by electronic transmission of the proof of service directly to the court from the law enforcement officer making service or the chief administrative officer, or the chief administrative officer's designee, of the correctional facility making service.

Sec. 3. 5 MRSA §4655, sub-§6, ¶B is enacted to read:

B. In any subsequent criminal prosecution for violation of this section when the service of an order was made through the use of an electronically transmitted printed copy of the order, with 10 days' advance written notice to the prosecution, the defendant may request that the prosecution call as a witness the law enforcement officer who served the order or the chief administrative officer, or the chief administrative officer's designee, of the correctional facility that served the order.

Sec. 4. 19-A MRSA §4006, sub-§6, ¶A is enacted to read:

A. Notwithstanding any other provision of law, service of an order may be made pursuant to this section through the use of electronically transmitted printed copies of orders that have been trans-