

# 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**

**THE GENERAL EFFECTIVE DATE FOR**  
**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.**

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**Augusta, Maine**  
**2010**

**CHAPTER 625**  
**H.P. 1084 - L.D. 1540**

**An Act To Amend the Tax  
Laws**

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

**Sec. 1. 30-A MRSA §706**, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106 and amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is further amended to read:

**§706. Apportionment of county tax; warrants**

When a county tax is authorized, the county commissioners, ~~within 30 days of that authorization,~~ shall apportion it upon the municipalities, unorganized territory and other places in that county according to the ~~last most recent~~ state valuation ~~and fix the date for the payment of the tax. This date may not be earlier than the first day of the following September.~~ They may add ~~that sum above~~ to the sum ~~so~~ authorized, an amount not exceeding 2% of that sum, as if a fractional division necessitates that addition and if they demonstrate that necessity in the record of that apportionment, and issue their warrant to the assessors requiring them to immediately assess the sum apportioned to their municipality or place, and to commit their assessment to the constable or collector for collection. The county treasurer shall immediately certify the millage rate to the State Tax Assessor. The State Tax Assessor shall separately assess this millage rate upon the real and personal property in the unorganized territory within the appropriate county. The county commissioners shall establish the date for the payment of the tax. The date may not be earlier than the first day of the following September.

No later than the 15th of July preceding the date established for payment of the tax, the county commissioners shall issue their warrant to the assessors of the municipalities and other places and to the State Tax Assessor for the unorganized territory within that county. Those officers shall assess the sum apportioned to their tax jurisdiction and commit their assessment for collection in the same manner as other amounts to be raised by the property tax during the tax year to which the county tax warrant applies.

If a municipality or place or the State Tax Assessor must make a supplemental assessment due to failure by the county commissioners to issue their warrant by July 15th, the county must bear the costs of that supplemental assessment. Those costs may be recovered by the tax jurisdiction through an offset against the county tax that the tax jurisdiction would otherwise be required to pay over to the county.

The county may collect delinquent county taxes and charge interest on delinquent county taxes as provided under Title 36, sections 891, ~~892~~ and 892-A.

**Sec. 2. 36 MRSA §111, sub-§5**, as amended by PL 2009, c. 434, §4, is further amended to read:

**5. Tax.** "Tax" means the total amount required to be paid, withheld and paid over or collected and paid over with respect to estimated or actual tax liability under this Title, any credit or reimbursement allowed or paid pursuant to this Title that is recoverable by the assessor and any amount assessed by the ~~State Tax Assessor~~ assessor pursuant to this Title, including any interest or penalties provided by law. For purposes of this chapter, "tax" also means any fee, fine, penalty or other debt owed to the State provided for by law if ~~this that fee, fine, penalty or other~~ debt is subject to collection by the assessor pursuant to statute or transferred to the bureau for collection pursuant to section 112-A.

**Sec. 3. 36 MRSA §186**, as amended by PL 2003, c. 673, Pt. KK, §1 and affected by §3, is further amended to read:

**§186. Interest**

~~Any A~~ person who fails to pay any tax, other than a tax imposed pursuant to chapter 105, on or before the last date prescribed for payment is liable for interest on the tax, calculated from that date and compounded monthly. The rate of interest for any calendar year equals the highest prime rate as published in the Wall Street Journal on the first day of September of the preceding calendar year or, if the first day of September falls on a weekend or holiday, on the next succeeding business day, rounded up to the next whole percent plus 3 percentage points. For purposes of this section, the last date prescribed for payment of tax must be determined without regard to any extension of time permitted for filing a return. A tax that is upheld on administrative or judicial review bears interest from the date on which payment would have been due in the absence of review. ~~Any tax, interest or penalty imposed by this Title amount~~ that has been erroneously refunded and is recoverable by the assessor bears interest at the ~~above~~ rate determined pursuant to this section from the date of payment of the refund. A credit or reimbursement that has been allowed or paid pursuant to this Title and is recoverable by the assessor bears interest at the rate determined pursuant to this section from the date it was allowed or paid. Interest accrues automatically, without being assessed by the assessor, and is recoverable by the assessor in the same manner as if it were a tax assessed under this Title. If the failure to pay a tax when required is explained to the satisfaction of the assessor, the assessor may abate or waive the payment of all or any part of that interest.

Except as otherwise provided in this Title, and except for taxes imposed pursuant to chapter 105, inter-

est; at the rate determined by the assessor for underpayments pursuant to this section; must be paid on overpayments of tax from the date the return listing the overpayment was filed; or the date payment was made, whichever is later.

**Sec. 4. 36 MRSA §1752, sub-§14, ¶B,** as amended by PL 2009, c. 496, §15 and affected by §30, is further amended to read:

B. "Sale price" does not include:

- (1) Discounts allowed and taken on sales;
- (2) Allowances in cash or by credit made upon the return of merchandise pursuant to warranty;
- (3) The price of property returned by customers, when the full price is refunded either in cash or by credit;
- (4) The price received for labor or services used in installing or applying or repairing the property sold, if separately charged or stated;
- (5) Any amount charged or collected, in lieu of a gratuity or tip, as a specifically stated service charge, when that amount is to be disbursed by a hotel, restaurant or other eating establishment to its employees as wages;
- (6) The amount of any tax imposed by the United States on or with respect to retail sales, whether imposed upon the retailer or the consumer, except any manufacturers', importers', alcohol or tobacco excise tax;
- (7) The cost of transportation from the retailer's place of business or other point from which shipment is made directly to the purchaser, provided that those charges are separately stated and the transportation occurs by means of common carrier, contract carrier or the United States mail;
- (8) The fee imposed by Title 10, section 1169, subsection 11;
- (9) The fee imposed by section 4832, subsection 1;
- (10) The lead-acid battery deposit imposed by Title 38, section 1604, subsection 2-B;
- (11) Any amount charged or collected by a person engaged in the rental of living quarters as a forfeited room deposit or cancellation fee if the prospective occupant of the living quarters cancels the reservation on or before the scheduled date of arrival; ~~or~~
- (12) The premium imposed on bulk motor vehicle oil and prepackaged motor vehicle oil by Title 10, section 1020, subsection 6-A; or

(13) Any amount charged for the disposal of used tires.

**Sec. 5. 36 MRSA §1752, sub-§14, ¶B,** as amended by PL 2009, c. 496, §16 and affected by §31, is further amended to read:

B. "Sale price" does not include:

- (1) Discounts allowed and taken on sales;
- (2) Allowances in cash or by credit made upon the return of merchandise pursuant to warranty;
- (3) The price of property returned by customers, when the full price is refunded either in cash or by credit;
- (5) Any amount charged or collected, in lieu of a gratuity or tip, as a specifically stated service charge, when that amount is to be disbursed by a hotel, restaurant or other eating establishment to its employees as wages;
- (6) The amount of any tax imposed by the United States on or with respect to retail sales, whether imposed upon the retailer or the consumer, except any manufacturers', importers', alcohol or tobacco excise tax;
- (7) The cost of transportation from the retailer's place of business or other point from which shipment is made directly to the purchaser, provided that those charges are separately stated and the transportation occurs by means of common carrier, contract carrier or the United States mail;
- (8) The fee imposed by Title 10, section 1169, subsection 11;
- (9) The fee imposed by section 4832, subsection 1;
- (10) The lead-acid battery deposit imposed by Title 38, section 1604, subsection 2-B;
- (11) Any amount charged or collected by a person engaged in the rental of living quarters as a forfeited room deposit or cancellation fee if the prospective occupant of the living quarters cancels the reservation on or before the scheduled date of arrival; ~~or~~
- (12) The premium imposed on bulk motor vehicle oil and prepackaged motor vehicle oil by Title 10, section 1020, subsection 6-A; or
- (13) Any amount charged for the disposal of used tires.

**Sec. 6. 36 MRSA §1760, sub-§5** is amended to read:

**5. Medicines.** Sales of medicines for human beings sold on doctor's prescription. This subsection

does not apply to the sale of marijuana pursuant to Title 22, chapter 558-C.

**Sec. 7. 36 MRSA §1760, sub-§9**, as amended by PL 2007, c. 675, §1 and affected by §2, is further amended to read:

**9. Coal, oil and wood.** Coal, oil, wood and all other fuels, except gas and electricity, when bought for cooking and heating in buildings designed and used for both human habitation and sleeping. Kerosene or home heating oil that is prepackaged or dispensed from a tank for retail sale in containers with a capacity of 5 gallons or less is presumed to meet the requirements of this subsection. A purchase of 200 pounds or less of wood pellets or of any 100% compressed wood product intended for use in a wood stove or fireplace is presumed to meet the requirements of this subsection.

**Sec. 8. 36 MRSA §1760, sub-§45, ¶A**, as amended by PL 2007, c. 438, §45, is further amended to read:

A. If the property is an automobile, as defined in Title 29-A, section 101, subsection 7, and if the owner is an individual who was, at the time of purchase, a resident of the other state ~~and either employed or registered to vote there;~~

**Sec. 9. 36 MRSA §2513, first ¶**, as amended by PL 2007, c. 627, §52, is further amended to read:

Every insurance company or association that does business or collects premiums or assessments including annuity considerations in the State, including surety companies and companies engaged in the business of credit insurance or title insurance, shall, for the privilege of doing business in this State and in addition to any other taxes imposed for that privilege, pay a tax upon all gross direct premiums including annuity considerations, whether in cash or otherwise, on contracts written on risks located or resident in the State for insurance of life, annuity, fire, casualty and other risks at the rate of 2% a year. Every surplus lines insurer that does business or collects premiums in the State shall, for the privilege of doing business in this State and in addition to any other taxes imposed for that privilege, pay a tax upon all gross direct premiums, whether in cash or otherwise, on contracts written on risks located or resident in the State at the rate of 3% a year. The producer of those contracts must collect the tax and report and pay the tax to the State Tax Assessor as provided in section 2521-A, except that an insurance agency may elect to collect and pay the tax on surplus lines premiums on behalf of all of its employees who are surplus lines producers. For purposes of this section, the term "annuity considerations" includes amounts paid to an insurance company ~~when received~~ for the purchase of a contract that may result in an annuity, even ~~when~~ if the annuitization never occurs or does not occur until some time in the future and the amounts are in the meantime applied to an investment

vehicle other than an annuity. This section does not apply to mutual fire insurance companies subject to tax under section 2517 or to captive insurance companies formed or licensed under Title 24-A, chapter 83 or under the laws of another state.

**Sec. 10. 36 MRSA §2903, sub-§4, ¶A**, as enacted by PL 1997, c. 738, §4, is amended to read:

A. Sold wholly for exportation from this State by a licensed distributor or an exporter;

**Sec. 11. 36 MRSA §3204-A, sub-§5**, as enacted by PL 1995, c. 271, §7, is amended to read:

**5. Exportation.** Special fuel sold only for exportation from this State by a licensed supplier;

**Sec. 12. 36 MRSA §5122, sub-§2, ¶FF** is enacted to read:

FF. To the extent included in the taxpayer's federal adjusted gross income, the recovery of a portion of a federal standard deduction claimed in a prior year for which the taxpayer was not allowed under this Part to reduce federal adjusted gross income or Maine adjusted gross income for that year.

**Sec. 13. PL 2009, c. 470, §9** is enacted to read:

**Sec. 9. Application.** This section determines the application of this Act to media production certificates issued pursuant to the Maine Revised Statutes, Title 5, section 13090-L.

**1. Certificates issued on or after January 1, 2010.** This Act applies to visual media production certificates issued pursuant to Title 5, section 13090-L on or after January 1, 2010.

**2. Certificates issued prior to January 1, 2010.** For media production certificates issued prior to January 1, 2010, a media production company to which a certificate has been issued is allowed a tax credit and reimbursement of wages as determined pursuant to this subsection.

A. A media production company is allowed a credit against the taxes imposed by Title 36, Part 8 in an amount equal to the Maine income tax imposed on income directly related to a certified media production.

If the media production company realizes income from a certified media production and also has Maine-source income from other sources, the credit allowed under this paragraph is based on a fraction of the media production company's entire Maine income tax liability for the year. The fraction is equal to the media production company's compensation paid during the tax year related to the certified media production divided by the media production company's total Maine compensa-

tion paid. If the calculation provided by this paragraph does not fairly reflect the tax liability associated with the media production company's certified media production, the media production company may petition for, or the State Tax Assessor may require, the employment of another reasonable method to make an equitable determination of the Maine tax associated with the media production company's certified media production. The credit allowed by this paragraph may not reduce the tax otherwise due under Title 36, Part 8 below zero and may be used only in the year in which the certified media production income is generated. Taxpayers claiming a credit under Title 36, section 5219-W are not eligible for this credit.

B. A media production company is allowed reimbursement equal to 12% of certified production wages paid to employees who are residents of Maine and 10% of certified production wages paid to other employees.

C. As used in this subsection, the following terms have the following meanings.

(1) "Certified media production" has the same meaning as "certified visual media production" as that term is defined in section 6901, subsection 1.

(2) "Certified production wages" means wages that are paid during the project period by a media production company that was issued a tax reimbursement certificate and that are subject to withholding pursuant to Title 36, chapter 827. "Certified production wages" does not include any wages in excess of \$1,000,000 paid to a single individual for personal services rendered in connection with a particular certified media production.

(3) "Compensation" has the same meaning as in Title 36, section 5210, subsection 3.

(4) "Media production company" has the same meaning as in the former Title 5, section 13090-L, subsection 2, paragraph B.

**Sec. 14. Transfer from short-term emergency contingency account.** The State Controller shall transfer \$692,000 from the short-term emergency contingency account established pursuant to Public Law 2009, chapter 571, Part KK to the General Fund unappropriated surplus no later than June 30, 2011.

**Sec. 15. Application.** That section of this Act that enacts the Maine Revised Statutes, Title 36, section 5122, subsection 2, paragraph FF applies to tax years beginning on or after January 1, 2009.

**Sec. 16. Contingent effective date.** That section of this Act that amends the Maine Revised Statutes, Title 36, section 1752, subsection 14, paragraph

B, as amended by Public Law 2009, chapter 496, section 15 and affected by section 30, takes effect only if Public Law 2009, chapter 382 is rejected by a majority of the electors voting on that measure pursuant to the Constitution of Maine, Article IV, Part Third, Section 17.

**Sec. 17. Contingent effective date.** That section of this Act that amends the Maine Revised Statutes, Title 36, section 1752, subsection 14, paragraph B, as amended by Public Law 2009, chapter 496, section 16 and affected by section 31, takes effect only if Public Law 2009, chapter 382 is not rejected by a majority of the electors voting on that measure pursuant to the Constitution of Maine, Article IV, Part Third, Section 17.

**Sec. 18. Retroactivity.** That section of this Act that amends the Maine Revised Statutes, Title 36, section 1752, subsection 14, paragraph B applies retroactively to January 1, 2009.

See title page for effective date, unless otherwise indicated.

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## CHAPTER 626

### S.P. 623 - L.D. 1658

#### An Act To Increase Maine's High School Graduation Rates

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

**Sec. 1. 20-A MRSA c. 211, sub-c. 1-B** is enacted to read:

#### SUBCHAPTER 1-B

#### HIGH SCHOOL GRADUATION RATE

#### §5031. High school graduation rate

**1. Goal.** It is the goal of the State to achieve a graduation rate of 90% by the end of the 2015-2016 school year for each publicly supported secondary school.

**2. Technical assistance.** The department shall provide forms to publicly supported secondary schools for reporting graduation rates. The commissioner shall provide technical assistance to publicly supported secondary schools in the State that have not attained a graduation rate of 80% by the end of the 2012-2013 school year. Publicly supported secondary schools that do not meet the 80% graduation rate by the end of the 2012-2013 school year shall provide the commissioner with a copy of the action plan developed under section 5103, subsection 5 no later than December 31, 2013. The action plan may include the steps necessary to achieve a graduation rate of 90% by the end of the 2015-2016 school year.