

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE

FIRST REGULAR SESSION
December 1, 2010 to June 29, 2011

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TITLE 3, SECTION 163-A, SUBSECTION 4.

Augusta, Maine
2011

(e) Pays only for material that is accepted for publication.

This exception does not apply if the employment is subject to federal unemployment tax; ~~and~~

(44) Services provided by an owner-operator of a truck or truck tractor while it is leased to a motor carrier, as defined in 49 Code of Federal Regulations, 390.5 (2000), as long as that employment is not subject to federal unemployment tax; and

(45) Services performed by a private investigator, as defined in Title 32, section 8103, subsection 5, as long as that employment is not subject to federal unemployment tax and the following requirements are met:

(a) There is a written contract between the private investigator and the party requesting services;

(b) The private investigator offering the services operates independently of the party requesting services, except for the time frame and quality of finished work as specified in the contract;

(c) Compensation for services is negotiated between the 2 parties and is paid for each service performed; and

(d) The party requesting services furnishes neither equipment nor the place of employment to the private investigator.

See title page for effective date.

CHAPTER 67

H.P. 333 - L.D. 440

An Act To Allow Employees of the Maine School of Science and Mathematics to Join the State's Group Health Plan

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, this legislation permits employees of the Maine School of Science and Mathematics to join the State's group health plan; and

Whereas, immediate enactment of this legislation is necessary to allow the employees to enroll in health coverage for the 2011 plan year; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of

the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 5 MRSA §285, sub-§1, ¶F-9 is enacted to read:

F-9. Any employee of the Maine School of Science and Mathematics;

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

Effective May 9, 2011.

CHAPTER 68

H.P. 304 - L.D. 378

An Act To Allow the Transfer of Commercial Whitewater Rafting Trips under Extenuating Conditions

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the efficient use of the limited whitewater rafting resources is vital to the local economies; and

Whereas, this Act must take effect before the short whitewater rafting season begins in early spring; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 12 MRSA §12913, sub-§2, ¶A, as amended by PL 2009, c. 340, §17, is further amended to read:

A. Except as provided in this paragraph, a person may not operate a commercial whitewater trip on the Kennebec River between Harris Station and West Forks or on the West Branch Penobscot River between McKay Station and Pockwockamus Falls without an allocation or in excess of an allocation on any day for which allocations are es-

established under this subsection or by the department by rule.

(1) Allocations are not established and are not required for other rivers or for other stretches of the Kennebec River or the West Branch Penobscot River.

(2) Allocations are required for Saturdays on the Kennebec River between Harris Station and West Forks for the period of July 1st to August 31st. Allocations are required for Saturdays on the West Branch Penobscot River between McKay Station and Pockwockamus Falls for the period of July 1st to August 31st. The commissioner may adopt rules establishing allocations for Sundays for the period of July 1st to August 31st. If the department determines that the recreational use limit will be reached on other days, the department shall provide by rule for allocations. Rules adopted under this subparagraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

~~(3) Under high water or low water conditions on the West Branch Penobscot River, an emergency swap of an allocation may be made to the Kennebec River, as long as sufficient water is available there. Under no circumstances is a transfer of an allocation allowed from the Kennebec River to the West Branch Penobscot River.~~

(3-A) Under extenuating circumstances as determined by the commissioner, the commissioner may allow the emergency transfer of a commercial whitewater rafting trip from a rapidly flowing river to another rapidly flowing river as long as sufficient water is available in the river to which the commercial whitewater rafting trip is to be transferred. Notwithstanding subsection 3, the commissioner may allow the recreational use limits to be exceeded pursuant to this subparagraph. Under no circumstances is a transfer of a whitewater rafting trip allowed to the West Branch Penobscot River. The department shall report annually to the joint standing committee of the Legislature having jurisdiction over inland fisheries and wildlife matters regarding the implementation of this subparagraph.

(4) An outfitter may occasionally exceed the allocation by 2 passengers on a trip of up to 40 passengers, or 4 passengers on a trip of more than 40 passengers, to accommodate problems in booking, as long as the average of the number of passengers carried on an

outfitter's 10 best allocated days for each river and for each allocated day of the week does not exceed the outfitter's allocation for that river and day. Abuse by an outfitter of the privilege to carry additional passengers results in the loss of the privilege for a period to be determined by the commissioner.

~~(5) On the several days in the months of April and May when special water releases are scheduled to be made from the Flagstaff Dam to permit whitewater rafting on the Dead River, commercial whitewater rafting trips may be transferred from the Dead River to the Kennebec River whenever high water or low water conditions render use of the Dead River unsafe or inappropriate for commercial whitewater rafting trips.~~

(6) The following penalties apply to violations of this paragraph.

(a) A person who violates this paragraph commits a civil violation for which a fine of not less than \$100 nor more than \$500 may be adjudged.

(b) A person who violates this paragraph after having been adjudicated as having committed 3 or more civil violations under this Part within the previous 5-year period commits a Class E crime.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

Effective May 9, 2011.

CHAPTER 69

S.P. 120 - L.D. 416

An Act To Amend the Taste Testing of Wine Law

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

Sec. 1. 28-A MRSA §1205, sub-§1, as amended by PL 2009, c. 459, §2, is further amended to read:

1. Taste testing on off-premise retail licensee's premises. Subject to the conditions in subsection 2, the bureau may authorize an off-premise retail licensee stocking at least 125 different wine labels ~~or a fine wine store~~ to conduct taste testings of wine on that licensee's premises. Any other consumption of alcoholic beverages on an off-premise retail licensee's premises is prohibited.