

# 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**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 28, 2011**

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

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**Augusta, Maine**  
**2011**

point during a school day in which students are required to attend. A school administrative unit may not require a student to recite the Pledge of Allegiance.

See title page for effective date.

**CHAPTER 163**

**H.P. 648 - L.D. 881**

**An Act To Amend Certain Insurance Provisions Relating to Variable Annuity Death Benefits and Multiple Employer Trusts**

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

**Sec. 1. 24-A MRSA §2537, sub-§10**, as repealed and replaced by PL 2007, c. 544, §1, is amended to read:

**10.** A variable annuity contract delivered or issued for delivery in this State may include as an incidental benefit a provision for payment on death during the deferred period of an amount equal to ~~the greater of either the value of the contract at the time of death or the sum of the premiums or stipulated payments paid under the contract and the value of the contract at the time of death~~ less adjusted withdrawals from the policy, whichever is greater. The beneficiary under the contract may not be paid any other amount. A variable annuity contract that includes such incidental benefit may not be deemed to be life insurance and therefore is not subject to the provisions of this Title governing life insurance contracts. A variable annuity contract with a provision for any other benefit on death during the deferred period is subject to the provisions of this Title governing life insurance contracts. A payment on death pursuant to a variable annuity contract under this subsection must be made in accordance with section 2436. This subsection applies to variable annuity contracts delivered or issued for delivery in this State on or after January 1, 2009.

**Sec. 2. 24-A MRSA §2606-A, first ¶**, as enacted by PL 1981, c. 150, §7, is amended to read:

The lives of a group of individuals may be insured under a policy issued to a trust or to the trustee or trustees of a fund established or adopted by 2 or more employers, or by one or more labor unions or similar employee organizations, or by one or more employers and one or more labor unions or similar employee organizations, which trust or trustees are considered the policyholder, to insure employees of the employers or members of the unions or organizations for the benefit

of persons other than the employers or the unions or organizations, subject to the following requirements.

See title page for effective date.

**CHAPTER 164**

**H.P. 1115 - L.D. 1512**

**An Act To Ensure That the State Is in Compliance with Certain Federal Motor Carrier Safety Regulations**

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

**Sec. 1. 29-A MRSA §555, sub-§2**, as amended by PL 2009, c. 251, §1, is further amended to read:

**2. Adoption of federal regulations.** The bureau may adopt rules to incorporate by reference federal regulations in 49 Code of Federal Regulations, Parts 40, 382, 383, 385, 390, 391, 392, 393, 395 and 396, and appendices, as amended, and may adopt amendments to those federal regulations. The following provisions apply to the adoption of federal regulations under this section.

A. Except as provided in paragraph A-1, the Maine Administrative Procedure Act does not apply to the adoption by reference of federal regulations under this subsection.

A-1. A rule adopted by the bureau under this subsection is a major substantive rule as defined in Title 5, chapter 375, subchapter 2-A if it:

(1) Adopts by reference any provision of the federal regulations described under this subsection that would result in a modification of the substance or effect of any amendment to the federal regulations adopted by the bureau and in effect on the effective date of this paragraph; or

(2) Adopts an amendment to any federal regulation described under this subsection.

A-2. The bureau may not adopt any rule that exempts motor carriers, vehicles or drivers transporting hazardous materials of a type or quantity that requires the vehicle to be marked or placarded in accordance with 49 Code of Federal Regulations, Part 172 from any federal regulation adopted and incorporated by reference into any rule adopted by the bureau pursuant to this subsection. Notwithstanding paragraph A-1, the Maine Administrative Procedure Act does not apply to the amendment of any rule consistent with the prohibition set forth in this paragraph.

C. For every rule adopted under this subsection:

- (1) The bureau shall file with the Secretary of State:
  - (a) A certified copy of the rule;
  - (b) A published copy of the federal regulation or amendment as printed in the Federal Register; and
  - (c) Annually, a published copy of the updated volume of the Code of Federal Regulations containing the federal regulation.

The bureau shall make available for inspection at no charge, and for copying at actual cost, a current published copy of the referenced federal regulations.

D. The Secretary of State shall publish, pursuant to Title 5, section 8053, subsection 5, a notice containing the following information:

- (1) A statement that the rule has been adopted and its effective date;
- (2) A brief description of the substance of the rule and the referenced federal regulation or amendment; and
- (3) The addresses at which copies of the rule and the federal regulation or amendment may be obtained.

E. The Secretary of State shall maintain and make available at the Secretary of State's office for inspection at no charge, and for copying or purchase at actual cost, current copies of these rules and include them within the compilations subject to Title 5, section 8056, subsection 3, paragraphs A-1 and B. The Secretary of State shall also make available for inspection at no charge and for copying at actual cost a current published copy of the referenced federal regulations and amendments.

F. A rule adopted under this section may not take effect until at least 5 days after filing with the Secretary of State, except that, if the bureau finds that immediate adoption of the rule is necessary to avoid an immediate threat to public health, safety or general welfare, the bureau may adopt the rule as an emergency rule in accordance with Title 5, section 8054, and that rule takes effect immediately.

**Sec. 2. 29-A MRSA §555, sub-§4, ¶D** is enacted to read:

D. A state police officer or motor carrier inspector designated by the Chief of the State Police who has satisfactorily completed a prescribed course of instruction established by the Federal Motor Carrier Safety Administration and the bu-

reau with respect to the Federal Motor Carrier Safety Administration regulations adopted pursuant to this section must investigate an alleged violation of this subchapter or a rule adopted by the bureau or by the United States Department of Transportation, prosecute violators and aid in the enforcement of the provisions of this subchapter.

**Sec. 3. 29-A MRSA §555, sub-§4, ¶E** is enacted to read:

E. A state police officer or motor carrier inspector designated in paragraph D is authorized:

- (1) To stop, enter upon and inspect all commercial motor vehicles using the interstate highway system or public ways; and
- (2) To inspect and copy records and inspect and examine lands, buildings and equipment of motor carriers for the purposes of verifying compliance with the Federal Motor Carrier Safety Administration regulations adopted pursuant to this section.

See title page for effective date.

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**CHAPTER 165**

**H.P. 1068 - L.D. 1454**

**An Act To Allow Police Officers To Operate Mobile Command Units without a Special License**

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

**Sec. 1. 29-A MRSA §1252, sub-§1, ¶C**, as amended by PL 2007, c. 383, §20, is further amended to read:

C. A Class C license may be issued for the operation of a single vehicle or a combination of vehicles that does not meet the definition of Class A or Class B license.

A holder of a Class C license may, with an appropriate endorsement, operate all vehicles in that class.

A Class C license authorizes:

- (1) A full-time or volunteer member of an organized municipal, state or federal fire department and a law enforcement officer who is a member of an organized municipal, state or federal law enforcement department to operate fire apparatus as described in 49 Code of Federal Regulations, Section 383.3 (2005) and to operate a commercial motor vehicle as a mobile command unit. For purposes of this subparagraph, "mobile command unit" means