

# 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**

**Sec. 3. Reports.** The Department of Education shall review how teacher evaluation systems are used by various school administrative units, both in this State and in other states, to aid hiring, retention and dismissal decisions, as well as how such systems are used to aid professional development and support teachers. The Department of Education shall report its findings to the Joint Standing Committee on Education and Cultural Affairs by December 30, 2011.

**Sec. 4. Application.** That section of this Act that amends the Maine Revised Statutes, Title 20-A, section 13201 applies to newly hired teachers beginning with the 2012-2013 school year.

See title page for effective date.

## CHAPTER 173

### H.P. 196 - L.D. 243

#### An Act To Ensure Emergency Communications for Persons with Disabilities

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

**Sec. 1. 26 MRSA §1419, sub-§1, ¶B-2,** as amended by PL 2003, c. 553, Pt. A, §1, is further amended to read:

B-2. "Specialized customer communications equipment" means communications equipment used by persons with disabilities to conduct telephone communications or equipment that provides or assists in providing emergency alert notification to deaf persons or hard-of-hearing persons. "Specialized customer communications equipment" includes but is not limited to teletypewriters, artificial larynges, signaling devices, amplified handsets, telecoil technology, large number dial overlays, direct telephone dialing, fax machines, equipment necessary to use short message services or text message services and other equipment used by persons with disabilities to provide access to telephone networks and equipment that provides or facilitates emergency alert notification to deaf persons or hard-of-hearing persons.

See title page for effective date.

## CHAPTER 174

### S.P. 149 - L.D. 516

#### An Act To Amend Maine Law Regarding Employment Practices for Certain Minors

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

**Sec. 1. 26 MRSA §774, sub-§1, ¶B,** as amended by PL 2003, c. 53, §1, is further amended to read:

B. More than ~~20~~ 24 hours in any week when the minor's school is in session, ~~except that the minor may work up to 8 hours on each day that an authorized school closure occurs in that minor's school up to a total of 28 hours in that week.~~ In addition, the maximum weekly hours a minor may work is 50 hours during any week that the approved school calendar for the minor's school is less than 3 days or during the first or last week of the school calendar, regardless of how many days the minor's school is in session for the week. If requested, a school must provide verification of its closings to the minor's employer or the Department of Labor;

**Sec. 2. 26 MRSA §774, sub-§1, ¶D,** as amended by PL 2003, c. 53, §1, is further amended to read:

D. More than 4 ~~6~~ hours in any day when the minor's school is in session, except that the minor may work up to 8 hours on the last scheduled day of the school week;

**Sec. 3. 26 MRSA §774, sub-§1, ¶F,** as amended by PL 2003, c. 53, §1, is further amended to read:

F. After ~~40~~ 10:15 p.m. on a day preceding a day on which the minor's school is in session or after 12 midnight on a day that does not precede such a school day; or

See title page for effective date.

## CHAPTER 175

### S.P. 312 - L.D. 992

#### An Act To Amend the Depuration Laws

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

**Sec. 1. 12 MRSA §6856, sub-§3,** as amended by PL 2007, c. 15, §1, is further amended to read:

**3. Depuration certificate.** A person may not take shellfish from closed areas for depuration, processing and transportation without a depuration certificate. The commissioner may issue a depuration certificate to a wholesale seafood license holder that authorizes the holder to take shellfish from closed areas for depuration, processing and transportation. The certificate must establish limits on harvesting, depurat-

ing and processing methods and any other provisions required to ensure the public safety. ~~A depuration plant operator shall maintain a generalized management plan on file with the commissioner that sets forth a timeline for harvest, harvest limits and harvester selection.~~ The commissioner may permit depuration of shellfish not contaminated by paralytic shellfish poisoning if it is established that the water used during depuration will not contaminate the shellfish with paralytic shellfish poisoning.

**Sec. 2. 12 MRSA §6856, sub-§3-A,** as amended by PL 2009, c. 561, §32, is repealed.

**Sec. 3. 12 MRSA §6856, sub-§3-B,** as enacted by PL 2007, c. 15, §3, is repealed.

**Sec. 4. 12 MRSA §6856, sub-§3-C,** as enacted by PL 2007, c. 15, §4, is repealed.

**Sec. 5. 12 MRSA §6856, sub-§3-D** is enacted to read:

**3-D. Soft-shelled clam depuration harvesting in municipalities with municipal shellfish conservation programs.** Soft-shelled clam depuration activities conducted within a municipality that has a municipal shellfish conservation program pursuant to section 6671 are subject to the following provisions.

A. Using the following general guidelines to identify whether pollution abatement activities are likely to succeed in a shellfish growing area, the commissioner may close a shellfish growing area for municipal pollution abatement activities.

(1) Pollution abatement activities are likely to succeed in shellfish growing areas affected by identified failing residential septic systems and other identified localized sources of human or animal fecal contamination when funding for abatement is available.

(2) Pollution abatement activities are not likely to succeed in shellfish growing areas affected by wastewater treatment plant outfall or other point sources of treated or partially treated sewage unless complete removal of pollution sources has been achieved.

(3) Abatement activities are not likely to succeed in shellfish growing areas affected by chronic nonpoint source contamination from rivers or streams.

At the request of the municipality, the commissioner may allow soft-shelled clam depuration harvesting in a shellfish growing area closed under this paragraph.

B. In conducting depuration harvesting activities under this subsection, a person holding a depuration certificate shall engage commercial harvesters holding valid municipal and state commercial shellfish licenses. If there are insufficient mu-

nicipally licensed commercial harvesters, the depuration certificate holder may supplement with other commercial shellfish harvesters licensed in the State.

C. A depuration certificate holder shall maintain a generalized depuration management plan on file with the commissioner that sets forth methods for identifying harvest limits, operational procedures for harvest management and responsibilities of authorized representatives.

D. A depuration certificate holder shall pay each municipality an amount equal to 50¢ for each bushel of soft-shelled clams taken in that municipality under the depuration certificate. When submitting payment to a municipality under this paragraph, the depuration certificate holder shall include a summary of reports submitted to the department pursuant to rules adopted under subsection 4.

**Sec. 6. 12 MRSA §6856, sub-§7,** as amended by PL 2007, c. 15, §5, is repealed.

**Sec. 7. 12 MRSA §6856, sub-§8,** as enacted by PL 1991, c. 831, §2, is repealed.

See title page for effective date.

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## CHAPTER 176

### S.P. 332 - L.D. 1099

#### An Act Concerning Independent Contractors in the Trucking and Messenger Courier Industries

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

**Sec. 1. 39-A MRSA §114** is enacted to read:

**§114. Independent contractor status for truckers and couriers**

**1. Presumption of employee status.** Notwithstanding section 102, subsection 13, the operator of a motor vehicle engaged in the business of freight transportation or courier and messenger services is considered an employee unless all of subsection 2 applies or the operator is able to provide proof of coverage by a valid workers' compensation insurance policy; in either of which case, the operator is considered an independent contractor. For purposes of this section, "motor vehicle" means a van, truck or truck tractor used for freight transportation or courier and messenger services.

**2. Factors to determine independent contractor status.** An operator of a motor vehicle is considered an independent contractor in the business of