

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals
(may include minor formatting differences from printed original)

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.

Augusta, Maine
2011

freight transportation or courier and messenger services if the operator:

A. Owns the motor vehicle or holds it under a bona fide lease agreement;

B. Is responsible for the maintenance of the motor vehicle;

C. Is responsible for substantially all of the principal operating expenses of the motor vehicle, including without limitation fuel, repairs, supplies and insurance. The operator may be reimbursed, including prospectively, for the operator's fuel surcharge fees and incidental costs, including tolls, permits and freight handling fees, by the entity contracting with the operator;

D. Is responsible for paying the operator's personal expenses;

E. Is responsible for supplying the necessary services to operate the motor vehicle;

F. Is compensated based on factors directly related to the work performed, such as mileage-based rates, and not solely on the amount of time expended by the operator;

G. Substantially controls the means and manner of performing the services related to the business of freight transportation or courier and messenger services in conformance with the specifications of a shipper and the law; and

H. Possesses a certification statement affirming that the operator whose services are being acquired meets each of the factors in paragraphs A to G and that the operator is understood to be an independent contractor and not an employee. The statement must be signed and dated by the operator supplying the service and the hiring entity. The statement must be supplied on demand to an insurance premium auditor or the board.

3. Repeal. This section is repealed October 1, 2013.

See title page for effective date.

CHAPTER 177

H.P. 306 - L.D. 380

An Act To Enhance Enforcement of Civil Orders of Arrest

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

Sec. 1. 14 MRSA §3135, as amended by PL 2009, c. 205, §§1 and 2, is further amended to read:

§3135. Civil order of arrest

A civil order of arrest issued under section 3134, subsection 1, or section 3136, must direct the sheriff to arrest the individual named in the order and bring the individual to a hearing any day the court is in session. In the case of a nonindividual debtor, the civil order of arrest must be issued for the arrest of any officer, director or managing agent of the debtor or other agent appointed by the debtor to accept service and who was served with the disclosure subpoena.

After a civil order of arrest has been issued, the sheriff shall cause the ~~individual debtor~~ named in the order to be arrested and shall deliver the ~~individual debtor~~ without undue delay to the division of the District Court designated in the civil order of arrest or obtain from the debtor a personal recognizance bond to appear in court at the specified date and time. ~~Should the debtor fail to appear at that time a warrant may issue for the debtor's arrest.~~ The sheriff may take such steps determined necessary for the sheriff's safety or the safety of others then present, including searching the debtor for weapons, if the sheriff has a reasonable suspicion that the debtor has a weapon, and handcuffing the debtor if that is necessary to transport the debtor to the court or to cause the debtor to remain peaceably at the court. Upon arrival at the court, the sheriff shall notify the clerk or bailiff that the debtor is present and may release the debtor into the custody of the bailiff. The sheriff shall instruct the debtor that the debtor must wait at the court until released by the court or clerk. Upon release of the debtor into the custody of the bailiff, the sheriff need not remain with the debtor at the court. ~~A debtor who fails to appear for the disclosure hearing after being released upon the debtor's personal recognizance commits a Class E crime.~~

After the judgment debtor is brought to the court, the clerk shall promptly notify the judgment creditor or the judgment creditor's attorney of record in person or by telephone that the presence of one of them is required for a hearing. If a disclosure or contempt hearing cannot be held that day due to the inability of the judgment creditor or the judgment creditor's attorney to appear or due to the absence of the judge or the inability of the court to hear the matter because of other business, the court or clerk shall release the debtor upon the debtor's personal recognizance for appearance on a date certain. ~~A debtor who fails to appear for the disclosure or contempt hearing after being released upon the debtor's personal recognizance commits a Class E crime.~~

If the debtor fails to appear at the time and place specified in a personal recognizance bond obtained by the sheriff, clerk or court, and upon request of the judgment creditor, the court shall order the Department of Labor to provide the judgment creditor with the name and address of the current or most recent

employer of the debtor, if any, together with the date the employer last reported wage information concerning the debtor and issue an additional civil order of arrest pursuant to section 3134 directing the sheriff to cause the debtor named in the order to be arrested and delivered to the District Court without obtaining from the debtor a personal recognizance bond.

An order directed to the Department of Labor under this section may be served by the judgment creditor by ordinary mail, accompanied by a reasonable fee set by the Department of Labor. The Department of Labor shall respond to the judgment creditor within 20 days after receipt of the court order.

A debtor admitted to personal recognizance bond under this section shall date and sign the bond and provide the following information: date of birth, hair color, eye color, height, weight, gender, race, telephone number, name of employer, address of employer and days and hours of employment.

A debtor who fails to appear for a disclosure or contempt hearing after being released upon the debtor's personal recognizance commits a Class E crime.

Unless the judgment debtor shows good cause for failure to appear after being duly served with a disclosure subpoena under section 3123, a contempt subpoena under section 3136 or an order to appear and disclose under Title 19-A, section 2361, the debtor must be ordered to pay the costs of issuing and serving the civil order for arrest. The costs of issuing and serving the civil order for arrest are \$25 plus mileage at a rate of 42¢ per mile. The fee payable to sheriffs and their deputies for civil orders for arrest is governed by Title 30-A, section 421, subsection 6.

See title page for effective date.

CHAPTER 178

H.P. 539 - L.D. 708

An Act Concerning Arrests for Violating Protection from Abuse Orders

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

Sec. 1. 19-A MRSA §4011, sub-§2, as amended by PL 2005, c. 510, §13, is further amended to read:

2. Exception. When the only provision that is violated concerns relief authorized under section 4007, subsection 1, paragraph F or F-1 or section 4007, subsection 1, paragraphs H to N, the violation must be

treated as contempt and punished in accordance with law.

See title page for effective date.

CHAPTER 179

S.P. 351 - L.D. 1151

An Act Regarding Reporting Procedures of Lobbyists

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

Sec. 1. 3 MRSA §314, 3rd ¶, as repealed and replaced by PL 1993, c. 691, §13, is amended to read:

If termination is effected prior to November 30th, no further reports are required, ~~except that the lobbyist and employer are required to file an annual report pursuant to section 317, subsection 2. The filing of an annual report, signed by the lobbyist and employer, before November 30th is considered a notification of termination.~~

Sec. 2. 3 MRSA §315-A, sub-§2, ¶E, as amended by PL 2007, c. 630, §11, is further amended to read:

E. For each employer, a list of all legislative actions that have been the subject of lobbying for the year, including hyperlinks to the summary page of the Legislature's publicly accessible website for each legislative document listed; ~~and~~

Sec. 3. 3 MRSA §315-A, sub-§2, ¶F, as enacted by PL 2007, c. 630, §11, is further amended to read:

F. A list of officials in the executive branch as defined in section 312-A, subsection 10-C; ~~and~~

Sec. 4. 3 MRSA §315-A, sub-§2, ¶G is enacted to read:

G. The monthly reports filed under section 317 and an annual summary of those monthly reports.

Sec. 5. 3 MRSA §317, sub-§2, as amended by PL 2007, c. 630, §15, is repealed.

Sec. 6. 3 MRSA §317, sub-§2-A, as enacted by PL 2005, c. 301, §4, is amended to read:

2-A. Electronic filing. Beginning January 1, 2006, a lobbyist shall file monthly session reports under subsection 1 ~~and annual reports under subsection 2~~ through an electronic filing system developed by the commission. The commission may make an exception to this electronic filing requirement if a lobbyist submits a written request that states that the lobbyist lacks access to the technology or the technological ability to file reports electronically. The request for an exception must be submitted at least 10 days prior to the