

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-SIXTH LEGISLATURE**

**FIRST SPECIAL SESSION**  
**August 29, 2013**

**SECOND REGULAR SESSION**  
**January 8, 2014 to May 2, 2014**

**THE EFFECTIVE DATE FOR**  
**FIRST SPECIAL SESSION**  
**EMERGENCY LAW IS**  
**SEPTEMBER 6, 2013**

**THE GENERAL EFFECTIVE DATE FOR**  
**SECOND REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**AUGUST 1, 2014**

**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**  
**2014**

ister that member's vehicle in this State pursuant to this subsection shall present certification from the commander of the member's post, station or base, or from the commander's designated agent, that the member is permanently stationed at that post, station or base. For purposes of this subsection, "a person on active duty serving in the Armed Forces of the United States" does not include a member of the National Guard or the Reserves of the United States Armed Forces.

See title page for effective date.

**CHAPTER 533**

**H.P. 1293 - L.D. 1801**

**An Act To Eliminate Inactive Boards and Commissions**

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

**Sec. 1. 4 MRSA §191**, as amended by PL 2011, c. 204, §1, is repealed.

**Sec. 2. 4 MRSA §192**, as enacted by PL 1981, c. 510, §1, is amended to read:

**§192. Personnel**

The State Court Administrator shall employ, ~~subject to the approval of the State Court Library Committee,~~ and shall supervise a professionally trained person, who shall be is designated the State Court Library Supervisor. The supervisor shall have has general supervision of the professional functions of all county law libraries, and shall visit all libraries whenever necessary, meet with county law library committees, coordinate activities with the court administrator's offices, advise staff members of the clerks of courts and carry out any additional duties assigned by the State Court ~~Library Committee~~ Administrator.

The law libraries in locations without employees shall be are maintained by the offices of the clerks of courts and the duties of each clerk's office shall be are specified by the State Court Administrator, ~~subject to the approval of the State Court Library Committee.~~

**Sec. 3. 4 MRSA §193**, as amended by PL 2011, c. 204, §2, is further amended to read:

**§193. System of law libraries**

There must be a system of law libraries accessible to all citizens within the State, ~~under the supervision of the State Court Library Committee.~~

These libraries must be located in:

- Androscoggin County, Auburn;
- Aroostook County, Caribou;

- Aroostook County, Houlton;
- Cumberland County, Portland;
- Franklin County, Farmington;
- Hancock County, Ellsworth;
- Kennebec County, Augusta;
- Knox County, Rockland;
- Lincoln County, Wiscasset;
- Oxford County, South Paris;
- Penobscot County, Bangor;
- Piscataquis County, Dover-Foxcroft;
- Sagadahoc County, Bath;
- Somerset County, Skowhegan;
- Waldo County, Belfast;
- Washington County, Machias; and
- York County, Alfred.

All funds appropriated by the Legislature for the use and benefit of the law libraries must be paid to the Administrative Office of the Courts and must be disbursed by that office ~~under the direction of the State Court Library Committee.~~

The libraries located at Bangor and Portland are to serve as regional court law library centers. The State Court ~~Library Committee~~ Administrator or the State ~~Court Administrator's designee~~ shall allocate specific funds, in addition to the resources received by the other law libraries, to the regional court law library centers in Bangor and Portland to purchase legal resources, library equipment and supplies and necessary personnel. Both regional court libraries must receive the same funds.

All other law libraries must have access to the regional court law library centers for the resources not available locally.

**Sec. 4. 4 MRSA §194**, as enacted by PL 1981, c. 510, §1, is repealed.

**Sec. 5. 4 MRSA §196**, as amended by PL 2001, c. 250, §4, is further amended to read:

**§196. Duties, county committee**

The County Law Library Committee shall, ~~in conjunction with the State Court Library Committee,~~ establish local operating policies, such as, but not limited to, hours, circulation policies and photocopy privileges. Each county committee shall exercise supervision over the expenditures of private and nonstate funds, including endowments, and may use those funds to upgrade its county law library. Each county committee shall determine space requirements, ~~with the advice and assistance of the State Court Library Committee.~~

**Sec. 6. 4 MRSA §197, 2nd ¶**, as amended by PL 1981, c. 698, §4, is further amended to read:

The treasurer shall, annually, before the last Wednesday in July, deposit in the office of the State Court ~~Library Committee Administrator~~ a statement of the funds received and expended by the treasurer during the preceding fiscal year.

**Sec. 7. 5 MRSA §12004-G, sub-§23**, as enacted by PL 1987, c. 786, §5, is repealed.

**Sec. 8. 5 MRSA §12004-I, sub-§18-C**, as enacted by PL 2001, c. 358, Pt. II, §1 and amended by PL 2003, c. 20, Pt. TT, §1, is repealed.

**Sec. 9. 5 MRSA §12004-I, sub-§47-H**, as enacted by PL 2011, c. 412, §1, is repealed.

**Sec. 10. 5 MRSA §12004-I, sub-§74-E**, as enacted by PL 2007, c. 377, §3, is repealed.

**Sec. 11. 5 MRSA §12006, sub-§3, ¶H**, as enacted by PL 2009, c. 369, Pt. A, §17, is amended to read:

H. State House and Capitol Park Commission, as established in Title 3, section 901-A; ~~and~~

**Sec. 12. 5 MRSA §12006, sub-§3, ¶I**, as enacted by PL 2009, c. 369, Pt. A, §18, is amended to read:

I. Maine Agricultural Bargaining Board, as established in Title 13, section 1956-; ~~and~~

**Sec. 13. 5 MRSA §12006, sub-§3, ¶J** is enacted to read:

J. Blaine House Commission.

**Sec. 14. 20-A MRSA §19102, sub-§2**, as amended by PL 2001, c. 358, Pt. II, §3 and PL 2003, c. 20, Pt. TT, §1, is further amended to read:

**2. Learning technology plan.** The use of the fund must be based on a learning technology plan, referred to in this section as the "plan," developed annually beginning for school year 2002-03 by the commissioner ~~with the advice of the advisory board established under section 19109~~ and adopted by the Legislature. The annual plan must be designed to achieve the goal of preparing students for a future economy that relies on technology and innovation.

The plan developed annually by the commissioner ~~and the advisory board~~ must include, but is not limited to, consideration of the following:

- A. The appropriate structure, governance and oversight of the fund;
- B. The current use of learning technology in classrooms in the State;
- C. The current readiness of faculty to use technology in teaching;

D. The professional development needed to integrate technology into classroom teaching;

E. Assessment of the strategy and goals for improving and equalizing access to and the use of learning technology in all schools;

F. A plan for implementing the plan in several phases, with Phase I implementing the plan for all schools, students and teachers at the 7th and 8th grade levels;

G. Strategies that coordinate the resources and goals of the fund and the plan with a network of schools and libraries in the State administered by the Public Utilities Commission and the telecommunications education access fund;

H. Strategies that coordinate learning technology in kindergarten to grade 12 education with initiatives and resources of the State's postsecondary education institutions; and

I. Data tracking and assessment of the progress of implementing the goals of the fund and the plan.

**Sec. 15. 20-A MRSA §19102, sub-§4**, as enacted by PL 2011, c. 380, Pt. CC, §1, is amended to read:

**4. Learning technology program; evaluation for implementation in grades 7 to 12.** Notwithstanding any other provision of law, the commissioner shall conduct an annual comprehensive review of the learning technology program and report to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs and the joint standing committee of the Legislature having jurisdiction over education matters on the progress and results of the comprehensive review by February 15th annually. In conducting the comprehensive review, the commissioner shall:

A. Through a competitive bidding process consistent with Title 5, chapter 155, subchapter 1-A contract with an education policy research institute to assess the effect of the laptop program on student performance in achieving the content standards and performance indicators established by the statewide system of learning results established in section 6209 using valid, standardized assessment measures;

B. Identify high-need areas for improvements in students' learning and skills;

C. Provide targeted training and professional development of teachers from the 7th to 12th grade who participate in the laptop program; and

D. Contract with an education policy research institute to conduct a biennial audit including an evaluation of the costs, effectiveness and achievement outcomes of the learning technology program.

The commissioner, ~~with advice from the advisory board,~~ shall submit a report that includes findings and recommendations, including suggested legislation to revise and update chapter 606-B and this chapter, for presentation to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs and the joint standing committee of the Legislature having jurisdiction over education matters by January 31st annually.

**Sec. 16. 20-A MRSA §19103, sub-§2,** as enacted by PL 2001, c. 358, Pt. II, §4 and amended by PL 2003, c. 20, Pt. TT, §1, is further amended to read:

**2. Fundraising plan.** The commissioner and the Commissioner of Administrative and Financial Services shall, for the duration of the fund, identify and submit grant and fundraising proposals in support of the priorities of the learning technology plan established pursuant to section 19102 to federal, corporate, foundation or other 3rd-party sources as appropriate.

~~In conjunction with the advisory board established under section 19109, the~~ The commissioner and the Commissioner of Administrative and Financial Services shall develop a plan for fundraising and identifying grant sources that is designed to raise sufficient funds to enable the learning technology plan to expand to the secondary school level. The fundraising plan must identify specific funding sources, as appropriate, timelines and an assessment of the probability of success.

In order to preserve the integrity of the educational purposes of the learning technology plan, all fundraising and grant proposals must be consistent with the goals and terms of the learning technology plan. The commissioner and the Commissioner of Administrative and Financial Services ~~in conjunction with the advisory board established under section 19109~~ shall develop any necessary guidelines for fundraising and grant proposals in order to carry out this requirement.

**Sec. 17. 20-A MRSA §19105, sub-§1,** as enacted by PL 2001, c. 358, Pt. II, §6, is amended to read:

**1. Annual plan recommendation.** Prior to December 15th of each year, the commissioner, after consultation with ~~the advisory board established under section 19109 and~~ the Commissioner of Administrative and Financial Services and after receiving the approval of the state board, shall recommend to the Governor and the Department of Administrative and Financial Services, Bureau of the Budget the funding level for implementing the annual learning technology plan.

**Sec. 18. 20-A MRSA §19108, sub-§2,** as enacted by PL 2001, c. 358, Pt. II, §6, is repealed.

**Sec. 19. 20-A MRSA §19109,** as enacted by PL 2001, c. 358, Pt. II, §6 and amended by PL 2003, c. 20, Pt. TT, §1, is repealed.

**Sec. 20. 20-A MRSA §19110,** as enacted by PL 2001, c. 358, Pt. II, §6, is repealed.

**Sec. 21. 22 MRSA §2175, sub-§§1 to 3,** as amended by PL 2011, c. 587, §1, are further amended to read:

**1. Program established; training approval.** The Maine Wild Mushroom Harvesting Certification Program is established to ensure that properly trained persons harvest, broker and sell wild mushrooms in order to protect public health and the safety of the food supply. The program is administered by the Department of Health and Human Services for the purpose of establishing training and certification requirements for persons who commercially harvest, broker or sell wild mushrooms in this State. The Commissioner of Health and Human Services shall approve training programs provided by persons or entities outside the department ~~in accordance with the recommendations of the Maine Wild Mushroom Harvesting Advisory Committee under subsection 5.~~

**2. Certification of wild mushroom harvesters, brokers or sellers.** The Commissioner of Health and Human Services, ~~upon consultation with the Maine Wild Mushroom Harvesting Advisory Committee under subsection 5,~~ shall certify persons with appropriate training in mushroom harvesting, brokering or selling to sell, transfer or otherwise deliver wild mushrooms within the State. Certification is valid for a period not to exceed 5 years, unless the Department of Health and Human Services, by rule, establishes another certification period.

**3. Refusal to certify; revocation of certification.** The Department of Health and Human Services may decline to certify any person determined to lack the appropriate training to safely harvest, broker or sell wild mushrooms, in accordance with ~~recommendations of the Maine Wild Mushroom Harvesting Advisory Committee under subsection 5 and~~ rules adopted by the Department of Health and Human Services pursuant to this section. The Department of Health and Human Services may revoke, in accordance with the Maine Administrative Procedure Act, the certification of any person in accordance with ~~recommendations of the Maine Wild Mushroom Harvesting Advisory Committee and~~ rules adopted by the Department of Health and Human Services pursuant to this section.

**Sec. 22. 22 MRSA §2175, sub-§4-A** is enacted to read:

**4-A. Advisory role of Director of the Maine Center for Disease Control and Prevention.** The Director of the Maine Center for Disease Control and Prevention within the Department of Health and Hu-

man Services shall advise the Commissioner of Health and Human Services on the following:

A. Certification of individuals who have completed approved training to engage in the harvesting, brokering or selling of wild mushrooms in this State; and

B. Wild mushroom harvesting training programs and certification.

**Sec. 23. 22 MRSA §2175, sub-§5,** as amended by PL 2011, c. 587, §1 and c. 657, Pt. W, §5, is repealed.

**Sec. 24. 34-A MRSA §1209-A,** as amended by PL 2007, c. 653, Pt. A, §§21 to 24, is repealed.

**Sec. 25. 34-A MRSA §1803, sub-§5, ¶B,** as enacted by PL 2007, c. 653, Pt. A, §30, is repealed.

See title page for effective date.

**CHAPTER 534**

**S.P. 544 - L.D. 1482**

**An Act To Amend the Motor Vehicle Franchise Laws**

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

**Sec. 1. 10 MRSA §1171, sub-§3-A** is enacted to read:

**3-A. Essential tool.** "Essential tool" means a tool, implement or other device required by the manufacturer, including but not limited to a tablet, scanner, diagnostic machine, computer, computer program, computer software, website, website portal or similar tool, with respect to which there is no other similar tool or device available from any source other than the manufacturer or the representative of a manufacturer that will perform the function necessary to the diagnosis or repair of a manufacturer's express warranty claim on a new motor vehicle.

**Sec. 2. 10 MRSA §1174, sub-§3, ¶A,** as amended by PL 1997, c. 521, §8, is further amended to read:

A. To refuse to deliver in reasonable quantities and within a reasonable time after receipt of a dealer's order to any motor vehicle dealer having a franchise or contractual arrangement for the retail sale of new motor vehicles sold or distributed by that manufacturer, distributor, distributor branch or division, factory branch or division any motor vehicles or parts or accessories to motor vehicles covered by that franchise or contract specifically advertised by that manufacturer, distributor, distributor branch or division, factory branch or division or wholesale branch or division to be

available for delivery. The allocation of new motor vehicles in this State must be made on a fair and equitable basis and must consider the needs of those dealerships with a relevant market area radius of more than 5 miles as defined in section 1174-A, subsection 1. The manufacturer has the burden of establishing the fairness of its allocation system. A failure by a manufacturer to provide to a dealer a fair and adequate supply and mix of vehicles, including the allocation of vehicles under any separate dealer designation, including but not limited to "premier," "business class or elite" or any other designation not available to all new motor vehicle dealers for that franchise, that results in an effort to terminate a new motor vehicle dealer for, in whole or in part, poor sales performance or market penetration may be evidence that the termination was not for good cause. The failure to deliver any motor vehicle is not considered a violation of this chapter if the failure is due to an act of God, work stoppage or delay due to a strike or labor difficulty, shortage of materials, freight embargo or other cause over which the manufacturer, distributor or any agent of the manufacturer or distributor has no control. A separate dealer agreement is not required of a new motor vehicle dealer already a party to a dealer agreement or franchise agreement for the retail sale of any particular new motor vehicle model made or distributed by a manufacturer, distributor, distributor branch or division, factory branch or division, wholesale branch or division or officer, agent or other representative thereof, except that a manufacturer or distributor may require a dealer to purchase special tools or equipment, stock reasonable quantities of certain parts, purchase reasonable quantities of promotional materials or participate in training programs that are reasonably necessary for the dealer to sell or service such a new motor vehicle model. Any special tools, parts or signs not used within 2 years of receipt by the dealer may be returned by the dealer to the manufacturer or distributor for a full refund of cost of those special tools, parts and signs;

**Sec. 3. 10 MRSA §1174, sub-§3, ¶F-1,** as enacted by PL 1999, c. 766, §1, is amended to read:

F-1. To vary or change the cost or the markup in any fashion or through any device whatsoever to any dealer for any motor vehicle of that line make based on:

- (1) The purchase by any dealer of furniture or other fixtures from any particular source; or
- (2) The purchase by any dealer of computers or other technology from any particular source;