

# MAINE STATE LEGISLATURE

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

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-SEVENTH LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 3, 2014 to July 16, 2015**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**OCTOBER 15, 2015**

**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**  
**2015**

section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 2. 32 MRSA §299-A** is enacted to read:

**§299-A. Wine auctions**

A person licensed under section 285 may not auction privately held wine without a permit issued by the Department of Administrative and Financial Services, Bureau of Alcoholic Beverages and Lottery Operations according to Title 28-A, section 1209.

**Sec. 3. Appropriations and allocations.** The following appropriations and allocations are made.

**ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF**

**Alcoholic Beverages - General Operation 0015**

Initiative: Provides funds to establish a new Office Associate II position.

GENERAL FUND	2015-16	2016-17
POSITIONS -	1.000	1.000
LEGISLATIVE COUNT		
Personal Services	\$44,647	\$60,981
All Other	\$3,734	\$4,979
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GENERAL FUND TOTAL	\$48,381	\$65,960

See title page for effective date.

**CHAPTER 367**

**H.P. 574 - L.D. 840**

**An Act To Collect and Report Data on the Implementation of Proficiency-based Diplomas and Standards-based Student Learning**

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

**Sec. 1. 20-A MRSA §4722-A, sub-§5** is enacted to read:

**5. Implementation of proficiency-based diplomas.** Beginning in the 2015-2016 school year, the department shall annually collect and report data on the progress of public schools and public charter schools towards the implementation of proficiency-based diplomas in relation to the ongoing transition plan required pursuant to section 4502, subsection 1, including the number of students graduating with proficiency-based diplomas and the number of students awarded proficiency in each of the content areas of the system of learning results established under

section 6209 and in each of the guiding principles set forth in department rules governing implementation of the system of learning results established pursuant to section 6209. By January 15, 2017, and annually thereafter, the department shall provide an annual report of the data collected for the prior school year to the joint standing committee of the Legislature having jurisdiction over education matters, and the department shall post the annual report on its publicly accessible website.

See title page for effective date.

**CHAPTER 368**

**H.P. 520 - L.D. 767**

**An Act To Create Jobs in Aroostook and Washington Counties**

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

**Sec. 1. 30-A MRSA §5250-I, sub-§5-B** is enacted to read:

**5-B. Call center.** "Call center" means a business enterprise that employs 50 or more full-time employees for the purpose of customer service.

**Sec. 2. 30-A MRSA §5250-I, sub-§18**, as amended by PL 2005, c. 351, §4 and affected by §26, is further amended to read:

**18. Qualified Pine Tree Development Zone employees.** "Qualified Except for employees in call centers in Aroostook and Washington counties, "qualified Pine Tree Development Zone employees" means new, full-time employees hired in this State by a qualified Pine Tree Development Zone business for work directly in one or more qualified business activities for whom a retirement program subject to the Employee Retirement Income Security Act of 1974, 29 United States Code, Sections 101 to 1461, as amended, and group health insurance are provided and whose income derived from employment within the Pine Tree Development Zone, calculated on a calendar year basis, is greater than the most recent annual per capita personal income in the county in which the qualified employee is employed. "Qualified Pine Tree Development Zone employees" does not include employees shifted to a qualified business activity from a non-qualified activity of the qualified Pine Tree Development Zone business or an affiliated business. The commissioner shall determine whether a shifting of employees has occurred.

For employees in call centers in Aroostook and Washington counties, "qualified Pine Tree Development Zone employees" means new, full-time employees hired in this State by a qualified Pine Tree Develop-

ment Zone business for work directly in one or more qualified business activities for whom a retirement program subject to the Employee Retirement Income Security Act of 1974, 29 United States Code, Sections 101 to 1461, as amended, and group health insurance are provided and whose income derived from employment within the Pine Tree Development Zone, calculated on a weekly basis, is greater than the average weekly wage for the most recent available calendar year as derived from the quarterly census of employment and wages and provided annually by the Department of Labor. The calculation of the average weekly wage must include data from the counties of Androscoggin, Aroostook, Franklin, Hancock, Kennebec, Knox, Lincoln, Oxford, Penobscot, Piscataquis, Sagadahoc, Somerset, Waldo and Washington. Notwithstanding this subsection, with respect to employees in call centers in Aroostook and Washington counties, in a county in which the average annual unemployment rate at the time of certification for the most recent calendar year is greater than the state average for the same year, the wage threshold is 90% of the average weekly wage as derived from the quarterly census of employment and wages. Notwithstanding this subsection, with respect to a call center in Aroostook or Washington county and upon approval of the commissioner, a qualified business located in a county in which the average annual unemployment rate at the time of certification for the most recent calendar year is greater than the state average for that same year qualifies for a phase-in of salary threshold requirements. A qualified business under this provision must meet 70% of the average weekly wage as derived from the quarterly census of employment and wages in the first year of certification, 80% of the average weekly wage as derived from the quarterly census of employment and wages in the 2nd year of certification and 90% of the average weekly wage as derived from the quarterly census of employment and wages in all following years of certification. Failure to meet any of these requirements results in automatic revocation of certification. "Qualified Pine Tree Development Zone employees" does not include employees shifted to a qualified business activity from a non-qualified activity of the qualified Pine Tree Development Zone business or an affiliated business. The commissioner shall determine whether a shifting of employees has occurred.

**Sec. 3. 30-A MRSA §5250-I, sub-§18-A** is enacted to read:

**18-A. Quarterly census of employment and wages.** "Quarterly census of employment and wages" means the comprehensive tabulation of employment and wage information for workers produced by the quarterly census of employment and wages program, a cooperative program involving the federal Department of Labor, Bureau of Labor Statistics and the state employment security agencies.

**Sec. 4. 36 MRSA §6753, sub-§5-A** is enacted to read:

**5-A. Call center.** "Call center" means a business enterprise that employs 50 or more full-time employees for the purpose of customer service.

**Sec. 5. 36 MRSA §6753, sub-§12,** as amended by PL 2009, c. 434, §82, is further amended to read:

**12. Qualified employee.** ~~"Qualified~~ Except for an employee in a call center in Aroostook County or Washington County, "qualified employee" means a new, full-time employee hired in this State by a qualified business, for whom a retirement program subject to the Employee Retirement Income Security Act of 1974, 29 United States Code, Chapter 18 and group health insurance are provided, and whose income derived from employment with the applicant, calculated on a calendar year basis, is greater than the most recent annual per capita personal income in the county in which the qualified employee is employed, as long as Maine income tax withholding attributed to the qualified employee is subject to reimbursement to the qualified business under this chapter. "Qualified employee" does not include an employee who is shifted to a qualified business from an affiliated business. The commissioner shall determine whether a shifting of employees has occurred.

For an employee in a call center in Aroostook County or Washington County, "qualified employee" means a new, full-time employee hired in this State by a qualified business, for whom a retirement program subject to the Employee Retirement Income Security Act of 1974, 29 United States Code, Chapter 18 and group health insurance are provided, and whose income derived from employment with the applicant, calculated on a weekly basis, is greater than the average weekly wage for the most recent available calendar year as derived from the quarterly census of employment and wages and provided annually by the Department of Labor, as long as Maine income tax withholding attributed to the qualified employee is subject to reimbursement to the qualified business under this chapter. "Qualified employee" does not include an employee who is shifted to a qualified business from an affiliated business. The commissioner shall determine whether a shifting of employees has occurred. The calculation of the average weekly wage must include data from the counties of Androscoggin, Aroostook, Franklin, Hancock, Kennebec, Knox, Lincoln, Oxford, Penobscot, Piscataquis, Sagadahoc, Somerset, Waldo and Washington. Notwithstanding this subsection, with respect to a call center in Aroostook or Washington county, in a county in which the average annual unemployment rate at the time of certification for the most recent calendar year is greater than the state average for the same year, the wage threshold is 90% of the average weekly wage as derived from the quarterly

census of employment and wages. Notwithstanding this subsection, with respect to a call center in Aroostook or Washington county and upon approval of the commissioner, a qualified business located in a county in which the average annual unemployment rate at the time of certification for the most recent calendar year is greater than the state average for that same year qualifies for a phase-in of salary threshold requirements. A qualified business under this provision must meet 70% of the average weekly wage as derived from the quarterly census of employment and wages in the first year of certification, 80% of the average weekly wage as derived from the quarterly census of employment and wages in the 2nd year of certification and 90% of the average weekly wage as derived from the quarterly census of employment and wages in all following years of certification. Failure to meet any of these requirements results in automatic revocation of certification.

**Sec. 6. 36 MRSA §6753, sub-§12-A** is enacted to read:

**12-A. Quarterly census of employment and wages.** "Quarterly census of employment and wages" means the comprehensive tabulation of employment and wage information for workers produced by the quarterly census of employment and wages program, a cooperative program involving the federal Department of Labor, Bureau of Labor Statistics and the state employment security agencies.

See title page for effective date.

## CHAPTER 369

H.P. 381 - L.D. 557

### An Act To Provide Reasonable Accommodations for School Attendance for Children Certified for the Medical Use of Marijuana

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

**Sec. 1. 20-A MRSA §6306** is enacted to read:

#### **§6306. Eligibility to attend school**

A child who holds a written certification for the medical use of marijuana under Title 22, section 2423-B may not be denied eligibility to attend school solely because the child requires medical marijuana in a nonsmokeable form as a reasonable accommodation necessary for the child to attend school.

**Sec. 2. 22 MRSA §2426, sub-§1, ¶B,** as enacted by IB 2009, c. 1, §5, is amended to read:

~~B. Possess~~ Except as provided in subsection 1-A, possess marijuana or otherwise engage in the medical use of marijuana:

- (1) In a school bus;
- (2) On the grounds of any preschool or primary or secondary school; or
- (3) In any correctional facility;

**Sec. 3. 22 MRSA §2426, sub-§1-A** is enacted to read:

**1-A. School exceptions.** Notwithstanding subsection 1, paragraph B, a primary caregiver designated pursuant to section 2423-A, subsection 1, paragraph E may possess and administer marijuana in a nonsmokeable form in a school bus and on the grounds of the preschool or primary or secondary school in which a minor qualifying patient is enrolled only if:

A. A medical provider has provided the minor qualifying patient with a current written certification for the medical use of marijuana under this chapter; and

B. Possession of marijuana in a nonsmokeable form is for the purpose of administering marijuana in a nonsmokeable form to the minor qualifying patient.

See title page for effective date.

## CHAPTER 370

H.P. 447 - L.D. 666

### An Act To Allow a Patient To Designate a Caregiver in the Patient's Medical Record

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

**Sec. 1. 22 MRSA §1711-B, sub-§3, ¶C,** as amended by PL 1997, c. 793, Pt. A, §5 and affected by §10, is further amended to read:

C. The designee of a durable health care power of attorney executed by the person who is the subject of the record, at such time as the power of attorney is in effect; ~~or~~

**Sec. 2. 22 MRSA §1711-B, sub-§3, ¶D,** as enacted by PL 1997, c. 793, Pt. A, §6 and affected by §10, is amended to read:

D. The agent, guardian or surrogate pursuant to the Uniform Health-care Decisions Act; ~~or~~

**Sec. 3. 22 MRSA §1711-B, sub-§3, ¶E** is enacted to read: