

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-EIGHTH LEGISLATURE

FIRST SPECIAL SESSION
October 23, 2017 to November 6, 2017

SECOND REGULAR SESSION
January 3, 2018 to May 2, 2018

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
FEBRUARY 5, 2018

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
AUGUST 1, 2018

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

Augusta, Maine
2018

Sec. 1. 32 MRSA §89, sub-§2, ¶A, as amended by PL 1991, c. 588, §18, is further amended to read:

A. Establishing a regional medical control committee to carry out a plan of quality improvement approved by the board;

Sec. 2. 32 MRSA §91-B, sub-§2, ¶E, as amended by PL 2015, c. 82, §8, is further amended to read:

E. Data collected by Maine Emergency Medical Services that allows identification of persons receiving emergency medical treatment may be released for purposes of research, regional medical control quality improvement plans, public health surveillance and linkage with patient electronic medical records if the release is approved by the board, the Medical Direction and Practices Board and the director. Information that specifically identifies individuals must be removed from the information disclosed pursuant to this paragraph, unless the board, the Medical Direction and Practices Board and the director determine that the release of such information is necessary for the purposes of the research, regional medical control quality improvement plans, public health surveillance or linkage with patient electronic medical records.

Sec. 3. 32 MRSA §91-B, sub-§2, ¶H is enacted to read:

H. Confidential information submitted to Maine Emergency Medical Services by any entity must be easily accessible by that entity in accordance with rules adopted by the board that enable compliance by the entity with federal and state laws regarding patient information privacy and access.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

Effective April 10, 2018.

CHAPTER 374

S.P. 151 - L.D. 449

An Act To Add Domestic Violence against the Victim as an Aggravating Factor in Sentencing for Murder

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

Sec. 1. 17-A MRSA §1251, as amended by PL 2005, c. 88, Pt. B, §1, is repealed and the following enacted in its place:

§1251. Imprisonment for murder

1. A person convicted of the crime of murder must be sentenced to imprisonment for life or for any term of years that is not less than 25. The sentence of the court must specify the length of the sentence to be served and must commit the person to the Department of Corrections.

2. In setting the length of imprisonment pursuant to subsection 1, the court shall assign special weight to each of the following 3 factors as they relate to the sentencing procedure in section 1252-C, subsections 1, 2 and 3:

A. That the victim is a child who had not in fact attained 6 years of age at the time the crime was committed;

B. That the victim is a woman whom the convicted person knew or had reasonable cause to believe to be in fact pregnant at the time the crime was committed; and

C. That the victim is a family or household member as defined in Title 19-A, section 4002, subsection 4 who is a victim of domestic violence committed by the convicted person.

This subsection may not be construed to restrict a court in setting the length of a term of imprisonment from considering the age of the victim in other circumstances when relevant.

See title page for effective date.

CHAPTER 375

S.P. 676 - L.D. 1805

An Act To Amend the Maine Tax Laws

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

PART A

Sec. A-1. 36 MRSA §1752, sub-§11-B is enacted to read:

11-B. Room remarketer. "Room remarketer" means a person who reserves, arranges for, offers, furnishes or collects or receives consideration for the rental of living quarters in this State, whether directly or indirectly, pursuant to a written or other agreement with the owner, manager or operator of a hotel, rooming house or tourist or trailer camp.

Sec. A-2. 36 MRSA §1752, sub-§14, ¶A, as amended by PL 2007, c. 627, §43, is further amended to read:

A. "Sale price" includes:

(1) Any consideration for services that are a part of a retail sale; ~~and~~

(2) All receipts, cash, credits and property of any kind or nature and any amount for which credit is allowed by the seller to the purchaser, without any deduction on account of the cost of the property sold, the cost of the materials used, labor or service cost, interest paid, losses or any other expenses; ~~and~~

(3) All consideration received for the rental of living quarters in this State, including any service charge or other charge or amount required to be paid as a condition for occupancy, valued in money, whether received in money or otherwise and whether received by the owner, occupant, manager or operator of the living quarters, by a room remarketer, by a person that operates a transient rental platform or by another person on behalf of any of those persons.

Sec. A-3. 36 MRSA §1752, sub-§20-C is enacted to read:

20-C. Transient rental platform. "Transient rental platform" means an electronic or other system, including an Internet-based system, that allows the owner or occupant of living quarters in this State to offer the living quarters for rental and that provides a mechanism by which a person may arrange for the rental of the living quarters in exchange for payment to either the owner or occupant, to the operator of the system or to another person on behalf of the owner, occupant or operator.

Sec. A-4. 36 MRSA §1754-B, sub-§1, ¶F, as amended by PL 2005, c. 218, §19, is further amended to read:

F. Every person that manages or operates in the regular course of business or on a casual basis a hotel, rooming house or tourist or trailer camp in this State or that collects or receives rents ~~from~~ on behalf of a hotel, rooming house or tourist or trailer camp in this State;

Sec. A-5. 36 MRSA §1754-B, sub-§1, ¶¶F-1 and F-2 are enacted to read:

F-1. Every person that operates a transient rental platform and reserves, arranges for, offers, furnishes or collects or receives consideration for the rental of living quarters in this State;

F-2. Every room remarketer;

Sec. A-6. Application. Those sections of this Part that enact the Maine Revised Statutes, Title 36, section 1752, subsections 11-B and 20-C and Title 36, section 1754-B, subsection 1, paragraphs F-1 and F-2 and that amend Title 36, section 1752, subsection 14,

paragraph A apply to sales occurring on or after October 1, 2018.

PART B

Sec. B-1. 36 MRSA §§2521-D and 2521-E are enacted to read:

§2521-D. Limitation on credit or refund

If a claim for credit or refund of an overpayment of any tax imposed by this chapter is filed by the taxpayer, the amount of the credit or refund may not exceed the portion of the tax that was paid within the 3 years immediately preceding the filing of the claim plus the period of any extension of time for filing the return. If a claim is not filed, any credit or refund allowed upon an audit of the taxpayer may not exceed the amount that would be allowable under this section if a claim had been filed by the taxpayer on the date the credit or refund is allowed upon the audit.

§2521-E. Interest on overpayment

1. General. Interest at the rate determined pursuant to section 186 must be paid on any refund of an overpayment of the tax imposed by this chapter from the date the return requesting a refund of the overpayment was filed or the date the payment was made, whichever is later.

2. Date of return or payment. For purposes of this section:

A. A return that is filed before the last day prescribed for the filing of a return is deemed to be filed on that last day, determined without regard to any extension of time granted the taxpayer; and

B. A tax that is paid by the taxpayer before the last day prescribed for its payment or paid by the taxpayer as estimated tax for a taxable year is deemed to have been paid on the last day prescribed for its payment.

3. Exceptions. Notwithstanding subsection 1, interest may not be paid by the assessor on an overpayment of the tax imposed by this chapter that is refunded within 60 days after the last date prescribed, or permitted by extension of time, for filing the return of that tax or within 60 days after the date the return requesting a refund of the overpayment was filed, whichever is later.

PART C

Sec. C-1. 36 MRSA §5122, sub-§2, ¶E, as amended by PL 1999, c. 414, §40 and affected by §57 and amended by PL 2007, c. 58, §3, is further amended to read:

E. Pick-up contributions paid to the taxpayer by the Maine Public Employees Retirement System or distributed as the result of a rollover, whether or not included in federal adjusted gross income,

that have been previously taxed under this Part. For tax years beginning on or after January 1, 2018, in the case of a distribution as a result of a rollover, the modification allowed under this paragraph may be subtracted fully or in part during the tax year of the rollover. Any amount not subtracted in the tax year of the rollover may be subtracted within the 2 tax years immediately following the year of the rollover, except that the total amount subtracted over the 3-year period may not exceed the pick-up contributions that have been previously taxed under this Part during that 3-year period;

Sec. C-2. 36 MRSA §5219-PP, sub-§4, as enacted by PL 2017, c. 211, Pt. D, §10, is amended to read:

4. Limitations; carry-forward. The credit under this section must be taken in the taxable year in which the qualified expenditures were incurred the certification required by subsection 3 is made by the Maine State Housing Authority, except that the credit claimed for any taxable year beginning on or after January 1, 2018 may not include qualified expenditures for which a credit has been claimed for a tax year beginning in 2017. The credit allowed under this section may not reduce the tax otherwise due under this Part to less than zero. Any unused portion of the credit may be carried forward to the following year or years for a period not to exceed 4 years.

Sec. C-3. Application. That section of this Part that amends the Maine Revised Statutes, Title 36, section 5219-PP, subsection 4 applies to tax years beginning on or after January 1, 2018.

PART D

Sec. D-1. 36 MRSA §191, sub-§2, ¶DDD, as enacted by PL 2017, c. 284, Pt. UUUU, §16, is reallocated to 36 MRSA §191, sub-§2, ¶EEE.

Sec. D-2. 36 MRSA §191, sub-§2, ¶DDD, as enacted by PL 2017, c. 297, §1, is repealed and the following enacted in its place:

DDD. The disclosure to the joint standing committee of the Legislature having jurisdiction over taxation matters pursuant to section 5219-QQ, subsection 4, paragraph B of the revenue loss due to refundable credits attributable to each taxpayer claiming the tax credit for major business headquarters expansions provided under that section, regardless of the number of persons eligible for the credit. For purposes of this paragraph, "revenue loss" has the same meaning as in section 5219-QQ, subsection 4, paragraph B.

Sec. D-3. 36 MRSA §5219-QQ, sub-§2, ¶E, as enacted by PL 2017, c. 297, §2, is amended to read:

E. The commissioner must revoke a certificate of approval if the certified applicant or a person to

whom a certificate of approval has been transferred pursuant to paragraph D fails to make a qualified investment within 5 years of the date of the certificate of approval. The commissioner shall revoke a certificate of approval or a certificate of completion if the applicant or transferee ceases operations of the headquarters in the State or the certificate of approval or certificate of completion is transferred to another person without approval from the commissioner pursuant to paragraph D. A certified applicant whose certificate of completion is revoked within 5 years after the date issued shall ~~within 60 days following revocation of the certificate~~ return to the State an amount equal to the total credits claimed for all tax years under this section. A certified applicant whose certificate of completion is revoked during the period from 6 years after through 10 years after the date the certificate was issued shall ~~within 60 days following revocation of the certificate~~ return to the State an amount equal to the total credits claimed under this section for the period from 6 years after through 10 years after the date the certificate was issued. The amount to be returned to the State under this paragraph is, for purposes of this Title, a tax subject to the collection and enforcement provisions contained in Part 1, including the application of applicable interest and penalties. The amount to be returned to the State must be added to the tax imposed on the taxpayer under this Part for the taxable year during which the certificate is revoked.

Sec. D-4. 36 MRSA §5219-QQ, sub-§§3 and 4, as enacted by PL 2017, c. 297, §2, are amended to read:

3. Refundable credit allowed. A qualified certified applicant who has received a certificate of completion is allowed a credit as provided in this subsection.

A. Subject to the limitations under paragraph B, beginning with the tax year during which the certificate of completion is issued or the tax year beginning in 2020, whichever is later, and for each of the following 19 tax years, a certified applicant is allowed a credit against the tax due under this Part for the taxable year in an amount equal to 2% of the certified applicant's qualified investment. The credit allowed under this paragraph is refundable.

B. The credit under this subsection is limited as follows:

(1) A credit is not allowed for any tax year during which the taxpayer does not meet or exceed the following employment targets as measured on the last day of the tax year.

(a) For each of the first 10 tax years for which the credit is claimed, there must be a total of at least 80 additional full-time employees based in the State whose jobs were added since the first day of the first tax year for which the credit was claimed multiplied by the number of years for which the credit has been claimed, including the tax year for which the credit is currently being claimed.

(b) For each tax year after the 10th tax year for which the credit is claimed, the taxpayer must employ a total of at least 800 additional full-time employees based in the State whose jobs were added since the first day of the first tax year for which the credit was claimed.

Jobs for additional full-time employees that are counted for determining eligibility for the credit under one certificate of completion may not be counted for determining eligibility for the credit under a separate certificate of completion. For purposes of this paragraph, "additional full-time employees" does not include employees who are shifted to a certified applicant's headquarters in the State from an affiliated business in the State. The commissioner shall determine whether a shifting of employees has occurred. For purposes of this paragraph, "affiliated business" has the same meaning as in section 6753, subsection 1-A.

(2) Cumulative credits under this subsection may not exceed \$16,000,000 under any one certificate.

4. Reporting required. A certified applicant ~~and~~ the commissioner and the State Tax Assessor are required to make reports pursuant to this subsection.

A. On or before March 1st of each year, a certified applicant shall file a report with the commissioner for the tax year ending during the immediately preceding calendar year, referred to in this ~~paragraph~~ subsection as "the report year," containing the following information:

(1) The number of full-time employees based in this State of the certified applicant on the last day of the tax year ending during the calendar year immediately preceding the report year; and

(2) The incremental amount of qualified investment made in the report year.

The commissioner may prescribe forms for the annual report described in this paragraph. The commissioner shall provide copies of the report to the State Tax Assessor and to the joint standing

committee of the Legislature having jurisdiction over taxation matters at the time the report is received.

B. ~~By April 1st December 31st of each year, the commissioner shall report to the joint standing committee of the Legislature having jurisdiction over taxation matters aggregate data on employment levels and qualified investment amounts of certified applicants for each year, and the State Tax Assessor shall report to the joint standing committee of the Legislature having jurisdiction over taxation matters the revenue loss during the previous calendar report year, including the loss due to refundable credits, as a result of this section for each taxpayer claiming the credit and, if necessary, shall include updated revenue loss amounts for any previous tax year. For purposes of this paragraph, "revenue loss" means the credit claimed by the taxpayer and allowed pursuant to this section, consisting of the amount of the credit used to reduce the tax liability of the taxpayer and the amount of the credit refunded to the taxpayer, stated separately.~~

Notwithstanding any other provision of law to the contrary, the reports provided under this subsection are public records as defined in Title 1, section 402, subsection 3.

Sec. D-5. 36 MRS §5219-QQ, sub-§5 is enacted to read:

5. Rules. The commissioner and the State Tax Assessor may adopt routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A for implementation of the credit under this section, including, but not limited to, rules for determining and certifying eligibility. The commissioner may also by rule establish fees for obligations under this section. Any fees collected pursuant to this section must be deposited into a special revenue account administered by the commissioner, and those fees may be used only to defray the actual costs of administering the credit under this section.

PART E

Sec. E-1. 23 MRS §4210-B, sub-§7-A, as amended by PL 2011, c. 649, Pt. E, §2, is further amended to read:

7-A. Sales tax revenue. Beginning July 1, 2012 and every July 1st thereafter, the State Controller shall transfer to the Multimodal Transportation Fund an amount, as certified by the State Tax Assessor, that is equivalent to 100% of the revenue from the tax imposed on the value of rental of a pickup truck or van with a gross weight of less than 26,000 pounds rented from a person primarily engaged in the business of renting automobiles and the value of rental for a period of less than one year of an automobile pursuant to Title 36, section 1811 for the first 6 months of the

prior fiscal year after the reduction for the transfer to the Local Government Fund as described by Title 30-A, section 5681, subsection 5. Beginning on October 1, 2012 and every October 1st thereafter, the State Controller shall transfer to the Multimodal Transportation Fund an amount, as certified by the State Tax Assessor, that is equivalent to 100% of the revenue from the tax imposed on the value of rental of a pickup truck or van with a gross weight of less than 26,000 pounds rented from a person primarily engaged in the business of renting automobiles and the value of rental for a period of less than one year of an automobile pursuant to Title 36, section 1811 for the last 6 months of the prior fiscal year after the reduction for the transfer to the Local Government Fund as described by Title 30-A, section 5681, subsection 5. The tax amount must be based on actual sales for that fiscal year and may not consider any accruals that may be required by law.

PART F

Sec. F-1. 36 MRSA §1282, as amended by PL 1991, c. 846, §13, is further amended by adding after the 5th paragraph a new paragraph to read:

A discharge of a tax lien mortgage given after the right of redemption has expired that has been recorded by the State Tax Assessor in the registry of deeds has the force and effect of a discharge given and recorded before the right of redemption has expired, unless the State has conveyed any interest based upon the title acquired from the affected lien. This paragraph applies to discharges of tax lien mortgages given after October 1, 1935.

Sec. F-2. 36 MRSA §1283, 2nd ¶, as amended by PL 1999, c. 414, §14 and PL 2011, c. 657, Pt. W, §6, is further amended to read:

~~The State Tax Assessor, whenever~~ Whenever the State acquires title to real estate under this subchapter, except real estate that is a permanent residence, as defined in section 681, the State Tax Assessor shall cause an inventory to be made of all the real estate. The inventory must contain a description of the real estate, amount of accrued taxes by years and any other information necessary in the administration and supervision of the real estate. A copy of the inventory must be furnished to the Commissioner of Agriculture, Conservation and Forestry and the Commissioner of Inland Fisheries and Wildlife prior to the convening of the Legislature. The assessor shall report annually to the Legislature not later than 15 days after it convenes. The report must contain a copy of the inventory of real estate then owned by the State and such recommendations as to the disposition of this real estate the assessor, the Commissioner of Agriculture, Conservation and Forestry and the Commissioner of Inland Fisheries and Wildlife may wish to make. Whenever the State acquires title to real estate that is a permanent residence, as defined in section 681, the State Tax Asses-

sor may cause an inventory to be made of that real estate; that inventory must comply with the requirements of this paragraph.

Sec. F-3. 36 MRSA §1283, 3rd ¶, as amended by PL 1967, c. 271, §8, is further amended to read:

The State Tax Assessor shall, after authorization by the Legislature, sell and convey any such real estate; but shall in all cases of sales, except sales to the former owners of the real estate, give public notice of the proposal to sell such real estate and shall ask for competitive bids and shall sell to the highest bidder, with the right of rejecting all bids. ~~No sales~~ Sales of such real estate or any stumpage ~~thereon shall on that~~ real estate may not be made by the State Tax Assessor except by authorization of the Legislature. Notwithstanding any provisions of this chapter to the contrary, if the State Tax Assessor has not yet conveyed such real estate, the State Tax Assessor may convey the real estate to the prior owner under the authorization of this section if the tax, interest and costs are satisfied by way of full payment, compromise or abatement.

Sec. F-4. Retroactivity. This Part applies retroactively to October 1, 1935.

PART G

Sec. G-1. 36 MRSA §191, sub-§2, ¶SS, as amended by PL 2011, c. 548, §11, is further amended to read:

SS. The disclosure of information to the Finance Authority of Maine necessary for the administration of the new markets capital investment credit in sections 2533 and 5219-HH ~~and to the Commissioner of Administrative and Financial Services as necessary for the execution of the memorandum of agreement pursuant to section 5219-HH, subsection 3;~~

Sec. G-2. 36 MRSA §5219-HH, sub-§3, as enacted by PL 2011, c. 548, §33 and affected by §35, is repealed.

PART H

Sec. H-1. 36 MRSA §1759, as amended by PL 2007, c. 627, §46, is further amended to read:

§1759. Bonds

Either as a condition for issuance or subsequent to the issuance of a registration certificate under section 1754-B, ~~1756 or 1951-B~~, the State Tax Assessor may require from a taxpayer a bond written by a surety company qualified to do business in this State, in an amount and upon conditions to be determined by the assessor. In lieu of a bond the assessor may accept a deposit of money or securities in an amount and of a kind acceptable to the assessor. The deposit must be delivered to the Treasurer of State, who shall safely keep it subject to the instructions of the assessor.

PART I

Sec. I-1. 36 MRSA §1760, sub-§41, as amended by PL 2011, c. 501, §1, is repealed.

Sec. I-2. 36 MRSA §1760, sub-§41-A is enacted to read:

41-A. Certain instrumentalities of interstate or foreign commerce. The sale of a vehicle, railroad rolling stock, aircraft or watercraft that is placed in use by the purchaser as an instrumentality of interstate or foreign commerce within 30 days after that sale and that is used by the purchaser for not less than 80% of the days in use during the next 2 years as an instrumentality of interstate or foreign commerce. The State Tax Assessor may for good cause extend for not more than 60 days the time for placing the instrumentality in use in interstate or foreign commerce.

For purposes of this subsection:

A. Property is placed in use as an instrumentality of interstate or foreign commerce by its carrying of or providing the motive power for the carrying of a bona fide payload in interstate or foreign commerce or by being dispatched to a specific location at which it will be loaded with, or will be used as motive power for the carrying of, a bona fide payload in interstate or foreign commerce.

(1) Property dispatched for the carrying of or providing the motive power for the carrying of a bona fide payload in interstate or foreign commerce is considered in use from the date of dispatch through the date the property arrives back at its principal place of business or is dispatched for the carrying of or providing the motive power for the carrying of a new bona fide payload, whichever occurs first. Any day or portion of a day in which an instrumentality is used in interstate or foreign commerce is computed as a full day of use in interstate or foreign commerce. Property dispatched for the carrying of or providing the motive power for the carrying of a bona fide payload in intrastate commerce is considered in use from the date of dispatch through the date the property arrives back at its principal place of business or is dispatched for the carrying of or providing the motive power for the carrying of a new bona fide payload, whichever occurs first. For purposes of this subparagraph, use of a trailer, semitrailer or tow dolly, as defined in Title 29-A, section 101, pursuant to a written interchange agreement as described in 49 Code of Federal Regulations, Section 376.31, or successor regulation, between the purchaser and an authorized motor carrier is considered use by the purchaser.

(2) Personal property is not in use as an instrumentality of interstate or foreign commerce when carrying a bona fide payload that both originates and terminates within the State, unless the personal property is a bus with a capacity of at least 47 passengers that is engaged in transporting within the State a bona fide payload of travelers on an interstate or foreign cruise that originates outside the State and terminates outside the State and the transportation is provided pursuant to a contract between the interstate or foreign cruise provider and the person providing the transportation.

(3) Any day in which an instrumentality is not used in intrastate commerce or interstate or foreign commerce, including while being repaired or maintained, is not counted in the 80% computation; and

B. As used in this subsection, unless the context otherwise indicates, the following terms have the following meanings.

(1) "Bona fide payload" means a cargo of persons or property transported by a contract carrier or common carrier for compensation that exceeds the direct cost of carrying that cargo or pursuant to a legal obligation to provide service as a public utility or a cargo of property transported in the reasonable conduct of the purchaser's own nontransportation business in interstate or foreign commerce.

(2) "Dispatch" means to send to a destination for the purpose of interstate or foreign commerce or for the purpose of intrastate commerce.

The exemption provided by this subsection is not limited to instrumentalities otherwise required to be exempt under the United States Constitution.

Sec. I-3. Retroactivity. Notwithstanding the Maine Revised Statutes, Title 1, section 302, this Part applies to purchases made on or after January 1, 2012.

See title page for effective date.