

# MAINE STATE LEGISLATURE

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

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-EIGHTH LEGISLATURE**

**SECOND SPECIAL SESSION**  
**June 19, 2018 to September 13, 2018**

**THE GENERAL EFFECTIVE DATE FOR**  
**SECOND SPECIAL SESSION**  
**NON-EMERGENCY LAWS IS**  
**DECEMBER 13, 2018**

**ONE HUNDRED AND TWENTY-NINTH LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 5, 2018 to June 20, 2019**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 19, 2019**

**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**  
**2019**

the Legislature having jurisdiction over labor matters or confirmation by the Legislature.

Appointments must be consistent with the representation requirements of the Workforce Innovation and Opportunity Act. The Governor shall ensure that the board has sufficient expertise to effectively carry out the duties and functions of the board. Members must represent diverse geographic areas of the State, including urban, rural and suburban areas.

**Sec. 5. 26 MRSA §2006, sub-§3**, as enacted by PL 1997, c. 410, §12 and affected by §13, is amended to read:

**3. Terms of members.** One third of the initial appointees shall serve for a one-year term, 1/3 of the initial appointees shall serve for a 2-year term and 1/3 shall serve for a 3-year term. All subsequent appointees shall serve 3-year terms. An appointee continues to serve until that appointee has been reappointed or a successor has been appointed.

**Sec. 6. 26 MRSA §2007**, as amended by PL 2017, c. 110, §20, is further amended to read:

#### **§2007. Funding**

Funds received from the United States pursuant to the Workforce Innovation and Opportunity Act must be deposited in the Employment Services Activity program account within the Department of Labor. Funds must be deposited, administered and disbursed in the same manner and under the same conditions and requirements as provided by law for other federal funds in the State Treasury in accordance with Title 2, section 4. The Governor shall make federal funds available to the local boards to be used to implement the Workforce Innovation and Opportunity Act within 30 days after the date the funds are made available to the Governor, in accordance with state procurement rules and the federal Cash Management Improvement Act of 1990. The commissioner shall ensure that management and use of the federal funds comply with the requirements of the Workforce Innovation and Opportunity Act. Federal funds in the account do not lapse but must be carried forward to be used to implement the Workforce Innovation and Opportunity Act.

**Sec. 7. Transition.** Notwithstanding the Maine Revised Statutes, Title 26, section 2006, subsection 2-A, members of the State Workforce Board serving on the effective date of this Act continue to serve until the end of the members' terms.

**Sec. 8. Application.** That section of this Act that enacts the Maine Revised Statutes, Title 26, section 2006, subsection 2-A applies to all appointments and reappointments of members to the State Workforce Board, pursuant to Title 26, section 2006, commencing after the effective date of this Act.

See title page for effective date.

## CHAPTER 247 H.P. 1027 - L.D. 1414

### An Act To Implement the Recommendations of the Right To Know Advisory Committee Concerning Penalties for Violations of the Freedom of Access Act

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

**Sec. 1. 1 MRSA §410**, as repealed and replaced by PL 1987, c. 477, §6, is repealed and the following enacted in its place:

#### **§410. Violations**

**1. Civil violation.** An officer or employee of a state government agency or local government entity who willfully violates this subchapter commits a civil violation.

**2. Penalties.** A state government agency or local government entity whose officer or employee commits a civil violation described in subsection 1 is subject to:

A. A fine of not more than \$500 for a civil violation described in subsection 1;

B. A fine of not more than \$1,000 for a civil violation described in subsection 1 that was committed not more than 4 years after a previous adjudication of a civil violation described in subsection 1 by an officer or employee of the same state government agency or local government entity; or

C. A fine of not more than \$2,000 for a civil violation described in subsection 1 that was committed not more than 4 years after 2 or more previous adjudications of a civil violation described in subsection 1 by an officer or employee of the same state government agency or local government entity.

See title page for effective date.

## CHAPTER 248 S.P. 444 - L.D. 1459

### An Act To Expand Application of the Maine Agricultural Marketing and Bargaining Act of 1973 to Harvesters and Haulers of Forest Products

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

**Sec. 1. 13 MRSA §1774, sub-§6-A**, as enacted by PL 1971, c. 502, is amended to read:

**6-A. Independent agricultural contractor.** "Independent agricultural contractor" means a person who grows under contract, or who harvests or hauls forest products under contract, as ~~his~~ the person's primary activity or as part of a general agricultural activity.

**Sec. 2. 13 MRSA §1953**, as enacted by PL 1973, c. 621, §1, is amended to read:

**§1953. Legislative findings and purpose**

Because agricultural products are produced by numerous individual farmers and independent agricultural contractors, the marketing and bargaining position of individual farmers and independent agricultural contractors will be adversely affected unless they are free to join together voluntarily in cooperative organizations as authorized by law. Furthermore, membership by a farmer or independent agricultural contractor in a cooperative organization can only be meaningful, if a handler of agricultural products is required to bargain in good faith with an agricultural cooperative organization as the representative of the members of such organization who have had a previous course of dealing with such handler. The purpose of this Article is to provide standards for the qualification of agricultural cooperative organizations for bargaining purposes, to define the mutual obligation of handlers and agricultural cooperative organizations to bargain with respect to the production, sale and marketing of agricultural products and to provide for the enforcement of such obligation.

**Sec. 3. 13 MRSA §1955, sub-§5**, as enacted by PL 1973, c. 621, §1, is amended to read:

**5. Producer.** "Producer" means a person engaged in the production of agricultural products, ~~excluding forest products~~, as a farmer, planter, rancher, ~~poultryman poultry farmer, dairyman dairy farmer~~, fruit, vegetable or nut grower, or independent agricultural contractor as specified in section 1774, subsections 6-A and 8-A. If a producer is also a handler, ~~he shall be the producer~~ is considered only a handler for the purposes of this Act.

**Sec. 4. 13 MRSA §1957, sub-§3, ¶D**, as amended by PL 1991, c. 116, is further amended to read:

D. The association represents ~~51% of the 10 or more producers or produced at least 1/2 of the volume~~ of a particular agricultural product for a specific handler involved with those producers and that agricultural product during the previous 12 months, ~~not including any volume produced by the handler, its subsidiaries, agents or employees or procured by the handler from sources other than producers~~; for the purposes of this article, members of ~~farmer agricultural~~ cooperatives are counted as individual ~~farmer~~ members; if the board has reasonable cause to question such representation, the board shall require a secret ballot

election to certify the ~~percentage~~ of representation; and

**Sec. 5. 13 MRSA §1958-B, sub-§5-A, ¶D**, as enacted by PL 1989, c. 703, §3, is amended to read:

D. The producer's costs of production including the cost that would be involved in paying ~~farm~~ labor a fair wage rate;

**Sec. 6. Legislative findings.** The Legislature finds that:

1. The harvesting and hauling of forest products are performed by numerous loggers and forest products haulers who individually are not able to bargain effectively with forest landowners;

2. The marketing and bargaining position of individual loggers and forest products haulers is adversely affected unless they are free to join together voluntarily in cooperative organizations;

3. The inequity of power in determining compensation and the lack of opportunity to join together in bargaining over compensation can result in unfair contract rates for the services of loggers and forest products haulers; and

4. It is in the public interest to:

A. Promote, foster and encourage the intelligent and orderly marketing of forest products, as well as other agricultural products;

B. Make the distribution of forest products, as well as other agricultural products, between producer and consumer as direct as can be efficiently done and eliminate speculation and waste;

C. Stabilize the marketing of forest products, as well as other agricultural products;

D. Expand application of the Maine Agricultural Marketing and Bargaining Act of 1973 to include harvesters and haulers of forest products; and

E. Ensure consistency with the federal Clayton Act, 15 United States Code, Section 45(a)(1).

See title page for effective date.

**CHAPTER 249**

**H.P. 1117 - L.D. 1534**

**An Act To Amend Maine  
Fireworks Laws To Include  
Flame Effects**

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

**Sec. 1. 8 MRSA §221-A, sub-§3**, as enacted by PL 1999, c. 671, §2, is amended to read: