

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

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Augusta, Maine
2019

fruits, vegetables, nuts, coffee, grains, bakery goods, candy, greeting cards or small hardware items; to contain or wrap frozen foods, meats or fish; or to contain or wrap flowers or potted plants;

(4) Laundry, dry cleaning or garment bags, including bags provided by a hotel to guests to contain wet or dirty clothing or bags provided to protect large garments like suits, jackets or dresses;

(5) Newspaper bags;

(6) Bags sold in packages containing multiple bags intended to contain garbage, pet waste or yard waste;

(7) Bags used to contain live animals, such as fish or insects sold in pet stores;

(8) Bags used for vehicle tires;

(9) Bags used to transport chemical pesticides, drain cleaning chemicals or other caustic chemicals sold at a retail establishment;

(10) Bags used by a hunger relief organization such as a food pantry or soup kitchen to distribute food directly to the consumer at no charge;

(11) Bags that customers bring to the retail establishment for their own use or for carrying away from the retail establishment goods that are not placed in a bag provided by the retail establishment.

C. A retail establishment may make single-use carry-out bags made of plastic that are exempted in paragraph B available to customers to bag products within the retail establishment other than at the point of sale only if the retail establishment:

(1) Locates inside the retail establishment or within 20 feet of the main entrance to the retail establishment a receptacle for collecting any used single-use carry-out bags made of plastic; and

(2) Ensures that single-use carry-out bags made of plastic that are collected by the retail establishment are recycled or delivered to a person engaged in recycling plastics.

3. Recycled paper bag fees and reusable plastic bag fees; exemptions. This subsection governs fees assessed on recycled paper bags and on reusable bags made of plastic.

A. Beginning April 22, 2020 a retail establishment may use a recycled paper bag or a reusable bag made of plastic to bag products at the point of sale as long as the retail establishment charges a fee of at least 5¢ per bag.

(1) All amounts collected pursuant to this paragraph are retained by the retail establishment and may be used for any lawful purpose.

(2) A retail establishment may not rebate or otherwise reimburse a customer any portion of the fee charged pursuant to this paragraph.

B. The requirement to charge a fee under paragraph A does not apply to:

(1) Stores at which less than 2% of retail sales are attributed to the sale of food and that have less than 10,000 square feet of retail area;

(2) Restaurants; or

(3) Hunger relief organizations engaged in distributing food directly to consumers at no charge.

A retail establishment exempt from charging a fee under this paragraph may charge a fee for a recycled paper bag or a reusable bag made of plastic.

4. Violations. A retail establishment that violates a provision of this section is subject to civil penalties under section 349.

5. Preemption. To ensure maximum effectiveness through uniform statewide application, the State intends to occupy the whole field of regulation of single-use carry-out bags at retail establishments beginning April 22, 2020. A local government may not adopt an ordinance regulating single-use carry-out bags at retail establishments and, beginning April 22, 2020, any ordinance or regulation that violates this subsection is void and has no force or effect.

See title page for effective date.

CHAPTER 347

H.P. 924 - L.D. 1282

An Act To Establish a Green New Deal for Maine

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

Sec. 1. 26 MRSA c. 43 is enacted to read:

CHAPTER 43

APPRENTICESHIP IN ENERGY FACILITY CONSTRUCTION

§3501. Definitions

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

1. Apprentice. "Apprentice" has the same meaning as in section 3201, subsection 1 or means a person who is in an apprenticeship program registered with the United States Department of Labor.

2. Construction employer. "Construction employer" means a person constructing a generation facility in this State who hires any person to construct that generation facility.

3. Department. "Department" means the Department of Labor.

4. Generation facility. "Generation facility" means a facility for the generation of electricity that has an installed capacity of 2 megawatts or more, other than a facility located on the customer side of an electric meter.

§3502. Requirements

A construction employer constructing a generation facility shall employ apprentices in accordance with this section.

1. Percentages. A construction employer shall, to the extent qualified apprentices are determined to be available in accordance with rules adopted by the department, employ a number of apprentices that equals at least:

A. If construction of the generation facility begins on or after January 1, 2021 and before January 1, 2025, 10% of all persons employed in the construction;

B. If construction of the generation facility begins on or after January 1, 2025 and before January 1, 2027, 17.5% of all persons employed in the construction; and

C. If construction of the generation facility begins on or after January 1, 2027, 25% of all persons employed in the construction.

2. Rules. The department shall adopt rules to implement the provisions of this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

3. Penalties. The following provisions apply to a violation of this section.

A. A construction employer who violates this section commits a civil violation for which a fine of not less than \$50 nor more than \$200 may be adjudged.

B. A construction employer who discharges or in any other manner discriminates against an employee because the employee makes a complaint to the department or to the district attorney concerning a violation of this section commits a civil violation for which a fine of not less than \$50 nor more than \$200 may be adjudged.

C. In the event a construction employer is adjudged to have violated this section, the Attorney General may institute injunction proceedings in the Superior Court to enjoin any further violations.

Sec. 2. 35-A MRSA §10123, as enacted by PL 2013, c. 366, §1, is amended by adding at the end a new paragraph to read:

The trust, in collaboration with the Department of Education, shall identify and provide incentives for cost-effective electric and natural gas conservation projects in school construction projects designated by the State Board of Education for funding pursuant to rules adopted under Title 20-A, section 15905.

Sec. 3. 35-A MRSA §10124 is enacted to read:

§10124. School solar energy program

The trust shall arrange power purchase agreements for solar capacity for new school construction in accordance with this section.

1. Competitive solicitation; bids. After construction has begun on a school construction project approved for funding by the State Board of Education, the trust shall conduct a competitive solicitation for a power purchase agreement for solar capacity to be installed on the school property. The solicitation must specify the capacity of the solar installation to be installed, which may not exceed the estimated annual electricity consumption by the school or 100 kilowatts, whichever is less, and specify the price per kilowatt hour to be paid by the school to the bidder for the term of the power purchase agreement, which must approximate, so far as possible, the price of electricity that the school would otherwise pay to acquire the electricity from the retail market.

2. Bid evaluation; power purchase agreement. The trust shall establish by rule qualifications for bidders and requirements for bids for power purchase agreements submitted under subsection 1. All bids must specify the price to the school to buy the solar installation at the end of the term of the power purchase agreement.

3. Award and administration. The trust shall award a power purchase agreement to the qualified bidder that offers the lowest price for the school to purchase the solar installation at the end of the term of the power purchase agreement pursuant to subsection 2. The trust shall ensure that the power purchase agreement is commercially reasonable and commits all parties to commercially reasonable behavior. The trust shall provide the final power purchase agreement to the commission and the commission shall, in accordance with rules adopted by the commission, direct the transmission and distribution utility serving the school to administer the power purchase agreement on behalf

of the school in a manner, so far as possible, consistent with section 3210-C.

4. Rules. Rules adopted by the trust under this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. Rules adopted by the commission under this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

See title page for effective date.

CHAPTER 348

S.P. 526 - L.D. 1637

An Act To Prevent Medicaid Payment from a Savings Account Established under the Federal ABLE Act of 2014

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

Sec. 1. 5 MRSA §156, as enacted by PL 2017, c. 394, §1, is amended to read:

§156. Authorization to establish program; payments for MaineCare benefits prohibited

The Treasurer of State is authorized to establish in this State the ABLE ME Savings Program, referred to in this section as "the program," to allow an individual with a disability to establish a federal tax-advantaged savings account and use the funds in that account to pay for the individual's care. The program must comply with the requirements of the federal Achieving a Better Life Experience Act of 2014, Public Law 113-295.

Unless otherwise required by the United States Social Security Act, 42 United States Code, Section 1396p(b), the State, or any agency or instrumentality of the State, may not seek payment for MaineCare benefits provided to a designated beneficiary from an account, or its proceeds, that is established under a qualified ABLE program that complies with the requirements of the federal Achieving a Better Life Experience Act of 2014, Public Law 113-295.

Funds held in an account established under a qualified ABLE program that complies with the requirements of the federal Achieving a Better Life Experience Act of 2014, Public Law 113-295 or distributed for the purposes of paying qualified expenses must be disregarded when determining the designated beneficiary's eligibility for any means-tested public assistance program.

The Treasurer of State may adopt routine technical rules pursuant to chapter 375, subchapter 2-A to

implement the provisions of this section, including all terms and conditions of the program.

Sec. 2. 22 MRSA §14, sub-§2-I, ¶¶F, as amended by PL 2017, c. 402, Pt. C, §42 and affected by Pt. F, §1, is further amended to read:

F. As used in this subsection, unless the context otherwise indicates, the term "estate" means:

(1) All real and personal property and other assets included in the recipient's estate, as defined in Title 18-C, section 1-201; and

(2) Any other real and personal property and other assets in which the recipient had any legal interest at the time of death, to the extent of that interest, including assets conveyed to a survivor, heir or assign of the deceased recipient through tenancy in common, survivorship, life estate, living trust, joint tenancy in personal property or other arrangement but not including joint tenancy in real property.

Unless otherwise required by the United States Social Security Act, 42 United States Code, Section 1396p(b), "estate" does not include an account established under a qualified ABLE program that complies with the requirements of the federal Achieving a Better Life Experience Act of 2014, Public Law 113-295.

Sec. 3. 36 MRSA §5122, sub-§2, ¶QQ is enacted to read:

QQ. For tax years beginning on or after January 1, 2020, any earnings on funds in an account established under a qualified ABLE program that complies with the requirements of the federal Achieving a Better Life Experience Act of 2014, Public Law 113-295.

See title page for effective date.

CHAPTER 349

H.P. 882 - L.D. 1222

An Act Regarding Electric Bicycles

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

Sec. 1. 29-A MRSA §101, sub-§22-B is enacted to read:

22-B. Electric bicycle. "Electric bicycle" means a 2-wheel or 3-wheel bicycle with fully operable pedals and an electric motor of less than 750 watts that is a Class 1 electric bicycle, a Class 2 electric bicycle or a Class 3 electric bicycle as defined in this subsection.