

# 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**

school management and leadership center who is in a bargaining unit and who is reassigned to a different position that is in a different bargaining unit but that upon the completion of the merger of bargaining units will be included in the same school management and leadership center-wide bargaining unit must be determined by the terms of the collective bargaining agreement that applies to the position to which the employee is reassigned, except as provided in this subsection.

A. If the application of the collective bargaining agreement that applies to the position to which the employee is reassigned would cause a reduction in the employee's wage or salary rate, the employee's wage or salary rate must be maintained at the rate the employee was paid immediately prior to the reassignment until the completion of negotiations for a single school management and leadership center-wide collective bargaining agreement for the school management and leadership center-wide bargaining unit or the applicable collective bargaining agreement requires a higher wage or salary rate for the employee, whichever occurs sooner.

B. If the application of the existing collective bargaining agreement that applies to the position to which the employee is reassigned would cause a reduction in the amount that is paid by the school management and leadership center for premiums for health insurance for the employee and the employee's dependents, the school management and leadership center's payment must be maintained at the amount that was paid immediately prior to the reassignment until the completion of negotiations for a single school management and leadership center-wide collective bargaining agreement for the school management and leadership center-wide bargaining unit or the applicable collective bargaining agreement requires a higher payment, whichever occurs sooner.

C. If the application of the existing collective bargaining agreement that applies to the position to which the employee is reassigned provides for coverage under a different health insurance plan, the employee may elect to retain coverage under the health insurance plan in which the employee was enrolled immediately prior to reassignment if the eligibility provisions of the plan permit until the completion of negotiations for a single school management and leadership center-wide collective bargaining agreement for the school management and leadership center-wide bargaining unit.

See title page for effective date.

## CHAPTER 461 S.P. 473 - L.D. 1524

### An Act To Prevent Wage Theft and Promote Employer Accountability

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

Sec. 1. 26 MRSA §637 is enacted to read:

#### §637. Wage theft remedies

1. Wage theft; defined. For the purposes of this section, "wage theft" means a violation of section 621-A, 622, 623, 626, 629, 629-A or 664.

2. Injunction. In addition to other remedies allowed by this chapter, the Department of Labor or any person or persons injured by an unlawful wage payment practice or policy that causes direct harm to workers may bring an action for injunctive relief to enjoin further wage theft. If a party seeking an injunction prevails, the employer is liable to pay the cost of suit, including a reasonable attorney's fee.

3. Issuance of a cease operations order. The Commissioner of Labor or the commissioner's designee may order an employer to cease its business operations if the commissioner or the commissioner's designee determines that the employer has committed wage theft, the commissioner or the commissioner's designee has previously determined the employer's practice or policy resulted in wage theft on more than one occasion or within the last 12 months and:

A. The practice or policy resulting in the wage theft affects 10 or more employees; or

B. The wage theft is equal to or greater than twice an employee's average weekly wage.

The commissioner or the commissioner's designee shall provide the employer with notice and an opportunity to be heard 3 business days before the effective date of an order issued pursuant to this subsection. The issuance of a cease operations order constitutes final agency action. The commissioner or the commissioner's designee shall issue the cease operations order as narrowly as is determined necessary. Any person who is aggrieved by the imposition of a cease operations order has 10 days from the date of its service to make a request to the commissioner or the commissioner's designee for a hearing. The hearing must be held within 7 business days of the request. The hearing officer shall issue a decision within 5 business days of the hearing.

If an employer refuses to obey an order to cease operations, that order may be enforced in Superior Court.

4. Stay of cease operations order. The Commissioner of Labor or the commissioner's designee

shall stay the issuance of a cease operations order under subsection 3 if the employer provides evidence acceptable to the commissioner or the commissioner's designee that the employer has paid the employee or employees for the amount of unpaid wages and benefits owed and has implemented wage payment practices and policies that comply with this chapter.

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

See title page for effective date.

## CHAPTER 462

### H.P. 1175 - L.D. 1632

#### An Act Regarding Criminal Procedure with Respect to Allowable Defenses

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

**Sec. 1. 17-A MRSA §38,** as enacted by PL 1981, c. 324, §14, is amended by adding at the end a new paragraph to read:

An actor does not suffer from an abnormal condition of the mind based solely on the discovery of knowledge about or potential disclosure of the victim's actual or perceived gender, gender identity, gender expression or sexual orientation, including under circumstances in which the victim made an unwanted nonforcible romantic or sexual advance toward the actor or in which the actor and victim dated or had a romantic or sexual relationship.

**Sec. 2. 17-A MRSA §108, sub-§3** is enacted to read:

**3.** A person is not justified in using force against another based solely on the discovery of, knowledge about or potential disclosure of the victim's actual or perceived gender, gender identity, gender expression or sexual orientation, including under circumstances in which the victim made an unwanted nonforcible romantic or sexual advance toward the person or in which the person and victim dated or had a romantic or sexual relationship.

**Sec. 3. 17-A MRSA §201, sub-§4,** as amended by PL 2001, c. 383, §8 and affected by §156, is further amended to read:

**4.** For purposes of subsection 3, provocation is adequate if:

- A. It is not induced by the person; and
- B. It is reasonable for the person to react to the provocation with extreme anger or extreme fear,

provided that evidence demonstrating only that the person has a tendency towards extreme anger or extreme fear is not sufficient, in and of itself, to establish the reasonableness of the person's reaction.

For purposes of determining whether extreme anger or extreme fear was brought about by adequate provocation, the provocation was not adequate if it resulted solely from the discovery of, knowledge about or potential disclosure of the victim's actual or perceived gender, gender identity, gender expression or sexual orientation, including under circumstances in which the victim made an unwanted nonforcible romantic or sexual advance toward the person or in which the person and victim dated or had a romantic or sexual relationship.

See title page for effective date.

## CHAPTER 463

### H.P. 1262 - L.D. 1775

#### An Act To Protect Sustenance Fishing

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

**Sec. 1. 38 MRSA §420, sub-§1-B, ¶A,** as enacted by PL 2001, c. 418, §3, is amended to read:

A. The ambient criteria for mercury are as follows:

- (1) Ambient water quality criteria for aquatic life:
  - (a) Freshwater acute: 1.7 micrograms per liter;
  - (b) Freshwater chronic: 0.91 micrograms per liter;
  - (c) Saltwater acute: 2.1 micrograms per liter; and
  - (d) Saltwater chronic: 1.1 micrograms per liter; and

- (2) Fish tissue residue criterion for human health: 0.2 milligrams per kilogram in the edible portion of fish for all waters, except for those water body segments subject to a sustenance fishing designated use pursuant to article 4-A, which must have a fish tissue residue criterion for human health of 0.03 milligrams per kilogram in the edible portion of fish.

**Sec. 2. 38 MRSA §465-A, sub-§1, ¶C,** as amended by PL 2013, c. 193, §4, is further amended to read: