

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.

Augusta, Maine
2019

GENERAL FUND TOTAL	\$400,000	\$400,000
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See title page for effective date.

CHAPTER 511
S.P. 132 - L.D. 454

**An Act To Encourage the
Purchase of Local Produce for
Public Schools**

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

Sec. 1. 20-A MRSA §6602, sub-§12, as amended by PL 2015, c. 267, Pt. 000, §1, is further amended to read:

12. Local Produce Fund. The Local Produce Fund is established within the department. The fund is authorized to receive revenue from public and private sources. The fund must be held separate and apart from all other money, funds and accounts. Any balance remaining in the fund at the end of the fiscal year must be carried forward to the next fiscal year. The fund must be used to match \$1 for every \$3 a school administrative unit pays for produce or minimally processed foods purchased directly from a farmer, farmers' cooperative or local food hub in the State, to a maximum state contribution of \$1,000 per school administrative unit in fiscal year 2019-20 and \$1,500 per school administrative unit in fiscal year 2020-21 and subsequent years or \$2,000 per school administrative unit if funding is received and the school administrative unit sends a food service employee to local foods training administered by the department under subsection 13. At the end of the fiscal year, the school administrative unit may provide the department with receipts documenting purchases pursuant to this subsection during that year. For purposes of this subsection, "minimally processed" means only the washing, cleaning, trimming, drying, sorting and packaging of food items or a combination of those activities. Reimbursement or partial reimbursement to school administrative units may only be made up to the amount available in the fund. Failure to reimburse does not constitute an obligation on behalf of the State to a school administrative unit. The department shall apply for federal grant funding to provide state contributions in excess of \$1,000 per school administrative unit in fiscal year 2019-20 and \$1,500 per school administrative unit in fiscal year 2020-21 and subsequent years pursuant to this subsection if applicable grant funding is available. The department may accept grant funding from hospitals and other sources to provide state contributions in excess of \$1,000 per school administrative unit in fiscal year 2019-20 and \$1,500 per school

administrative unit in fiscal year 2020-21 and subsequent years pursuant to this subsection.

Sec. 2. Effective date. This Act takes effect October 1, 2019.

Effective October 1, 2019.

CHAPTER 512
S.P. 209 - L.D. 696

**An Act To Require
Municipalities and School
Districts To Provide Notice of
Breaches in Personal Data
Security**

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

Sec. 1. 10 MRSA §1347, sub-§5, as amended by PL 2005, c. 583, §3 and affected by §14, is further amended to read:

5. Person. "Person" means an individual, partnership, corporation, limited liability company, trust, estate, cooperative, association or other entity, including agencies of State Government, municipalities, school administrative units, the University of Maine System, the Maine Community College System, Maine Maritime Academy and private colleges and universities. "Person" as used in this chapter may not be construed to require duplicative notice by more than one individual, corporation, trust, estate, cooperative, association or other entity involved in the same transaction.

Sec. 2. 10 MRSA §1348, sub-§1, as repealed and replaced by PL 2005, c. 583, §6 and affected by §14, is amended to read:

1. Notification to residents. The following provisions apply to notification to residents by information brokers and other persons.

A. If an information broker that maintains computerized data that includes personal information becomes aware of a breach of the security of the system, the information broker shall conduct in good faith a reasonable and prompt investigation to determine the likelihood that personal information has been or will be misused and shall give notice of a breach of the security of the system following discovery or notification of the security breach to a resident of this State whose personal information has been, or is reasonably believed to have been, acquired by an unauthorized person.

B. If any other person who maintains computerized data that includes personal information becomes aware of a breach of the security of the system, the person shall conduct in good faith a rea-

sonable and prompt investigation to determine the likelihood that personal information has been or will be misused and shall give notice of a breach of the security of the system following discovery or notification of the security breach to a resident of this State if misuse of the personal information has occurred or if it is reasonably possible that misuse will occur.

The notices required under paragraphs A and B must be made as expediently as possible and without unreasonable delay, consistent with the legitimate needs of law enforcement pursuant to subsection 3 or with measures necessary to determine the scope of the security breach and restore the reasonable integrity, security and confidentiality of the data in the system. If there is no delay of notification due to law enforcement investigation pursuant to subsection 3, the notices must be made no more than 30 days after the person identified in paragraph A or B becomes aware of a breach of security and identifies its scope.

Sec. 3. 10 MRSA §1349, sub-§2, ¶A, as amended by PL 2005, c. 583, §11 and affected by §14, is further amended to read:

A. A fine of not more than \$500 per violation, up to a maximum of \$2,500 for each day the person is in violation of this chapter, except that this paragraph does not apply to State Government, municipalities, school administrative units, the University of Maine System, the Maine Community College System or Maine Maritime Academy;

See title page for effective date.

CHAPTER 513

H.P. 538 - L.D. 733

An Act To Promote Keeping Workers in Maine

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

Sec. 1. 26 MRSA §§599-A and 599-B are enacted to read:

§599-A. Noncompete agreements

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Federal poverty level" means the nonfarm income official poverty line for an individual, as defined by the federal Office of Management and Budget and revised annually in accordance with the Omnibus Budget Reconciliation Act of 1981, Section 673(2).

B. "Noncompete agreement" means a contract or contract provision that prohibits an employee or prospective employee from working in the same or a similar profession or in a specified geographic area for a certain period of time following termination of employment.

2. Public policy; enforceability of noncompete agreements. Noncompete agreements are contrary to public policy and are enforceable only to the extent that they are reasonable and are no broader than necessary to protect one or more of the following legitimate business interests of the employer:

A. The employer's trade secrets, as defined in Title 10, section 1542, subsection 4;

B. The employer's confidential information that does not qualify as a trade secret; or

C. The employer's goodwill.

A noncompete agreement may be presumed necessary if the legitimate business interest cannot be adequately protected through an alternative restrictive covenant, including but not limited to a nonsolicitation agreement or a nondisclosure or confidentiality agreement.

3. Prohibited for certain workers. Notwithstanding subsection 2, an employer may not require or permit an employee earning wages at or below 400% of the federal poverty level to enter into a noncompete agreement with the employer.

4. Disclosure; notice. An employer shall disclose prior to an offer of employment with the employer that will require the acceptance of a noncompete agreement a statement that a noncompete agreement will be required.

An employer shall notify an employee or prospective employee of a noncompete agreement requirement and provide a copy of the noncompete agreement not less than 3 business days before the employer requires the agreement to be signed to allow time for the employee or prospective employee to review the agreement and negotiate the terms of the agreement or employment with the employer if the employee or prospective employee wishes to do so.

5. Effective date of a noncompete agreement. Except for a noncompete agreement between an employer and an allopathic physician or an osteopathic physician licensed under Title 32, chapter 48 or chapter 36, respectively, the terms of a noncompete agreement do not take effect until after one year of the employee's employment with the employer or a period of 6 months from the date the agreement was signed, whichever is later.

6. Penalty; enforcement. An employer that violates subsection 3 or 4 commits a civil violation for which a fine of not less than \$5,000 may be adjudged.