

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

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.

The Department of Labor is responsible for enforcement of this section.

7. Application. This section applies to all non-compete agreements entered into or renewed after the effective date of this section.

§599-B. Restrictive employment agreements

1. Definition. For purposes of this section, "restrictive employment agreement" means an agreement that:

A. Is between 2 or more employers, including through a franchise agreement or a contractor and subcontractor agreement; and

B. Prohibits or restricts one employer from soliciting or hiring another employer's employees or former employees.

2. Restrictive employment agreements prohibited. An employer may not:

A. Enter into a restrictive employment agreement; or

B. Enforce or threaten to enforce a restrictive employment agreement.

3. Penalty; enforcement. An employer that violates subsection 2 commits a civil violation for which a fine of not less than \$5,000 may be adjudged. The Department of Labor is responsible for enforcement of this section.

See title page for effective date.

CHAPTER 514

S.P. 230 - L.D. 786

An Act To Reduce Hunger and Promote Maine Agriculture

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

Sec. 1. Transfer of funds. Notwithstanding any provision of law to the contrary, the State Controller shall transfer to the unappropriated surplus of the General Fund \$1,000,000 no later than June 30, 2020 and \$1,000,000 no later than June 30, 2021 from the Medical Use of Marijuana Fund, established in the Maine Revised Statutes, Title 22, section 2430.

Sec. 2. Appropriations and allocations. The following appropriations and allocations are made.

AGRICULTURE, CONSERVATION AND FORESTRY, DEPARTMENT OF

Statewide Hunger Relief Program N230

Initiative: Provides ongoing funds to contract with a nonprofit organization that provides statewide hunger relief services to allow that organization to engage in statewide hunger relief services, including, but not limited to, the purchase of food from Maine food producers and processors, to provide grants to local hunger relief programs and to pay the operational and distribution expenses of the organization.

| GENERAL FUND | 2019-20 | 2020-21 |
|---------------------------|--------------------|--------------------|
| All Other | \$1,000,000 | \$1,000,000 |
| GENERAL FUND TOTAL | \$1,000,000 | \$1,000,000 |

See title page for effective date.

CHAPTER 515

S.P. 137 - L.D. 459

An Act Regarding Presumptive Eligibility and Homelessness under the General Assistance Laws

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

Sec. 1. 22 MRSA §4301, sub-§5-A is enacted to read:

5-A. Homelessness. "Homelessness" means a situation in which a person or household is:

A. Living in a place that is not fit for human habitation;

B. Living in an emergency shelter;

C. Living in temporary housing, including but not limited to a hotel, motel, campground, unlicensed campsite or rehabilitation facility;

D. Exiting a hospital or institution licensed under chapter 405 or a correctional facility where the person or household resided for up to 90 days if the person or household was in an emergency shelter or a place not fit for human habitation before entering the hospital, institution or correctional facility;

E. Losing the person's or household's primary nighttime residence and lacking the resources or support networks to remain in that residence; or

F. Fleeing or attempting to flee violence and has no other residence.

Sec. 2. 22 MRSA §4308, sub-§2, as amended by PL 1999, c. 45, §1, is further amended to read:

2. Emergencies. A person, including a person experiencing or facing homelessness, who does not have sufficient resources to provide one or more basic