

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

quired by this chapter, department responsibilities include the following.

Sec. 12. 38 MRSA §3116, sub-§2, as enacted by PL 2015, c. 166, §14, is amended to read:

2. Aggrieved applicants. An applicant aggrieved by a decision made by the department may appeal the decision to the board in accordance with section 344, subsection 2-A or by filing an appeal with the Superior Court and serving a copy of the appeal upon the department in accordance with the Maine Rules of Civil Procedure, Rule 80C. The appeal to the board or to the Superior Court must be filed and served within 30 days of the mailing of the department's decision.

Sec. 13. 38 MRSA §3117, sub-§3, as enacted by PL 2015, c. 166, §14, is amended to read:

3. Private right of action; containers not originally sold in the State. An initiator of deposit may maintain a civil action in Superior Court against a person, other than a ~~local~~ redemption center licensed in accordance with section 3113, in possession of more than 48 beverage containers that the person knows or has reason to know were not originally sold in this State as filled beverage containers. If the initiator of deposit prevails in any action, the initiator of deposit is entitled to an award of reasonable attorney's fees and court costs, including expert witness fees.

Sec. 14. 38 MRSA §3119 is enacted to read:

§3119. Reporting requirements

This section establishes annual reporting requirements for initiators of deposit and for pick-up agents that are not initiators of deposit.

1. Initiator of deposit annual report. Each initiator of deposit shall report annually by March 1st to the department concerning its deposit transactions in the preceding calendar year. The report must be in a form prescribed by the department and must include the number of nonrefillable beverage containers sold by the initiator of deposit in the State by container size, by beverage type and by redemption value, delineated at a minimum into wine, spirits and all other beverage types, and must include the number of nonrefillable beverage containers returned to the initiator of deposit by beverage type and by redemption value.

2. Pick-up agent annual report. Each pick-up agent that is not an initiator of deposit shall report annually by March 1st to the department concerning the redemptions for each initiator of deposit it served in the preceding calendar year. The report must be in a form prescribed by the department and must include the number of nonrefillable containers returned by the pick-up agent to each initiator of deposit it served by redemption value, except that the pick-up agent may report by average weight and total weight of beverage containers returned by material type for containers

managed pursuant to a qualified commingling agreement under section 3107.

3. Proprietary information. Proprietary information submitted to the department in a report required under this section that is identified by the submitter as proprietary information is confidential and must be handled by the department in the same manner as confidential information is handled under section 1310-B.

Sec. 15. Initiator of deposit and pick-up agent reporting of beverage container sales and redemption data for calendar year 2018; report. No later than November 1, 2019, each initiator of deposit and each pick-up agent that is not an initiator of deposit shall report to the Department of Environmental Protection, in a manner consistent with the Maine Revised Statutes, Title 38, section 3119, information regarding its beverage container sales and redemptions for calendar year 2018 which must include for calendar year 2018 the number of containers picked up from each redemption center by container type and by redemption value. Upon receipt of the data under this section, the department shall assess the efficiency and convenience of the beverage container redemption system and develop recommendations to improve efficiencies in the handling and transportation of beverage containers and to ensure convenient collection of beverage containers for consumers. On or before January 15, 2020, the department shall submit a report to the Joint Standing Committee on Environment and Natural Resources detailing the department's findings and recommendations, including any proposed legislation. The report under this section may be included in the report required pursuant to Public Law 2019, chapter 133, section 3. After reviewing the report, the committee may report out legislation to the Second Regular Session of the 129th Legislature to implement recommendations contained in the report.

See title page for effective date.

CHAPTER 527

H.P. 1198 - L.D. 1671

**An Act To Amend the Laws
Governing the Maine Capital
Investment Credit To Ensure
Fairness for Maine Businesses
and To Reduce Taxes on
Lower-income Working
Families**

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

PART A

Sec. A-1. 36 MRSA §5122, sub-§2, ¶OO, as enacted by PL 2015, c. 388, Pt. A, §8, is amended to read:

OO. For taxable years beginning on or after January 1, 2016 and before January 1, 2020, an amount equal to the net increase in the depreciation deduction allowable under the Code, Sections 167 and 168 that would have been applicable to that property had the depreciation deduction under the Code, Section 168(k) not been claimed with respect to such property placed in service during the taxable year for which an addition was required under subsection 1, paragraph KK, subparagraph (2) for the taxable year.

Upon the taxable disposition of property to which this paragraph applies, the amount of any gain or loss includable in federal adjusted gross income must be adjusted for Maine income tax purposes by an amount equal to the difference between the addition modification for such property under subsection 1, paragraph KK, subparagraph (2) and the subtraction modifications allowed pursuant to this paragraph.

The total amount of subtraction claimed under this paragraph for all tax years may not exceed the addition modification under subsection 1, paragraph KK, subparagraph (2) for the same property.

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

QQ. For taxable years beginning on or after January 1, 2020, an amount equal to the net increase in the depreciation deduction allowable under the Code, Sections 167 and 168 that would have been applicable to that property had the depreciation deduction under the Code, Section 168(k) not been claimed with respect to such property placed in service during the taxable year beginning on or after January 1, 2020 for which an addition was required under subsection 1, paragraph KK for the taxable year.

Upon the taxable disposition of property to which this paragraph applies, the amount of any gain or loss includable in federal adjusted gross income must be adjusted for Maine income tax purposes by an amount equal to the difference between the addition modification for such property under subsection 1, paragraph KK and the subtraction modifications allowed pursuant to this paragraph.

The total amount of subtraction claimed under this paragraph for all tax years may not exceed the addition modification under subsection 1, paragraph KK for the same property.

Sec. A-3. 36 MRSA §5200-A, sub-§2, ¶AA, as enacted by PL 2015, c. 388, Pt. A, §14, is amended to read:

AA. For taxable years beginning on or after January 1, 2016 and before January 1, 2020, an amount equal to the net increase in the depreciation deduction allowable under the Code, Sections 167 and 168 that would have been applicable to that property had the depreciation deduction under the Code, Section 168(k) not been claimed with respect to such property placed in service during the taxable year for which an addition was required under subsection 1, paragraph CC, subparagraph (2) for the taxable year.

Upon the taxable disposition of property to which this paragraph applies, the amount of any gain or loss includable in federal taxable income must be adjusted for Maine income tax purposes by an amount equal to the difference between the addition modification for such property under subsection 1, paragraph CC, subparagraph (2) and the subtraction modifications allowed pursuant to this paragraph.

The total amount of subtraction claimed under this paragraph for all tax years may not exceed the addition modification under subsection 1, paragraph CC, subparagraph (2) for the same property.

Sec. A-4. 36 MRSA §5200-A, sub-§2, ¶FF is enacted to read:

FF. For taxable years beginning on or after January 1, 2020, an amount equal to the net increase in the depreciation deduction allowable under the Code, Sections 167 and 168 that would have been applicable to that property had the depreciation deduction under the Code, Section 168(k) not been claimed with respect to such property placed in service during the taxable year beginning on or after January 1, 2020 for which an addition was required under subsection 1, paragraph CC for the taxable year.

Upon the taxable disposition of property to which this paragraph applies, the amount of any gain or loss includable in federal taxable income must be adjusted for Maine income tax purposes by an amount equal to the difference between the addition modification for such property under subsection 1, paragraph CC and the subtraction modifications allowed pursuant to this paragraph.

The total amount of subtraction claimed under this paragraph for all tax years may not exceed the addition modification under subsection 1, paragraph CC for the same property.

Sec. A-5. 36 MRSA §5219-NN, sub-§1, as repealed and replaced by PL 2017, c. 211, Pt. D, §8, is amended to read:

1. Credit allowed. A taxpayer that claims a depreciation deduction under the Code, Section 168(k) for property placed in service in the State during a taxable year that begins on or after January 1, 2015 and before January 1, 2020 is allowed a credit as follows:

A. A taxable corporation is allowed a credit against the taxes imposed by this Part in an amount equal to 9% of the amount of the net increase in the depreciation deduction reported as an addition to income for the taxable year under section 5200-A, subsection 1, paragraph CC, subparagraph (1) with respect to that property, except for excluded property under subsection 2; or

B. An individual is allowed a credit against the taxes imposed by this Part in an amount equal to:

(1) For taxable years beginning in 2015, 8% of the amount of the net increase in the depreciation deduction reported as an addition to income for the taxable year under section 5122, subsection 1, paragraph KK, subparagraph (1) with respect to that property, except for excluded property under subsection 2; and

(2) For taxable years beginning on or after January 1, 2016, 7% of the amount of the net increase in the depreciation deduction reported as an addition to income for the taxable year under section 5122, subsection 1, paragraph KK, subparagraph (1) with respect to that property, except for excluded property under subsection 2.

Sec. A-6. 36 MRSA §5219-NN, sub-§1-A is enacted to read:

1-A. Credit allowed; on or after January 1, 2020. A taxpayer that claims a depreciation deduction under the Code, Section 168(k) for property placed in service in the State during a taxable year that begins on or after January 1, 2020 is allowed a credit as follows:

A. For a taxable corporation, a credit against the taxes imposed by this Part in an amount equal to 1.2% of the amount of the net increase in the depreciation deduction reported as an addition to income for the taxable year under section 5200-A, subsection 1, paragraph CC, subparagraph (1) with respect to that property, except for excluded property under subsection 2; and

B. For an individual, a credit against the taxes imposed by this Part in an amount equal to 1.2% of the net increase in the depreciation deduction reported as an addition to income for the taxable year under section 5122, subsection 1, paragraph KK, subparagraph (1) with respect to that property, except for excluded property under subsection 2.

Sec. A-7. 36 MRSA §5219-NN, sub-§3, as repealed and replaced by PL 2017, c. 211, Pt. D, §8, is amended to read:

3. Limitations; carry-forward. The credit allowed under ~~subsection~~ subsections 1 and 1-A may not reduce the tax otherwise due under this Part to less than zero. Any unused portion of the credit may be carried forward to the following year or years for a period not to exceed 20 years.

PART B

Sec. B-1. 26 MRSA §42-C is enacted to read:

§42-C. Notification regarding earned income tax credit eligibility

1. Bureau to provide poster or notice. The bureau shall produce and furnish to employers posters or notices in printed form that state that an employee may be eligible for federal and state earned income tax credits and that the employee may apply for the tax credits on the employee's income tax returns.

2. Employer to post notice. An employer shall post and keep posted in a place accessible to the employer's employees a copy of the printed poster or notice furnished by the bureau pursuant to subsection 1. An employer who violates this subsection is subject to the same penalties as set forth in section 42-B, subsection 3.

Sec. B-2. 36 MRSA §5219-S, as amended by PL 2015, c. 328, §8, is further amended to read:

§5219-S. Earned income credit

1. Resident taxpayer. A resident individual who is an eligible individual is allowed a credit against the tax otherwise due under this Part in the amount of ~~5%~~ 25% of the federal earned income credit for the same taxable year for a resident eligible individual who does not have a qualifying child and 12% of the federal earned income credit for the same taxable year, ~~except that for tax years beginning in 2009 and 2010, the applicable percentage is 4%~~ for all other resident eligible individuals.

2. Nonresident taxpayer. A nonresident individual who is an eligible individual is allowed a credit against the tax otherwise due under this Part in the amount of ~~5%~~ 25% of the federal earned income credit for the same taxable year for a nonresident eligible individual who does not have a qualifying child and 12% of the federal earned income credit for the same taxable year, ~~except that for tax years beginning in 2009 and 2010, the applicable percentage is 4%~~ for all other nonresident eligible individuals, multiplied by the ratio of the individual's Maine adjusted gross income, as defined in section 5102, subsection 1-C, paragraph B, to the individual's entire federal adjusted gross income, as modified by section 5122.

3. Part-year resident taxpayer. An eligible individual who files a return as a part-year resident in accordance with section 5224-A is allowed a credit against the tax otherwise due under this Part in the amount of ~~5%~~ 25% of the federal earned income credit for the same taxable year for an eligible part-year individual who does not have a qualifying child and 12% of the federal earned income credit for the same taxable year, except that for tax years beginning in 2009 and 2010, the applicable percentage is 4% for all other eligible part-year individuals, multiplied by a ratio, the numerator of which is the individual's Maine adjusted gross income as defined in section 5102, subsection 1-C, paragraph A for that portion of the taxable year during which the individual was a resident plus the individual's Maine adjusted gross income as defined in section 5102, subsection 1-C, paragraph B for that portion of the taxable year during which the individual was a nonresident and the denominator of which is the individual's entire federal adjusted gross income, as modified by section 5122.

4. Limitation. The credit allowed by this section may not reduce the Maine income tax to less than zero, except that for tax years beginning on or after January 1, 2016, the credit allowed under subsections 1 and 3 is refundable.

5. Eligible individual under 25 years of age and without a qualifying child. The credit for an eligible individual who is entitled to a credit under subsections 1 to 3, has not attained 25 years of age and does not have a qualifying child for the taxable year must be calculated in the same manner as it would be calculated if that individual were eligible for a federal earned income credit.

6. Eligible individual defined. For tax years beginning on or after January 1, 2020, for the purposes of this section, unless the context otherwise indicates, "eligible individual" has the same meaning as under Section 32(c)(1) of the Code except that "eligible individual" also includes an individual who does not have a qualifying child for the taxable year, who is at least 18 years of age and has not attained 25 years of age before the close of the taxable year and who also meets the qualifications under Section 32(c)(1)(A)(ii)(I) and (III) of the Code.

Sec. B-3. Application. This Part applies to tax years beginning on or after January 1, 2020.

Sec. B-4. Appropriations and allocations. The following appropriations and allocations are made.

ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF Revenue Services, Bureau of 0002

Initiative: Provides funding for one Senior Tax Examiner position and related costs to review, process and

audit income tax returns to verify eligibility for the earned income tax credit.

GENERAL FUND	2019-20	2020-21
POSITIONS - LEGISLATIVE COUNT	1.000	1.000
Personal Services	\$76,351	\$102,817
All Other	\$32,858	\$4,778
GENERAL FUND TOTAL	\$109,209	\$107,595

See title page for effective date.

CHAPTER 528

S.P. 585 - L.D. 1749

An Act To Amend the State's Hemp Laws

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

Sec. 1. 7 MRSA §2231, as amended by PL 2019, c. 115, §1, is further amended to read:

§2231. Hemp

1. Definition. ~~As used in this chapter, unless the context otherwise indicates, "hemp" means the plant Cannabis sativa L. and any part of that plant, including the seeds and all derivatives, extracts, cannabinoids, isomers, acids, salts and salts of isomers, whether growing or not, with a delta 9 tetrahydrocannabinol concentration of not more than 0.3% on a dry weight basis and that is grown or possessed by a licensed grower in compliance with this chapter. "Hemp" includes agricultural commodities and products derived from hemp and topical or ingestible consumer products, including food, food additives and food products derived from hemp. "Hemp" does not include marijuana for medical use pursuant to Title 22, chapter 558-C or adult use marijuana pursuant to Title 28-B, chapter 1. As used in this chapter, unless the context otherwise indicates, "certified seed source" means a source of hemp seeds that are certified by a 3rd party as producing hemp having a delta-9-tetrahydrocannabinol concentration of not more than 0.3% on a dry weight basis.~~

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

A. "Certified seed source" means a source of hemp seeds that are certified by a 3rd party as producing hemp having a delta-9-tetrahydrocannabinol concentration of not more than 0.3% on a dry weight basis.