

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE
AS PASSED BY THE

ONE HUNDRED AND EIGHTH LEGISLATURE
AT THE

SECOND REGULAR SESSION

January 4, 1978 to April 6, 1978

FIRST SPECIAL SESSION

(No laws enacted)

September 6, 1978 to September 15, 1978

SECOND SPECIAL SESSION

October 18, 1978

THIRD SPECIAL SESSION

December 6, 1978

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**[DUE TO ITS SIZE, THIS LAW HAS BEEN DIVIDED INTO TWO
ELECTRONIC FILES. THIS IS THE SECOND FILE.]**

2. If any hearing is to be held for consideration of rules and regulations proposed by the superintendent, the notice of the hearing may be in the form of a notice to show cause, stating the basis of the proposed action and stating that the proposed action will be taken unless those who appear at the hearing show cause why the action should not be taken.

Sec. 392. 24-A MRSA § 230, sub-§ 3, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

3. If any hearing is to be held for consideration of rules and regulations proposed by the superintendent, or of other matters which, under subsection 1, would otherwise require separate notices to more than 30 persons, public notice of the hearing shall be given by publication thereof in a newspaper of general circulation in this State, at least once each week during the 4 weeks immediately preceding the week in which the hearing is to be held. The superintendent shall mail notice of rule-making hearings to all persons who have filed within the past year a written request for notice. The persons shall pay a sum fixed by the superintendent, reasonably related to the actual cost of notice.

Sec. 393. 24-A MRSA § 231, sub-§ 3, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

3. Upon timely application, the superintendent shall permit any person showing that he is or may be substantially and directly affected by the proceeding to intervene as a party. The superintendent may, by order, allow any other interested person to intervene and participate as a full or limited party to the proceeding.

Sec. 394. 24-A MRSA § 231, sub-§ 4, as enacted by PL 1969, c. 132, § 1, is repealed and the following enacted in its place:

4. Formal rules of pleading or of evidence need not be observed at any hearing. Evidence shall be admitted if it is the kind of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs. Irrelevant or unduly repetitious evidence may be excluded.

Sec. 395. 24-A MRSA § 231, sub-§ 6, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

6. All hearings shall be recorded in a form susceptible to transcription. The recording shall be transcribed when necessary for the prosecution of an appeal. The Bureau of Insurance shall make the recordings available for inspection at the bureau's offices during normal business hours, and shall make copies of recordings or transcriptions of recordings available to any person at actual cost.

Sec. 396. 24-A MRSA § 235, sub-§ 3, ¶ E is enacted to read:

E. Notice of the party's right to appeal or review of the order, of the action required for appeal and of the time within which the action shall be taken in order to exercise the right.

Sec. 397. 24-A MRSA § 236, as last amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

§ 236. Appeal from the superintendent

1. In general, judicial review of actions taken by the superintendent or his representatives shall occur in conformity with the provisions set forth in the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter VII.

2. An appeal from the superintendent shall be taken only from an order on hearing, or as to a matter on which the superintendent has failed to hold a hearing after application thereof under section 229, or regarding a matter as to which the superintendent has failed to issue an order after hearing as required by section 235.

3. Any person who was a party to the hearing may appeal from an order of the superintendent within 30 days after receipt of notice. Any person not a party to the hearing whose interests are substantially and directly affected and who is aggrieved by an order of the superintendent may appeal within 40 days from the date the decision was rendered. If the appeal is taken from the superintendent's failure or refusal to act, the petition for review shall be filed within 6 months of the expiration of the time within which the action should reasonably have occurred.

4. The appeal shall be heard as a matter of right, and shall be instituted by filing a petition for review in the Superior Court of Kennebec County or in any county where:

A. One or more of the petitioners reside or have their principal place of business; or

B. The activity or property which is the subject of the proceeding is located.
The court may grant a change of venue for good cause shown.

5. The petition or complaint shall specify the grounds for appeal and the nature of the relief sought. The petition shall be served by certified mail, return receipt requested, upon the superintendent, all parties to the proceeding at issue, and the Attorney General.

6. No responsive pleading need be filed unless required by order of the reviewing court. Within 30 days after the petition for review is filed, or within such time as the court may allow on motion, the superintendent shall file in the court the original or a certified copy of the complete record of the proceedings under review. Within 20 days of the filing of the petition, all parties to the administrative proceeding who wish to participate in the appeal shall file a written appearance which includes a statement of position with respect to the decision under review.

7. The filing of a petition shall not operate as a stay of the superintendent's order pending judicial review. Application for a stay shall ordinarily be made first to the superintendent, who may issue a stay upon a showing of irreparable injury to the petitioner, a strong likelihood of success on the merits, and no substantial harm to adverse parties or the general public. A motion for a stay may be made to the Superior Court, but the motion shall show that application to the superintendent for the relief sought is not practicable, or that application has been made to the bureau and denied, or that the action of the superintendent did not afford the relief the petitioner had requested. In addition, the motion shall

explain the reasons for the relief requested and the facts relied upon, which facts, if subject to dispute, shall be supported by affidavits. Reasonable notice of the motion for stay shall be given to all parties to the administrative proceeding. The court may condition this relief upon the posting of a bond or other appropriate security, except that no bond or security shall be required of the State or any official thereof.

8. Judicial review from an order of the superintendent shall be confined to the record upon which the administrative decision was based, subject to the exceptions set forth in the Maine Administrative Procedure Act, Title 5, section 11006. The reviewing court may require or permit subsequent corrections of the record.

9. Following review by oral and written argument the court may:

- A. Affirm the decision of the superintendent;
- B. Remand the case to the superintendent for further proceedings, findings of fact or conclusions of law as the court deems necessary; or
- C. Reverse or modify the superintendent's order if that decision is:
 - (1) In violation of constitutional or statutory provisions;
 - (2) In excess of the statutory authority invested in the superintendent;
 - (3) Made upon unlawful procedure;
 - (4) Affected by bias or error of law;
 - (5) Unsupported by substantial evidence on the record; or
 - (6) Arbitrary or capricious or characterized by abuse of discretion.

The reviewing court shall not substitute its judgment for that of the superintendent on questions of fact.

10. The superintendent and all other parties to the review proceeding in Superior Court may obtain review of the court's judgment by appeal to the Supreme Judicial Court sitting as the law court. The appeal shall be taken as in other civil cases.

Sec. 398. 24-A MRSA § 415, sub-§ 1, first ¶, as last repealed and replaced by PL 1977, c. 222, § 1, is amended to read:

1. A certificate of authority shall continue in force as long as the insurer is entitled thereto under this Title, and until suspended or revoked by the ~~superintendent~~ Administrative Court or terminated at the insurer's request, subject to continuance of the certificate by the insurer biennially by:

Sec. 399. 24-A MRSA § 416, sub-§ 1, first ¶, as amended by PL 1973, c. 585, § 12, is further amended to read:

1. ~~The superintendent shall refuse to continue or shall suspend or revoke an insurer's certificate of authority~~ file a complaint with the Administrative Court, which may be pursuant to Title 4, section 1153, seeking suspension or revocation of an insurer's certificate of authority on any of the following grounds:

Sec. 400. 24-A MRSA § 416, sub-§ 2, as last amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

2. In all cases in which the superintendent files a complaint seeking suspension or revocation of an insurer's certificate of authority, the Administrative Court proceeding will be held pursuant to Title 4, chapter 25.

Sec. 401. 24-A MRSA § 417, sub-§ 1, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

1. The superintendent may, in his discretion, file a complaint with the Administrative Court seeking suspension or revocation of an insurer's certificate of authority if the insurer has violated or failed to comply with any lawful order of the superintendent, or has willfully violated or willfully failed to comply with any lawful regulation of the superintendent, or has violated any provision of this Title other than those for violation of which a petition for suspension or revocation is mandatory.

Sec. 402. 24-A MRSA § 417, sub-§ 2, first ¶, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

2. The superintendent shall, pursuant to Title 4, section 1153 or otherwise, file a complaint with the Administrative Court seeking to suspend or revoke an insurer's certificate of authority on any of the following grounds, if a finding is made that the insurer:

Sec. 403. 24-A MRSA § 417, sub-§ 3, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

3. The superintendent may, in his discretion, file with the Administrative Court a complaint seeking immediate revocation or suspension of an insurer's certificate of authority pursuant to Title 4, section 1153, if proceedings for receivership, conservatorship, rehabilitation or other delinquency proceedings have been commenced against the insurer in any state by the public official charged with supervising the insurance industry in that state.

Sec. 404. 24-A MRSA § 418, as last amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

§ 418. Power to amend, modify or refuse to renew certificates of authority

Notwithstanding the authority of the Administrative Court to order suspension or revocation, the superintendent has the authority to amend, modify or refuse to renew any insurer's certificate of authority for cause pursuant to procedures in conformity with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV.

Sec. 405. 24-A MRSA § 419, sub-§ 1, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

1. The suspension of an insurer's certificate of authority shall be for such period as determined by the Administrative Court, consistent with Title 4, chapter 25.

Sec. 406. 24-A MRSA § 419, sub-§ 3, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

3. Upon expiration of the suspension period, if within that period the certificate of authority has not terminated, the insurer's certificate of authority shall reinstate unless the procedures of the Administrative Court mandate to the contrary. The suspension shall not terminate if the Administrative Court finds that the causes of the suspension are continuing, or that the insurer is otherwise not in compliance with the requirements of this Title.

Sec. 407. 24-A MRSA § 1539, sub-§ 1, first ¶, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

1. The superintendent may file a complaint with the Administrative Court seeking suspension or revocation of any license issued under this chapter or any surplus lines broker license if the superintendent has reason to believe that as to the licensee any of the following causes exist:

Sec. 408. 24-A MRSA § 1539, sub-§ 2, as enacted by PL 1969, c. 132, § 1, is repealed and the following enacted in its place:

2. The superintendent may file a complaint with the Administrative Court seeking the suspension or revocation of licenses held by a firm or corporation for any of such causes as relate to any individual designated or registered in the license to exercise its powers.

Sec. 409. 24-A MRSA § 1540, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

§ 1540. Procedures upon suspension or revocation; powers of superintendent

1. The effective date of suspension or revocation of an agent or broker license shall be determined by the Administrative Court, consistent with Title 4, chapter 25. Similarly, the duration of a suspension and the notice requirements pursuant to a ruling of suspension or revocation shall be determined by the Administrative Court.

2. Notwithstanding the provisions of subsection 1, the superintendent has the authority to amend, modify or refuse to renew any agent or broker license for cause pursuant to procedures in conformity with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV.

Sec. 410. 24-A MRSA § 1542, sub-§ 1, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

1. The superintendent shall not issue a license under this Title as to any person whose license has been revoked by the Administrative Court until at least one year

has expired from the effective date of that revocation. If the licensee pursues an appeal from the Administrative Court decision, the superintendent shall not consider issuance of a new license until at least one year from the date of a final court order affirming that revocation. The license applicant shall establish that he again qualifies for the license in accordance with the applicable provisions of this Title. The superintendent may refuse any such new license applied for unless the applicant shows good cause why the prior revocation should not be deemed a bar to the issuance of a new license.

Sec. 441. 24-A MRSA § 2013, sub-§ 1, first ¶, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

1. The superintendent may file a complaint with the Administrative Court seeking suspension or revocation of any surplus lines broker's license:

Sec. 412. 24-A MRSA § 2013, sub-§ 3, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

3. Upon a ruling by the Administrative Court suspending or revoking a broker's surplus lines license the superintendent may file a complaint with the Administrative Court seeking the suspension or revocation of all other licenses held by the same individual under this Title.

Sec. 413. 24-A MRSA § 2111, sub-§ 2, first sentence, as last amended by PL 1973, c. 585, § 12, is further amended to read:

2. If upon such hearing, held in accordance with the provisions set forth in the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV, the superintendent finds that the insurer has misrepresented as referred to in section 2110, he shall by order on such hearing require the insurer to cease and desist from such violation, and shall mail a copy of the order by registered or certified mail to the insurer at its principal place of business last of record with the superintendent and to the insurance supervisory official of the insurer's domiciliary state or province.

Sec. 414. 24-A MRSA § 2151-A is enacted to read:

§ 2151-A. Hearings

All hearings held under this chapter shall be in accordance with the procedures set forth in the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV.

Sec. 415. 24-A MRSA § 2301, as enacted by PL 1969, c. 132, § 1, is amended by adding at the end the following new sentence to read:

Unless otherwise specified, all hearings held under this chapter shall be in accordance with the procedures set forth in the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV.

Sec. 416. 24-A MRSA § 2310, sub-§ 4, first sentence, as last amended by PL 1975, c. 767, § 20, is further amended to read:

Licenses issued pursuant to this section shall remain in effect until midnight of the biennial continuation date and thereafter may be continued biennially unless ~~sooner suspended or revoked by the superintendent~~ the Administrative Court suspends or revokes the licenses following a complaint filed by the superintendent.

Sec. 417. 24-A MRSA § 2310, sub-§ 5, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

5. The superintendent may file a complaint with the Administrative Court seeking the suspension or revocation of licenses issued pursuant to this section in the event any rating organization ceases to meet the requirements of this section.

Sec. 418. 24-A MRSA § 2323, sub-§ 1, first sentence, as amended by PL 1973, c. 585, § 12, is further amended to read:

The superintendent, acting pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II, shall promulgate reasonable rules and statistical plans, reasonably adopted to each of the rating systems on file with him, which may be modified from time to time and which shall be used thereafter by each insurer in the recording and reporting of its loss and countrywide expense experience, in order that the experience of all insurers be made available at least annually in such form and detail as may be necessary to aid him in determining whether rating systems comply with the standards set forth in section 2303.

Sec. 419. 24-A MRSA § 2324, sub-§ 1, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

1. Acting in accordance with the procedures set forth in the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II, the superintendent may promulgate reasonable rules and plans for the interchange of data necessary for the application of rating plans.

Sec. 420. 24-A MRSA § 2329, sub-§ 2, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

2. The superintendent may file a complaint with the Administrative Court seeking to suspend the license of any rating organization or insurer which fails to comply with an order of the superintendent within the time period provided by the order. No ruling of suspension shall become effective until the time prescribed for an appeal has expired, or if an appeal has been taken, until the order of suspension has been affirmed. The duration of the suspension shall be determined by the Administrative Court pursuant to the authority set forth in Title 4, chapter 25.

Sec. 421. 24-A MRSA § 2329, sub-§ 3, as amended by PL 1973, c. 585, § 12, is repealed.

Sec. 422. 24-A MRSA § 2736-A, as enacted by PL 1977, c. 493, § 4, is amended by adding at the end the following new sentence to read:

Hearings held under this section shall conform to the procedural requirements set forth in the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV.

Sec. 423. 24-A MRSA § 2858, as amended by PL 1973, c. 585, § 12, is further amended by adding at the end the following new paragraph:

All hearings held under this section shall be conducted in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV.

Sec. 424. 24-A MRSA § 2864, first sentence, as amended by PL 1973, c. 585, § 12, is further amended to read:

Whenever the superintendent finds that there has been a violation of this chapter or any regulations issued pursuant thereto, and after written notice thereof and hearing given to the insurer or other person authorized or licensed by the superintendent, such hearing to conform to the provisions of the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV, he shall set forth the details of his findings together with an order for compliance by a specified date.

Sec. 425. 24-A MRSA § 2911, as enacted by PL 1973, c. 339, § 1, is amended by adding at the end the following new sentence to read:

Unless otherwise specified, all hearings held under this subchapter shall conform to the procedures set forth in the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV.

Sec. 426. 24-A MRSA § 2920, last sentence, as amended by PL 1973, c. 585, § 12, is further amended to read:

The Acting in conformity with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II, the Insurance Superintendent shall adopt rules and regulations for carrying out this section.

Sec. 427. 24-A MRSA § 3048-A is enacted to read:

§ 3048-A. Hearings

Unless otherwise specified, all hearings held under this subchapter shall conform to the procedures set forth in the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV.

Sec. 428. 24-A MRSA § 3476, sub-§ 5, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

5. The superintendent shall file a complaint with the Administrative Court seeking to suspend or revoke the certificate of authority held by any insurer, the control of which has been changed in violation of this section.

Sec. 429. 24-A MRSA § 3857, sub-§ 2, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

2. The superintendent may refuse to grant a certificate of authority, and may file a complaint with the Administrative Court seeking suspension or revocation of a certificate of authority, for failure of the attorney to comply with any applicable provision of this Title, in addition to other grounds for those sanctions.

Sec. 430. 24-A MRSA § 4121, as amended by PL 1973, c. 585, § 12, is further amended by adding at the end the following new sentence to read:

The procedures governing all rules and regulations promulgated under authority of this section shall conform to the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II.

Sec. 431. 24-A MRSA § 4126, sub-§ 2, ¶ D, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

D. The society's certificate of authority has been reinstated.

Sec. 432. 24-A MRSA § 4127, sub-§ 1, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

1. Following investigation the superintendent may file a complaint with the Administrative Court seeking suspension or revocation of the license of a foreign or alien society upon evidence that the society:

A. Has exceeded its powers;

B. Has failed to comply with any of the provisions of this chapter;

C. Is not fulfilling its contracts in good faith; or

D. Is conducting its business fraudulently or in a manner hazardous to its members or creditors or the public.

The duration of any license suspension will be determined by the Administrative Court. Notwithstanding any of the provisions of this subsection, the superintendent has the authority to amend, modify or refuse to renew any license for cause, pursuant to the procedures set forth in the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV.

Sec. 433. 24-A MRSA § 4213, first sentence, as enacted by PL 1975, c. 503, is amended to read:

The superintendent may, after notice and hearing pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II, promulgate such reasonable rules and regulations as are necessary to provide for the licensing of agents.

Sec. 434. 24-A MRSA § 4216, sub-§ 1, first ¶, as enacted by PL 1975, c. 503, is repealed and the following enacted in its place:

1. The superintendent may file a complaint with the Administrative Court seeking the suspension or revocation of any certificate of authority issued to a health maintenance organization under this chapter if he finds that any of the following conditions exist:

Sec. 435. 24-A MRSA § 4218, first sentence, as enacted by PL 1975, c. 503, is amended to read:

The superintendent may, after notice and hearing pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II, promulgate reasonable rules and regulations as are necessary or proper to carry out this chapter.

Sec. 436. 24-A MRSA § 4219, as enacted by PL 1975, c. 503, is repealed and the following enacted in its place:

§ 4219. Administrative procedures

1. When the superintendent has cause to believe that grounds exist for the filing of a complaint seeking the suspension or revocation of a certificate of authority, he shall notify the health maintenance organization and the Commissioner of Human Services in writing specifically stating the grounds for suspension or revocation. The Commissioner of Human Services, or his designated representative, shall participate in any disciplinary proceedings. In the process of determining whether grounds for suspension or revocation exist the findings of the commissioner with respect to matters relating to the quality of health care services provided shall be conclusive and binding upon the Superintendent of Insurance. The duration of and conditions attached to any suspension shall be determined by the Administrative Court.

2. The Superintendent of Insurance, acting in concert with the Commissioner of Human Services, has the authority to amend, modify or refuse to renew any certificate of authority for cause, pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV.

Sec. 437. 24-A MRSA § 4221, sub-§ 1, first sentence, as enacted by PL 1975, c. 503, is amended to read:

The superintendent may, ~~in lieu of suspension or revocation of a certificate of authority under section 4216~~ levy an administrative penalty in an amount not less than \$100 nor more than \$500, if reasonable notice in writing is given of the intent to levy the penalty and the health maintenance organization has a reasonable time within which to remedy the defect in its operations which gave rise to the penalty citation.

Sec. 438. 24-A MRSA § 4401, sub-§ 3, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

3. The superintendent's order and notice of hearing thereunder shall be served in such a manner as conforms with the notice provisions of the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV.

Sec. 439. 24-A MRSA § 4705, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

§ 4705. Petition for revocation

The superintendent may file a complaint with the Administrative Court seeking to revoke or suspend a license for cause, at any time.

Sec. 440. 26 MRSA § 7, as amended by PL 1971, c. 620, § 13, is repealed and the following enacted in its place:

§ 7. Appeals

Any order by a board created and established under this Title, or any rule, regulation, determination or declaration formulated by the board or by the Director of the Bureau of Labor shall be subject to review by the Superior Court, pursuant to Title 5, section 8058 or section 11001 et seq.

Sec. 441. 26 MRSA § 82, as last amended by PL 1975, c. 36, is further amended to read:

§ 82. Administration and enforcement

The bureau is charged with the administration and enforcement of this subchapter; and may make and enforce reasonable rules and regulations for the enforcement of said subchapter, pursuant to Title 5, section 8051 et seq., and shall have the power through its officers or agents to inspect the manufacture and sale or delivery of all articles or materials subject to this subchapter, to open and examine the contents thereof, to suspend the sale or delivery and to seize and hold for evidence any or all articles in whole or in part which he has reason to believe is made or offered for sale in violation of this subchapter, or the rules and regulations of the bureau; and any places where articles covered by said subchapter are made, remade or offered for sale, or where sterilization or disinfecting is performed under said subchapter, shall be subject to inspection by the bureau through its officers or agents.

Sec. 442. 26 MRSA § 111-A, as amended by PL 1971, c. 620, § 13, is further amended to read:

§ 111-A. Issuance of certificate of registration and appeal procedures

Upon receipt of the registration form, the bureau shall, if the applicant is in compliance with this subchapter and the regulations of the bureau, issue a certificate of registration to the manufacturer or importer. If the bureau fails to issue such certificate of registration or renewal thereof, the applicant may appeal to the Superior Court in accordance with the ~~appeal procedure from decisions of the director under section 7~~ provisions of Title 5, section 11001 et seq.

In an application for the renewal of a certificate of registration, the bureau shall follow the procedures set forth in Title 5, section 10001 et seq.

Sec. 443. 26 MRSA § 114, last ¶, as amended by PL 1971, c. 630, § 13, is repealed and the following enacted in its place:

All actions by the bureau in the issuance, modification or renewal of permits under this section shall be subject to Title 5, section 10001 et seq.

Sec. 444. 26 MRSA § 123, as last amended by PL 1971, c. 620, § 13, is further amended by adding at the end a new sentence to read:

All rules and regulations shall be promulgated pursuant to Title 5, section 8051 et seq.

Sec. 445. 26 MRSA § 125, last sentence, as last amended by PL 1971, c. 620, § 13, is further amended to read:

In pursuance of this section, the bureau may confiscate such toys pending an appeal, by any party injured, to the Superior Court and such appeal shall utilize procedures set forth in ~~section 132~~ Title 5, section 11001 et seq.

Sec. 446. 26 MRSA § 132, last sentence, as last amended by PL 1971, c. 620, § 13, is further amended to read:

If the bureau fails to issue such certificate of registration or renewal thereof, the applicant may appeal to the Superior Court in accordance with ~~the appeal procedure from decisions of the director under section 7~~ Title 5, section 11001 et seq. In an application for a renewal of a certificate of registration, the bureau shall follow the procedures set forth in Title 5, section 10001 et seq.

Sec. 447. 26 MRSA § 173, last ¶, as last amended by PL 1973, c. 33, § 4, is further amended to read:

Rules formulated by the board shall not become effective sooner than 90 days after the date they are adopted. Any change in the rules which would raise the standards governing the methods of construction of new boilers and pressure vessels or the quality of material used in them shall not become effective ~~until~~ sooner than 6 months after the date of adoption of such change in the rules. ~~Before any rules or regulations are adopted, a public hearing shall be held, suitable notification to be published in at least 3 newspapers throughout the State. All rules and regulations shall be adopted pursuant to Title 5, section 8051 et seq.~~

Sec. 448. 26 MRSA § 176, 3rd ¶, first 3 sentences, as amended by PL 1971, c. 620, § 13, are repealed and the following enacted in their place:

The director may file a complaint with the Administrative Court to revoke a certificate of authority pursuant to Title 4, section 1151, for incompetence or untrustworthiness of the holder thereof or for willful falsification of any matter or statement contained in his application or in a report of any inspection.

Sec. 448-A. 26 MRSA § 176, 3rd ¶, 2nd and 3rd sentences, are repealed.

Sec. 449. 26 MRSA § 178, sub-§ 4, 1st sentence, as enacted by PL 1973, c. 452, § 1, is repealed and the following enacted in its place:

The board may file a complaint to revoke the registration of a stationary steam engineer's or boiler operator's license with the Administrative Court pursuant to Title 4, section 1151 et seq., or may deny the application for the license if the board finds:

Sec. 450. 26 MRSA § 178, sub-§ 8, as enacted by PL 1973, c. 452, § 1, is amended to read:

8. Rules. The board shall have the authority to establish all necessary rules and procedures for examination and licensing to carry out this section, pursuant to Title 5, section 8051 et seq.

Sec. 451. 26 MRSA § 212, 2nd ¶, as amended by PL 1969, c. 345, § 1, is further amended to read:

The Board of Boiler Rules is authorized to make, amend or rescind reasonable rules and regulations, pursuant to Title 5, section 8051, relating to qualifications of welders performing welding for compensation and is further empowered to conduct examinations, issue certificates and to charge a reasonable fee for such examinations and for such certificates.

Sec. 452. 26 MRSA § 244, as last amended by PL 1973, c. 34, §§ 1, 2 and 3, is repealed and the following enacted in its place:

§ 244. Inspection required; certificates issued

Each boiler used or proposed for use within this State except boilers exempt under section 142, shall be thoroughly inspected by the chief inspector or one of the deputy inspectors or authorized inspectors, as to its design, construction, installation, condition and operation. The Board of Boiler Rules shall promulgate rules pursuant to Title 5, section 8051 et seq., specifying the method and frequency of inspection. Whenever any boiler is inspected as specified by the Board of Boiler Rules and is found to be suitable and to conform to the rules of the Board of Boiler Rules, the chief inspector shall issue to the owner or user of that boiler, upon payment of a fee of \$5 to the bureau, an inspection certificate for each boiler. Inspection certificates shall specify the maximum pressure that the boiler inspected is allowed to carry. The inspection certificate shall be valid for not more than 14 months from its date and shall be posted under glass in the engine or boiler room containing the boiler or an engine operated by it, or, in the case of a portable boiler, in the office of the plant where it is located for the time being.

In accordance with the provisions of Title 5, chapter 375, the chief inspector or any deputy inspector may at any time suspend an inspection certificate when, in his opinion, the boiler for which it was issued may not continue to be operated without menace to the public safety. An authorized inspector shall have corresponding powers with respect to inspection certificates for boilers insured by the company employing him. This suspension shall continue pending decision on the board's application with the Administrative Court for a temporary suspension pursuant to Title 4, section 1153.

Sec. 453. 26 MRSA § 246, sub-§ 2, as amended by PL 1971, c. 51, § 6, is repealed and the following enacted in its place:

2. Inspection certificates. To issue, suspend and revoke inspection certificates allowing boilers to be operated, as provided in sections 242 and 244, and as provided in Title 5, chapter 375.

Sec. 454. 26 MRSA § 273, as amended by PL 1971, c. 620, § 13, is further amended to read:

§ 273. Regulations suspended or modified

The regulations prescribed on sections 301 to 343 may be modified or suspended in whole or in part by the director, if good and sufficient reason therefor is presented to the bureau at a hearing where all parties are given an opportunity to be present or represented held pursuant to Title 5, section 8051 et seq.

Sec. 455. 26 MRSA § 474, as enacted by PL 1977, c. 543, § 4, is repealed and the following enacted in its place:

§ 474. Appeals

Any person aggrieved by an order or act of the supervising inspector or the state inspector or the bureau under this subchapter may, within 15 days after notice thereof, appeal from the order or act to the board which shall hold a hearing pursuant to Title 5, section 9051 et seq. The board shall, after the hearing, issue an appropriate order either approving or disapproving the order or act.

Any order of the board or any rule formulated by the board shall be subject to review by the Superior Court pursuant to Title 5, section 8058 or section 11001 et seq.

Sec. 456. 26 MRSA § 476, 1st ¶, 2nd, 3rd and 4th sentences, as enacted by PL 1977, c. 543, § 4, are amended to read:

The rules so formulated shall be adopted pursuant to Title 5, section 8051 et seq., and shall conform as near as practicable to the established standards as approved by the American National Standards Institute. Such rules shall not become effective sooner than 90 days after the date they are adopted, except that rules applying to the construction of new elevators and tramways shall not become effective until sooner than 6 months after the date they are adopted. ~~Before any rules are adopted, a public hearing shall be held after suitable notice has been published in at least 3 daily newspapers within the State.~~

Sec. 457 26 MRSA § 480, 1st ¶, as enacted by PL 1977, c. 543, § 4, is repealed and the following enacted in its place:

The board may file a complaint with the Administrative Court pursuant to Title 5, section 10051 to revoke tramway inspection licenses for the following causes:

Sec. 458. 26 MRSA § 481, 2nd sentence, as enacted by PL 1977, c. 543, § 4, is repealed and the following enacted in its place:

In the case of an elevator accident, the inspection certificate for the involved elevator shall be summarily revoked in accordance with Title 5, section 10004, pending decision on any application with the Administrative Court for a further suspension.

Sec. 459 26 MRSA § 490-A, 3rd and 4th ¶¶, as enacted by PL 1977, c. 543, § 4, are repealed and the following enacted in their place:

The supervising inspector or state inspector may when in his opinion the conveyance may not continue to be operated without menace to the public safety, temporarily suspend an inspection certificate in accordance with Title 5, section 10004 and post or direct the posting of a red card of condemnation at every entrance to the conveyance. The condemnation card shall be a warning to the public and shall be of such type and dimensions as the board shall determine. The suspension shall continue pending decision on any application with the Administrative Court for a further suspension.

Sec. 460. 26 MRSA § 490-G, sub-§ 5, as enacted by PL 1977, c. 543, § 4, is repealed and the following enacted in its place:

5. Certificates. To issue and temporarily suspend certificates allowing elevators and tramways to be operated pursuant to Title 5, chapter 375.

Sec. 461. 26 MRSA § 565, as amended by PL 1975, c. 519, § 15, is further amended to read:

§ 565. Powers and duties of board

The board shall formulate and adopt reasonable rules and regulations, pursuant to Title 5, section 8051 et seq., for safe and healthful working conditions, including rules requiring the use of personal protective equipment. The rules and regulations so formulated shall conform as far as practicable to nationally recognized standards of occupational safety and health. Such rules and regulations shall not become effective sooner than 90 days after the date of their adoption and promulgation. ~~Before any rules and regulations are adopted, a public hearing shall be held after suitable notice has been published in at least 3 daily newspapers in the State.~~

Sec. 462. 26 MRSA § 568, as last amended by PL 1975, c. 519, § 17, is repealed and the following enacted in its place:

§ 568. Appeals

Any person aggrieved by an order or act of the director or of an inspector of the bureau or wishing to contest any citation or penalty issued under sections 45 and 46 may, within 15 working days after notice thereof, appeal from the order, act, citation or penalty to the board, which shall hold a hearing pursuant to Title 5, section 9051 et seq., and the board shall, after the hearing, issue an appropriate order either approving, disapproving or modifying the order, act, citation or penalty.

Any such order of the board or any rule or regulation formulated by the board shall be subject to review by the Superior Court, pursuant to Title 5, section 8058 or section 11001 et seq.

Sec. 463. 26 MRSA § 569, last sentence, as enacted by PL 1969, c. 554, § 2, is repealed and the following enacted in its place:

All rules and regulations shall be adopted pursuant to Title 5, section 8051 et seq.

Sec. 464. 26 MRSA § 581, as enacted by PL 1971, c. 446, § 5, is amended to read:

§ 581. Administration and enforcement

The Commissioner of Agriculture shall have the authority to adopt, ~~after public hearing pursuant to Title 5, section 8051 et seq.,~~ administer and enforce standards, rules and regulations to implement section 580.

Sec. 465. 26 MRSA § 665, sub-§ 2, as amended by PL 1971, c. 620, § 13, is repealed and the following enacted in its place:

2. Rules and regulations. The director may make and promulgate from time to time, pursuant to Title 5, section 8051 et seq., such rules and regulations, not inconsistent with this subchapter, as he may deem appropriate or necessary for the proper administration and enforcement of this subchapter. The rules and

regulations affecting any particular class of employees and employers shall be made and promulgated only after notice and opportunity to be heard to those employees and employers affected.

Sec. 466. 26 MRSA § 1002, sub-§ 6, is amended to read:

6. **Rules and regulations.** Issue such rules and regulations, pursuant to Title 5, section 8051 et seq., as may be necessary to carry out the intent and purpose of this chapter.

Sec. 467. 26 MRSA § 1044, sub-§ 2, 1st sentence is amended to read:

No individual claiming benefits shall be charged fees of any kind in any proceeding under this chapter by the commission or its representatives or by any court or any officer thereof unless otherwise provided by Title 5, section 8001 et seq.

Sec. 468. 26 MRSA § 1082, sub-§ 1, 2nd, 3rd and 4th sentences are amended to read:

It shall have power and authority to adopt, amend or rescind regulations as provided in subsection 2 to employ such persons, make such expenditures, require such reports, make such investigations and take such other action as it deems necessary or suitable to that end. ~~Such regulations shall be effective upon publication in the manner, not inconsistent with this chapter, which the commission shall prescribe.~~ The commission shall determine its own organization and methods of procedure in accordance with this chapter and shall have an official seal which shall be judicially noticed. **Unless otherwise provided by this chapter, the procedures of the commission shall be governed by the Maine Administrative Procedure Act, so far as applicable.**

Sec. 469. 26 MRSA § 1082, sub-§ 2 is repealed and the following enacted in its place:

2. **Regulations.** The commission shall make, amend or rescind, after public hearing thereon, reasonable regulations as required by this chapter, pursuant to Title 5, section 8051 et seq.

The commission may waive the requirements of any such regulations under special circumstances or conditions.

This subsection shall not apply to regulations of the commission governing its personnel.

Sec. 470. 26 MRSA § 1082, sub-§ 8, last ¶ is repealed and the following enacted in its place:

Subpoenas shall be issued pursuant to Title 5, section 9060.

Sec. 471. 26 MRSA § 1082, sub-§ 9 is repealed.

Sec. 472. 26 MRSA § 1082, sub-§ 14, ¶ D, 2nd and 3rd sentences, as enacted by PL 1975, c. 90, are amended to read:

Such hearings shall be conducted in accordance with the regulations of the ~~commission consistent with section 1194, subsection 6 Title 5, section 9051 et seq.~~ The commission shall notify the parties to the proceeding of its findings of fact and decision, and such decision ~~becomes final within 15 calendar days after the date of mailing such decision~~ shall be subject to appeal pursuant to Title 5, section 11001 et seq.

Sec. 473. 26 MRSA § 1082, sub-§ 14, ¶ E, as amended by PL 1977, c. 460, § 4, is repealed.

Sec. 474. 26 MRSA § 1194, sub-§ 6 is repealed and the following enacted in its place:

6. Procedure. The manner in which disputed claims shall be presented, and the reports thereon required from the claimant and from employers shall be in accordance with regulations prescribed by the commission. The conduct of hearings and appeals shall be in accordance with Title 5, section 8001 et seq.

Sec. 475. 26 MRSA § 1194, sub-§ 7 is amended to read:

7. Witness fees. ~~Witnesses~~ Notwithstanding the provisions of Title 5, section 9060, witnesses subpoenaed pursuant to this chapter shall be allowed fees at a rate fixed by the commission to be paid out of the Employment Security Administration Fund, except that no attendance or mileage fee shall be due or payable when a subpoena is issued to compel an employing unit to appear and produce records and reports for the purpose of making a determination as to liability or for the purpose of completing routine reports as provided under this chapter.

Sec. 476. 26 MRSA § 1194, sub-§ 8, as amended by PL 1971, c. 538, § 32, is repealed and the following enacted in its place:

8. Appeals to courts. Any decision of the commission shall become final 10 days after receipt of written notification and any person aggrieved thereby may appeal pursuant to Title 5, section 11001 et seq.

Sec. 477. 26 MRSA § 1194, sub-§ 9, as amended by PL 1977, c. 460, § 5, is repealed.

Sec. 478. 26 MRSA § 1221, sub-§ 4, ¶ E, sub-¶ (1), as amended by PL 1977, c. 460, § 6, is repealed and the following enacted in its place:

(1) Shall promptly notify each employer of his rate of contributions as determined for the 12-month period commencing July 1st of each year pursuant to this section. The determination shall become conclusive and binding upon the employer unless, within 15 days after the mailing of notice thereof to his last known address or in the absence of mailing, within 15 days after the delivery of the notice, the employer files an application for review and redetermination, setting forth his reasons therefor. If the commission grants the review, the employer shall be promptly notified thereof and shall be granted an opportunity for a hearing, but no employer shall have standing, in any proceedings involving his rate of contributions or contribution liability, to contest the chargeability to his "experience rating record" of any benefits paid in accordance with a determination, redetermination or decision pursuant to section 1194, except upon the ground that the services on the basis of which these benefits were found to be chargeable did not constitute

services performed in employment for him and only in the event that he was not a party to the determination, redetermination or decision or to any other proceedings under this chapter in which the character of these services was determined. The employer shall be promptly notified of the commission's denial of his application, or the commission's redetermination, both of which shall be subject to appeal pursuant to Title 5, section 11001 et seq.

Sec. 479. 26 MRSA § 1221, sub-§ 11, ¶ F, last sentence, as amended by PL 1977, c. 570, § 33, is further amended to read:

Any such redetermination shall be conclusive on the employer or governmental entity unless ~~not later than 15 days after the redetermination was mailed to the last known address~~ the employer or governmental entity files an appeal in accordance with ~~section 1226, subsection 2~~ Title 5, section 11001 et seq.

Sec. 480. 26 MRSA § 1226, sub-§ 1, ¶ B, 2nd and 4th sentences, as enacted by PL 1975, c. 462, § 9, are amended to read:

The conduct of such hearings shall be governed by regulations of the commissions consistent with ~~section 1104, subsection 6~~ Title 5, section 9051 et seq.

Such decision shall be final unless within 15 days after the mailing of notice thereof to a party's last known address or, in the absence of such mailing, within 15 days after the delivery of such notice, an appeal is initiated by such party pursuant to ~~subsection 2, paragraph A~~ subject to appeal pursuant to Title 5, section 11001 et seq.

Sec. 481. 26 MRSA § 1226, sub-§ 2, as amended by PL 1977, c. 460, § 9, is repealed.

Sec. 482. 26 MRSA § 1251, sub-§ 1, 2nd sentence is amended to read:

The commission shall, after investigation and hearing, pursuant to Title 5, section 9051 et seq., determine, and may thereafter from time to time redetermine, the longest seasonal period or periods during which, by the best practice of the industry in question, operations are conducted.

Sec. 483. 26 MRSA § 1251, sub-§ 2 is amended to read:

2. Regulations. The commission shall prescribe fair and reasonable regulations pursuant to Title 5, section 8051 et seq., applicable to the payment of benefits to individuals whose qualifying wages in whole or in part were earned in seasonal industries, to the period during which benefits shall be payable to them and to charges to be made to experience rating records or general funds as a result of benefits so paid.

Sec. 484. 26 MRSA § 1308, sub-§ 3, 2nd sentence, as repealed and replaced by PL 1967, c. 403, is amended to read:

The board shall ~~hear~~ hold a hearing on the appeal, pursuant to Title 5, section 9051 et seq., within 20 days from the receipt of notice of appeal.

Sec. 485. 29 MRSA § 51, as amended by PL 1975, c. 771, § 303, is repealed and the following enacted in its place:

§ 51. Rules and regulations

The Secretary of State may adopt rules and regulations necessary to administer this Title. The adoption of these rules and regulations shall be as provided in Title 5, chapter 375.

Sec. 486. 29 MRSA § 52-A, as amended by PL 1977, c. 557, §§ 1 and 2, is repealed and the following enacted in its place:

§ 52-A. Municipal officials as agents

With the approval of the municipal officers of a municipality, the Secretary of State may appoint municipal tax collectors, or such other persons as a municipality may designate to collect excise taxes on vehicles, as agents to receive applications for the registration and the renewal of registrations of motor vehicles. Municipal agents so appointed may be authorized to issue both registrations and renewals of registrations, or their authority may be limited to the issuance of renewals only. Those agents authorized to issue both registrations and renewals may issue registrations for automobiles and trucks not registered for over 6,000 pounds g.v.w. and may issue renewals for automobiles and trucks in which there is no change from the previous registration in the status of the vehicle to include the registered gross weight, axles or any other change in the status defined by the Secretary of State, provided these vehicles are not for hire. Agents authorized to issue renewals only may issue renewals for automobiles and trucks in which there is no change from the previous registration in the status of the vehicle to include the registered gross weight, axles or any other change in status defined by the Secretary of State, provided these vehicles are not for hire. The agents may charge any applicant \$1 over and above the required registration fee for each registration or renewal issued, the \$1 to be retained by the municipality.

The Secretary of State shall provide the necessary training that municipal agent will require. No municipal agent shall be appointed with authority to issue registrations and renewal of registrations unless the agent has successfully completed a training program provided by the Secretary of State.

The appointment of any such agent shall continue while the agent shall hold that office or employment, unless the municipal body which approved the appointment requests that it be revoked.

Appointments may be revoked for cause by the Administrative Court in the manner provided by Title 4, chapter 25.

Sec. 487. 29 MRSA § 52-B, as enacted by PL 1977, c. 560, is repealed.

Sec. 488. 29 MRSA § 53, as amended by PL 1971, c. 360, § 4, is further amended by adding at the end the following new sentence to read:

Hearings conducted by the Secretary of State shall be as provided by Title 5, chapter 375, subchapter IV.

Sec. 489. 29 MRSA § 54 is repealed and the following enacted in its place:

§ 54. Notice of hearing

Notice of any hearing held by the Secretary of State or by his authority under this Title shall be consistent with Title 5, section 9052, and notify the licensee or registrant that he may then and there appear, in person or through counsel, to

show cause why that license or certificate of registration should not be suspended or revoked. Service of that notice shall be sufficient if sent by regular mail to the address given by the licensee or registrant at least 10 days before the date set for hearing.

Sec. 490. 29 MRSA § 55, 2nd ¶, as enacted by PL 1971, c. 394, § 1, is amended to read:

The Secretary of State shall have the authority, pursuant to chapter 17, to refuse the registration of types of vehicles that he deems should not be permitted to use the highways of the State of Maine. ~~subject to section 2242~~

Sec. 491. 29 MRSA § 55-B, first ¶, last sentence, as last repealed and replaced by PL 1975, c. 770, § 143, is amended to read:

If the person fails to pay the required amount within 5 days after actual receipt of the notice, the Secretary of State shall, pursuant to chapter 17, forthwith suspend any license, permit, certificate or plates issued for such dishonored instrument or the registration certificate and plates issued for the vehicle in respect to which the use tax remains unpaid.

Sec. 492. 29 MRSA § 55-B, 2nd ¶, last sentence, as last repealed and replaced by PL 1975, c. 770, § 143, is amended to read:

If such person fails to pay the required amount within 5 days after actual receipt of such notice, the Secretary of State shall, pursuant to chapter 17, forthwith suspend the registration certificate and plates issued for the vehicle in respect to which the tax remains unpaid.

Sec. 493. 29 MRSA § 343, as enacted by PL 1973, c. 529, § 1, is repealed and the following enacted in its place:

§ 343. Requirements

1. Facilities and personnel. To qualify as a dealer under this subchapter the applicant shall have at least the following facilities and personnel:

- A. Proper facilities for the display of the vehicles being handled;
- B. Repair department for the repair of 2 vehicles simultaneously;
- C. Sufficient tools and equipment for proper servicing of the vehicles handled;
- D. A suitable office from which business is conducted and records of the business are kept; and
- E. At least one mechanic, who may be the owner, who has a thorough knowledge of the vehicles being handled.

2. Exemptions. Those who held used car registration plates on January 1, 1964, shall be exempt from only those requirements of this section established by subsection 1, paragraphs B and E. However, the exemption from these requirements will expire in the case of any person who held used car dealer

registration plates on January 1, 1964, in the event that he sells or discontinues his business.

Sec. 494. 29 MRSA § 349, as last amended by PL 1977, c. 481, §§ 11 and 11-A, is repealed.

Sec. 495. 29 MRSA § 349-A is enacted to read:

§ 349-A. Action on application

1. Initial application. After a thorough investigation and a review of the facts then available to him, the Secretary of State shall act upon an application for an initial motor vehicle dealer's license within 90 days after receipt thereof by granting or refusing to grant the license.

If the Secretary of State refuses to grant an initial motor vehicle dealer's license to an applicant, notice shall be given to that applicant that an opportunity for hearing before the Secretary of State or his deputy shall be provided upon request to show cause why that license should be granted.

2. Renewal application. The Secretary of State, after a thorough investigation, shall act upon an application for renewal of a motor vehicle dealer's license within 90 days after receipt thereof by renewing that license or by filing a written complaint initiating an action before the Administrative Court as provided in Title 4, chapter 25.

After hearing, the Administrative Court may refuse to issue or renew a motor vehicle dealer's license and may refuse the subsequent reapplication for a period not to exceed one year.

Sec. 496. 29 MRSA § 350, as enacted by PL 1973, c. 529, § 1, is repealed.

Sec. 497. 29 MRSA § 350-A is enacted to read:

§ 350-A. Grounds for denying, suspending or revoking motor vehicle dealer's license

1. Grounds. A motor vehicle dealer's license may be denied, suspended or revoked on any one or more of the following grounds:

- A. Material misstatement in application for license;
- B. Failure to comply with any provision of this subchapter or any lawful rule;
- C. Being a motor vehicle dealer, trailer or semitrailer dealer, failure to have an established place of business as defined in this subchapter;
- D. Failure to notify the Secretary of State in writing 30 days prior to moving location;
- E. Defrauding any retail buyer to the buyer's damage or any other person in the conduct of the licensee's business;

F. Having been convicted of any fraudulent act in connection with the business of selling motor vehicles;

G. Any violation of Title 5, sections 206-212, Unfair Trade Practices Act, or violation of Title 17, section 3203;

H. Has submitted a check, draft or money order to the Secretary of State for any obligation or fee due the State and it is thereafter dishonored or refused upon presentation;

I. Certification by the State Tax Assessor that any tax, other than property tax, assessed and deemed final under Title 36, remains unpaid in an amount exceeding \$1,000 for a period greater than 60 days after the licensee or applicant has received notice of the finality of the tax and that the licensee or applicant has refused to cooperate with the Bureau of Taxation in establishing and remaining in compliance with a reasonable plan for liquidating that liability;

J. Failure to appear at a hearing required by the Secretary of State; or

K. Failure to comply or to maintain compliance with section 832.

Sec. 498. 29 MRSA § 351, as amended by PL 1975, c. 770, § 142, is repealed and the following enacted in its place:

§ 351. Suspension and revocation

The Administrative Court may suspend or revoke a motor vehicle dealer's license.

Sec. 499. 29 MRSA § 353, as enacted by PL 1973, c. 529, § 1, is repealed.

Sec. 500. 29 MRSA § 362, as enacted by PL 1973, c. 529, § 1, is repealed and the following enacted in its place:

§ 362. Rules and regulations

The Secretary of State is authorized and empowered to promulgate and establish rules and regulations to effectuate the purposes of this chapter.

Sec. 501. 29 MRSA § 586, 2nd sentence, as enacted by PL 1967, c. 245, § 12, is amended to read:

Thereupon the department shall, pursuant to chapter 17, suspend the license or instruction permit of said minor without hearing and no suspension under this section is to be construed against the minor in any manner.

Sec. 502. 29 MRSA § 723, 2nd ¶, is repealed and the following enacted in its place:

Failure to maintain compliance with this section shall be grounds for suspension or revocation of a commercial driver education school license, as provided in section 728.

Sec. 503. 29 MRSA § 725 is repealed and the following enacted in its place:

§ 725. Rules and regulations

The Secretary of State may adopt rules and regulations prescribing reasonable requirements for obtaining commercial driver education school licenses and commercial instructor licenses.

Sec. 504. 29 MRSA § 727 is repealed.

Sec. 505. 29 MRSA § 727-A is enacted to read:

§ 727-A. Action on application

1. Initial application. After a thorough investigation and a review of the facts then available to him, the Secretary of State shall act upon an application for an initial commercial driver education school license or a commercial instructor license within 90 days after receipt thereof by granting or refusing to grant the license.

If the Secretary of State refuses to grant an initial commercial driver education school license or commercial instructor license, notice shall be given to that applicant that an opportunity for hearing before the Secretary of State or his deputy shall be provided upon request to show cause why that license should be granted.

2. Renewal application. The Secretary of State, after a thorough investigation, shall act upon an application for renewal of a commercial driver education school license or a commercial instructor license within 90 days after receipt thereof by renewing that license or by filing a written complaint initiating an action before the Administrative Court as provided in Title 4, chapter 25.

After hearing, the Administrative Court may refuse to issue or renew a commercial driver education school license or a commercial instructor license and may refuse the subsequent reapplication for a period not to exceed one year.

Sec. 506. 29 MRSA § 728 is repealed and the following enacted in its place:

§ 728. Suspension or revocation

The Administrative Court may suspend or revoke any commercial driver education school license or commercial instructor license if not satisfied that the requirements of this subchapter have been met.

Sec. 507. 29 MRSA § 729 is repealed.

Sec. 508. 29 MRSA § 781, sub-§ 2, as last amended by PL 1973, c. 652, is repealed and the following enacted in its place:

2. Secretary of State to administer rules and regulations. The Secretary of State shall administer and enforce this subchapter, and he is authorized to adopt and enforce such regulations as may be necessary for that administration.

Sec. 509. 29 MRSA § 782, sub-§ 1, first sentence, as last amended by PL 1975, c. 731, § 40, is further amended to read:

Upon receipt of an abstract of the record in cases of conviction or adjudication of any person for a violation of any state law relative to motor vehicles, the Secretary of State, in his discretion, may forthwith, pursuant and subject to chapter 17, suspend the license of the person so convicted or adjudicated and the registration certificates and registration plates issued for any motor vehicle, trailer or semitrailer registered in the name of such person unless and until such person gives and thereafter maintains for a period of 3 years proof of his financial responsibility in the limits of \$20,000 each individual, \$40,000 any one accident resulting in injury or death to one or more persons and \$10,000 for damage to property of others.

Sec. 510. 29 MRSA § 783, sub-§ 2, ¶ A, first ¶, as amended by PL 1977, c. 481, § 19, is further amended to read:

Upon receipt by him of the report of an accident, which has resulted in death, bodily injury or property damage to an apparent extent of \$200 or more, the Secretary of State, pursuant and subject to chapter 17, shall, 30 days following the date of request for compliance with the 2 following requirements, suspend the license or the right to obtain a license, or revoke the right to operate of any person operating, and the registration certificates and registration plates of any person owning a motor vehicle, trailer or semitrailer in any manner involved in such accident, or the right to register the same unless such operator and owner:

Sec. 511. 29 MRSA § 783, sub-§ 2, ¶ D is amended to read:

D. Pursuant to chapter 17, the Secretary of State, upon any reasonable ground appearing on the records in his office, may suspend or revoke the operator's license of any person and may suspend or revoke any and all of the registration certificates and registration plates for any motor vehicle and may refuse to issue to any such person any license or to register in the name of such person any motor vehicle unless and until such person gives proof of his financial responsibility for such period as the Secretary of State may require.

Sec. 512. 29 MRSA § 783, sub-§ 2, ¶ E, as enacted by PL 1973, c. 469, § 7, is repealed.

Sec. 513. 29 MRSA § 786, sub-§ 2, ¶ E, last sentence is amended to read:

Upon receipt of information and having become satisfied that the insured has failed to comply with the terms of his policy in regard to notice to the company of an accident, the Secretary of State, pursuant and subject to chapter 17, shall revoke his license and registration for such period as the Secretary of State shall determine.

Sec. 514. 29 MRSA § 789 is enacted to read:

§ 789. Opportunity for hearing

1. Desire for hearing. As provided in section 53, any person aggrieved by the decision of the Secretary of State in applying or invoking the requirements of this

subchapter may, within 10 days after receipt of the requirement, notify the Secretary of State in writing of his desire for a hearing. Pending the hearing, the requirement of the subchapter shall not be invoked.

2. Determination of issuance. If the Secretary of State, in carrying out his responsibilities to administer and enforce this subchapter, shall hold a hearing as provided in section 53 to determine whether or not a motor vehicle operator's license or certificate of registration should be issued to a person against whom the motor vehicle financial responsibility law has been invoked, he shall provide notice of the hearing to the other party or parties involved in the accident which gave rise to that law being invoked.

Sec. 515. 29 MRSA § 832, 2nd ¶, as repealed and replaced by PL 1969, c. 400, § 10, is repealed.

Sec. 516. 29 MRSA § 891, last ¶, as amended by PL 1973, c. 689, § 5, is repealed and the following enacted in its place:

Pursuant to chapter 17, the Secretary of State may suspend or revoke the motor vehicle operator's license, certificate of registration and the privilege to operate a motor vehicle of any person who is required to make a report and fails to do so or who willfully fails to give correct information required of him by the Secretary of State pertinent to any required report.

Sec. 517. 29 MRSA § 895-A, sub-§ 2, 2nd sentence, as enacted by PL 1975, c. 569, is repealed and the following enacted in its place:

The Secretary of State is authorized to adopt rules and regulations necessary to assure the validity of claims submitted under this section.

Sec. 518. 29 MRSA § 1613 is amended to read:

§ 1613. Revocation or suspension of certain certificates of registration

~~Subject to the same conditions as to appeal as provided for in section 2242-~~
Pursuant and subject to chapter 17, the Secretary of State may revoke or suspend the certificate of registration of any vehicle which is so constructed as to be, when in operation, a menace to the safety of its occupants or to the public, or is so constructed or operated as to cause unreasonable damage to ways or bridges.

Sec. 519. 29 MRSA § 2127, next to the last ¶, as enacted by PL 1969, c. 474, § 3, is repealed and the following enacted in its place:

Upon receipt of an attested copy of the court record of the conviction, the Secretary of State shall immediately suspend the certificate of registration of the motor vehicle with respect to which the violation occurred.

Sec. 520. 29 MRSA § 2181, last sentence is repealed and the following enacted in its place:

Upon receipt of an attested copy of the court record of the conviction, the Secretary of State, shall immediately revoke every such motor vehicle operator's license or permit, certificate of registration and number plate, and these shall be

surrendered to the Secretary of State upon demand and any moneys paid for these shall be forfeited.

Sec. 521. 29 MRSA § 2241, sub-§ 1, first sentence, as enacted by PL 1971, c. 292, § 1, is amended to read:

The Secretary of State or any deputy secretary of state may suspend any certificate of registration, certificate of title or any license issued to any person to operate a motor vehicle or right to operate a motor vehicle or right to obtain an operator's license after hearing for any cause which he deems sufficient.

Sec. 522. 29 MRSA § 2241, sub-§ 1, ¶ I, is enacted to read:

I. Has failed to appear in court on the day specified, either in person or by counsel, after being ordered to do so to answer any violation of Title 35, chapters 91 to 97.

Sec. 523. 29 MRSA § 2241, sub-§ 3, as enacted by PL 1971, c. 292, § 1, is repealed and the following enacted in its place:

3. Hearing. Upon suspending or revoking a motor vehicle license, permit or privilege to operate, or certificate of registration of any person without preliminary hearing, the Secretary of State shall notify that person as provided in Title 5, section 9052, subsection 1, that an opportunity for hearing shall be provided without undue delay, after receipt of a request, except where the suspension rests solely upon a conviction in court of any offense which by statute is expressly made grounds for that suspension or revocation.

If a hearing is held to determine whether a person's motor vehicle operator's license, permit or privilege to operate, or certificate of registration should be restored, the hearing shall be conducted as provided in Title 5, chapter 375, subchapter IV. Upon the hearing, the Secretary of State shall either rescind his order of suspension or, for good cause, may continue, modify or extend the suspension of the license and privilege to operate motor vehicles.

Notice shall be given as provided in section 54. The date of birth and name on the notification of suspension or revocation document shall be prima facie evidence that the named person is the same person as the defendant of the same name and birthday.

Any person who, after notice of suspension or revocation, fails or refuses to obey any order of the Secretary of State under this section or fails or refuses to surrender to the Secretary of State upon demand any operator's license, issued in this State or any other state which has been suspended, canceled or revoked by proper authority in this State or any other state, as provided by law shall be guilty of a misdemeanor.

Sec. 524. 29 MRSA § 2241, last 3 ¶¶'s, as amended, are repealed.

Sec. 525. 29 MRSA § 2241-E, as enacted by PL 1973, c. 72, is repealed and the following enacted in its place:

§ 2241-E. Suspension

Suspension authorized under this Title shall be effective on a specified date not less than 10 days after the mailing of the notification of suspension and the period of suspension shall be computed from that date.

Sec. 526. 29 MRSA § 2241-G is enacted to read:

§ 2241-G. Provisional license

The original license issued to a new applicant shall be a provisional license for a period of one year following the date of issue and shall remain in force as a nonprovisional license to the next normal expiration date. If a person is convicted of or adjudicated to have committed a motor vehicle moving violation while in possession of a provisional license on the first offense, the license shall be suspended for 30 days. If he is convicted of or adjudicated to have committed a 2nd moving violation, his license shall be suspended for 60 days and if he is convicted of or adjudicated to have committed a 3rd moving violation, the license shall be suspended to the 2nd birthday next following the date of issue or for 90 days, whichever shall be the longer period of time. In these cases, a hearing may be requested of the Secretary of State, and the Secretary of State shall afford the provisional licensee opportunity for hearing as soon as practicable after receipt of the request. Upon the hearing, the Secretary of State, for good cause shown, may continue, modify or rescind the suspension. This paragraph shall not prevail when a person is convicted of or adjudicated to have committed an offense which carries a suspension or revocation period greater than that prescribed in this paragraph.

Sec. 527. 29 MRSA § 2242 is repealed and the following enacted in its place:

§ 2242. Appeals

After hearing, as provided in section 2241, subsection 3, any person who is aggrieved by the decision of the Secretary of State or his deputy in suspending or revoking a license, permit or right to operate a motor vehicle, a certificate of registration or a certificate of title, or by the failure or refusal of the Secretary of State or his deputy to issue a license, permit or right to operate a motor vehicle, a certificate of registration or a certificate of title may, within 30 days thereafter, appeal to the Superior Court for a judicial review as provided in Title 5, section 11001, et seq.

Sec. 528. 29 MRSA § 2301, last sentence, as amended by PL 1969, c. 339, § 1, is further amended to read:

If a person fails to appear in court on the day specified, either in person or by counsel, the court shall notify the Secretary of State, who, pursuant to chapter 17, shall immediately suspend or revoke his license, if licensed in this State, or suspend or revoke his right to operate motor vehicles in this State, if a nonresident and not licensed in this State.

Sec. 529. 29 MRSA § 2301-A, as repealed and replaced by PL 1975, c. 731, § 77, is amended to read:

§ 2301-A. Suspension on nonappearance or nonpayment of fine

If a person fails to appear in court on the day specified in response to a summons or order of court for any violation of any provision of this Title, or in response to a Uniform Traffic Ticket and Complaint or for any further appearance by the court, including one for the payment of a fine, either in person or by counsel, the court shall notify the Secretary of State, who, pursuant to chapter 17, may suspend his license, if licensed in this State, or suspend his right to operate motor vehicles in this State, if a nonresident and not licensed in this State.

If a person who has been ordered to pay a fine for a violation of any provisions of this Title has failed to pay the fine within 30 days of such order, the court shall notify the Secretary of State, who, pursuant to chapter 17, may suspend his license, if licensed in this State, or suspend his right to operate motor vehicles in this State, if a nonresident and not licensed in this State.

Sec. 530. 29 MRSA § 2305, first sentence, as last amended by PL 1975, c. 430, § 59, is further amended to read:

In addition to or instead of any other penalty provided in this Title and imposed by any court upon any person for violation of any provision of this Title, except section 1312, the court may suspend an operator's license for a period not exceeding 60 days, in which case the judge shall take up the license certificate of such person, who shall forthwith surrender the same and forward it by mail to the Secretary of State.

Sec. 531. 29 MRSA § 2355, as enacted by PL 1973, c. 586, § 1, is repealed and the following enacted in its place:

§ 2355. Judicial review

After a hearing, as provided in section 2354, any person aggrieved by the final action taken by the Secretary of State shall be entitled to judicial review thereof, as provided in section 2242, by the Superior Court for Kennebec County.

Sec. 532. 29 MRSA § 2378, sub-§ 1, first sentence, as repealed and replaced by PL 1977, c. 294, § 13, is amended to read:

~~The~~ Pursuant to chapter 17, the Secretary of State shall suspend or revoke a certificate of title or a certificate of registration, upon notice and reasonable opportunity to be heard in accordance with section 2354, if he finds:

Sec. 533. 29 MRSA § 2444, sub-§ 4, as enacted by PL 1973, c. 586, § 1, is amended to read:

4. **Suspension.** The Secretary of State may suspend, pursuant to chapter 17, the certificate of registration of a vehicle whose theft or conversion is reported to him pursuant to this section; until the Secretary of State learns of its recovery or that the report of its theft or conversion was erroneous, he shall not issue a certificate of title for the vehicle.

Sec. 534. 30 MRSA § 3221, sub-§ 1, ¶ A, as amended by PL 1975, c. 293, § 4, is further amended by adding at the end a new sentence to read:

If the department disapproves of any proposed municipal regulation, the municipality may request a hearing in conformity with the Maine Administrative Procedure Act.

Sec. 535. 30 MRSA § 3713, sub-§ 3, as amended by PL 1973, c. 460, § 18, is repealed and the following enacted in its place:

3. **Revocation.** The Administrative Court, acting pursuant to Title 4, chapter 25, may revoke the registration of any registered mill for violation of sections 3710 and 3711 for a period not to exceed 2 years, after which time the mill may make application for reinstatement as a registered mill.

Sec. 536. 32 MRSA § 64, as amended by PL 1973, c. 303, § 3, is repealed and the following enacted in its place:

§ 64. Appeals

Any person who is aggrieved by a decision of the board in amending, modifying or refusing to issue or to renew a license may request a hearing as provided by the Maine Administrative Procedure Act.

Whenever the board decides to revoke or suspend a license, it shall do so by filing a complaint with the Administrative Court as provided by the Maine Administrative Procedure Act.

Sec. 537. 32 MRSA § 73, sub-§ 6, 1st and 2nd sentences, as repealed and replaced by PL 1975, c. 698, § 3, are amended to read:

The Department of Human Services shall adopt such forms, rules, regulations, procedures and records as may be necessary to fulfill the purposes of this chapter in conformity with the requirements of the Maine Administrative Procedure Act. In the rules pursuant to this chapter, the department may define and approve the level of emergency medical training required for a licensed persons to administer emergency treatment procedures and advanced emergency treatment procedures.

Sec. 538. 32 MRSA § 73, sub-§ 6, 2nd and 3rd sentences from the end, as repealed and replaced by PL 1975, c. 698, § 3, are repealed.

Sec. 539. 32 MRSA § 75, as last amended by PL 1975, c. 293, § 4, is repealed and the following enacted in its place:

§ 75. Appeals

Any person who is aggrieved by a decision of the board in amending, modifying or refusing to issue or to renew a license may request a hearing as provided by the Maine Administrative Procedure Act.

Whenever the board decides to revoke or suspend a license, it shall do so by filing a complaint with the Administrative Court as provided by the Maine Administrative Procedure Act.

Sec. 540. 32 MRSA § 213, 2nd sentence, as enacted by PL 1977, c. 463, § 3, is amended to read:

Special meetings shall be held at such times as the ~~regularly-adopted~~ rules and regulations of the board **adopted in accordance with the Maine Administrative Procedure Act, Title 5, section 8051 et seq.,** shall provide.

Sec. 541. 32 MRSA § 213, 2nd ¶, 1st sentence, as enacted by PL 1977, c. 463, § 3, is amended to read:

Five members of the board shall constitute a quorum except that no certificate of registration shall be issued ~~or revoked~~ except on an affirmative vote of at least 5 members of the board.

Sec. 542. 32 MRSA § 214, 1st ¶, as enacted by PL 1977, c. 463, § 3, is amended to read:

The board shall, in accordance with the ~~spirit and intent of the law~~ **Maine Administrative Procedure Act, Title 5, section 8051 et seq.,** make ~~such~~ rules and regulations necessary for the performance of its duties and for carrying out the purposes of this chapter.

Sec. 543. 32 MRSA § 214, 2nd ¶ 1st sentence, as enacted by PL 1977, c. 463, § 3, is amended to read:

The board shall, in accordance with the ~~purpose and intent of the law~~ **Maine Administrative Procedure Act, Title 5, section 8051 et seq.,** and the standards set forth in this chapter, make such other reasonable rules and regulations as are appropriate to establish and maintain high standards of ethical conduct.

Sec. 544. 32 MRSA § 218, as enacted by PL 1977, c. 463, § 3, is repealed and the following enacted in its place:

§ 218. Charges; determination

Any person may prefer charges of fraud, deceit, gross negligence, incompetency or misconduct against any registrant. Charges shall be made in the form of a sworn complaint and filed with the secretary of the board.

The board shall make its determination as to whether a violation exists within 3 months from the date the charge is received. If after investigation, the board believes a violation of its law or rules exists, it shall file a complaint with the Administrative Court in accordance with the provisions of Title 4, section 1151 et seq., for revocation or suspension of the certificate of registration.

Sec. 545. 32 MRSA § 221, 2nd sentence, as enacted by PL 1977, c. 463 § 3, is amended to read:

The board shall make all necessary rules and regulations, **in accordance with the Maine Administrative Procedure Act, Title 5, section 8051, et seq.,** governing the time, place and method of giving and grading examinations, shall publish appropriate announcements and shall conduct examinations at the time designated for all applicants who desire to be registered as an "architect" or "landscape architect" and to engage in performing the functions of an architect or landscape architect.

Sec. 546. 32 MRSA § 221, last sentence, as enacted by PL 1977, c. 463, § 3, is repealed and the following enacted in its place:

The rules for the manner in which examinations are conducted and the content of the examination shall be adopted in accordance with the Maine Administrative Procedures Act, Title 5, section 8051 et seq.

Sec. 547. 32 MRSA § 222, last ¶, as enacted by PL 1977, c. 463, § 3, is amended by adding at the end a new sentence to read:

The board shall adopt a fee schedule and refund policy by rules promulgated in accordance with the Maine Administrative Procedures Act, Title 5, section 8051 et seq.

Sec. 548. 32 MRSA § 224, last ¶, as enacted by PL 1977, c. 463, § 3, is amended by adding after the 2nd sentence the following new sentences to read:

The board shall have the power to adopt rules in accordance with the Maine Administrative Procedure Act, Title 5, section 8051 et seq., regarding the reissuance of lapsed or revoked licenses. The board, according to rules it shall adopt, may reissue a certificate of registration to any person whose certificate has lapsed or has been suspended or revoked, provided no suit is pending for charges of a violation of this chapter against that person in any court of record of this State and that the board is unanimous in its decision; except in the case where charges have been maintained and the registrant has been convicted, in which case no certificate shall be reissued during 12 months from the date of lapse, suspension or revocation of the previous certificate.

Sec. 549. 32 MRSA § 303, sub-§ 3, 2nd sentence, as enacted by PL 1977, c. 398, § 4, is amended to read:

The board shall have the authority, after a hearing, in conformance with Title 5, section 9051 et seq., to refuse to issue or renew a certificate, or to suspend a certificate until the complaint can be heard by the Administrative Court Judge.

Sec. 550. 32 MRSA § 352, sub-§ 2, first ¶, as enacted by PL 1977, c. 398, § 8, is amended to read:

The board shall make rules and regulations commensurate with this chapter, subject to the Maine Administrative Procedure Act, Title 5, ~~chapters 301 to 307~~ section 8051 et seq., except as otherwise provided in this subsection, and subject to the approval of the Commissioner of Human Services.

Sec. 551. 32 MRSA § 352, sub-§ 2, 4th ¶, as enacted by PL 1977, c. 398, § 8, is repealed and the following enacted in its place:

The rules and regulations in effect on October 24, 1977, shall be considered temporary rules and regulations. Thereafter, the board shall adopt rules and regulations in accordance with the Maine Administrative Procedure Act, Title 5, section 8051 et seq. Before any rules or regulations can be adopted, the board shall hold a public hearing prior to which it shall send a copy of all proposed rules to all persons licensed under this chapter. A copy of all rules and regulations which are adopted by vote of the board after the hearing and which are approved by the Commissioner of Human Services shall be sent to all persons licensed under this chapter and shall not take effect until 30 days after the date of that vote.

Sec. 552. 32 MRSA § 352, sub-§ 3, as enacted by PL 1977, c. 398, § 8, is repealed and the following enacted in its place:

3. Hearings. The board shall conduct the hearings and keep such records and minutes as are necessary to the ordinary dispatch of its functions. All hearings shall be conducted in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375.

Sec. 553. 32 MRSA § 408, first ¶, 2nd sentence, as enacted by PL 1977, c. 398, § 9, is amended to read:

The board shall have the authority, after a hearing in conformance with Title 5, section 9051 et seq., to refuse to issue or renew a registration or license or ~~to suspend a registration or license until the complaint can be heard by the Administrative Court Judge.~~

Sec. 554. 32 MRSA § 552, last ¶, 1st sentence, is amended to read:

The board may refuse to grant a certificate to any person ~~convicted of a felony on the basis of criminal history record information in accordance with Title 5, chapter 341, or who has been guilty of grossly unprofessional conduct, or who is addicted to any vice to such a degree as to render such person unfit to practice chiropractic and may, after due notice and hearing, revoke a certificate already issued, for like cause.~~

Sec. 554-A. 32 MRSA § 578, as repealed and replaced by PL 1975, c. 486, § 2, is repealed and the following enacted in its place:

§ 578. Investigation, suspension and revocation of licenses

The Bureau of Consumer Protection may investigate the records and practices of a licensee in accordance with Title 9-A, section 6-106. The superintendent may file a complaint with the Administrative Court to suspend or revoke a license issued pursuant to this chapter, if, after investigation or hearing or both, the superintendent has reason to believe that the licensee has violated any provisions of this chapter, of any administrative rules issued pursuant to this chapter, or has failed to maintain its financial condition sufficient to qualify for a license on an original application.

Sec. 554-B. 32 MRSA § 579, as repealed and replaced by PL 1975 c. 486, § 3, is repealed.

Sec. 554-C. 32 MRSA § 582, 2nd sentence, as last amended by PL 1977, c. 564, § 119, is repealed and the following enacted in its place:

The rules and regulations shall be adopted in the manner prescribed in the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II.

Sec. 555. 32 MRSA § 753, as amended by PL 1973, c. 585, § 11, is repealed and the following enacted in its place:

§ 753. Appeals

Any person aggrieved by any final decision of the Bank Superintendent under this chapter or by the failure or refusal of the superintendent to act, may obtain judicial review thereof in the Superior Court, in accordance with the provisions

set forth in the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter VII.

Sec. 556. 32 MRSA § 756, 2nd sentence, as amended by PL 1973, c. 585, § 11, is further amended to read:

Prior to making, amending or rescinding any rule, regulation or form, the Bank Superintendent shall, so far as practicable, ~~publish and~~ circulate to registered dealers notice of the intended action and afford interested persons an opportunity to submit suggestions orally or in writing. The procedure for adoption, amendment or rescission of any rules, regulations and forms shall be in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II.

Sec. 557. 32 MRSA § 805, 1st ¶, as amended by PL 1973, c. 585, § 11, is repealed and the following enacted in its place:

The Bank Superintendent may file a complaint with the Administrative Court seeking revocation of suspension of the registration of any dealer in securities, if the dealer has failed to furnish satisfactory evidence as provided in section 803, or if the superintendent has reason to believe that the dealer has violated this chapter or has conducted his business in a dishonest, deceitful or fraudulent manner.

Sec. 558. 32 MRSA § 806, 1st ¶, as amended by PL 1973, c. 585, § 11, is repealed and the following enacted in its place:

The Bank Superintendent may file a complaint with the Administrative Court seeking revocation or suspension of the registration of any agent or salesman in securities, if the superintendent has reason to believe that the agent or salesman has violated this chapter or has conducted his business in a dishonest, deceitful or fraudulent manner.

Sec. 559. 32 MRSA § 872, as amended by PL 1973, c. 585, § 11, is repealed and the following enacted in its place:

§ 872. Investigations; denial or revocation of registration of securities

The Bank Superintendent shall have the authority to conduct an examination into the affairs of the issuer of any securities registered or sought to be registered under this chapter. In making the examination the superintendent shall have access to and may issue subpoenas to compel the production of all the books and papers of the issuer, and he or the Director of the Securities Division may administer oaths to and examine the officers of the issuer or any person connected therewith as to its business and affairs, and may require a balance sheet exhibiting the assets and liabilities of the issuer or an income statement, or both, to be certified to by a public accountant approved by the superintendent. Whenever the superintendent may deem it necessary, he may require the balance sheet or income statement, or both, to be made more specific in such particulars as the superintendent shall point out or to be brought down to the latest practicable date.

The Bank Superintendent may deny initial registration of any security, or may file a complaint with the Administrative Court seeking suspension or revocation of the registration of any security for any of the following reasons:

1. **Fraud.** The sale of the securities would work or tend to work a fraud on the purchasers thereof or would be unlawful;
2. **Issuer insolvent.** The issuer is insolvent.
3. **Violation.** The issuer has violated this chapter or any order of the superintendent of which the issuer has notice; or
4. **Refusal of examination.** The issuer has refused to permit an examination into its business affairs.

In addition to any necessary service of process, the superintendent shall give notice of the denial of initial registration or of the filing of any complaint with the Administrative Court or any order of the Administrative Court under this section, to the issuer, to the person filing the notice of intention to sell and to every registered dealer who shall have notified the superintendent of an intention to sell the security.

Sec. 560. 32 MRSA § 1086, as last amended by PL 1975, c. 484, § 7, is repealed and the following enacted in its place:

§ 1086. Permits for internship

The board shall have the authority, upon presentation of satisfactory credentials under the rules and regulations as the board may prescribe, to issue permits to a graduate of an approved dental school or college who has not been licensed or registered to practice dentistry in this State, who has not failed to pass an examination for licensure in this State and who, in the board's judgment, has not violated any provision of this chapter or rules promulgated by the board, to serve as a dental intern in a licensed hospital, providing the hospital maintains a dental staff or at least one licensed dentist. Permits shall expire at the end of one month and may be renewed by the board. The intern shall function under the supervision and direction of the dental staff of the hospital, and his work shall be limited to patients admitted to the hospital. The intern shall receive no fee or compensation in addition to the salary or other remuneration he receives from the hospital.

Special permits shall be issued by the board to dentists of good standing and morality practicing outside this State when the request for the dentists comes from a charitable or social organization within the State and when the purpose for that permit is to provide free dental care for the public when no resident dental service is available. The board may provide an expiration date for any permit issued provided no permit shall be good for more than one year.

The board shall have the authority, upon presentation of satisfactory proof of academic affiliation and good academic standing, and providing, in the board's judgement, no violation or any provision of this chapter or of the board's rules has occurred, to issue a permit to a bona fide dental student of a school or university acceptable to the board, after the completion of satisfactory training to perform limited dental service commensurate with his level of training under the supervision and control of a licensed dentist or a teaching school in institutional and public health service programs within the State. The board shall, prior to the issuance of this permit, determine that the supervision and control of the services to be performed by the student are adequate and that the performance of these services by the student will add to the student's knowledge and skill in dentistry. Permits shall expire at the end of each month and may be renewed by the board.

Specialists in particular fields of dentistry practicing outside of the State, may be issued a permit to practice within the State for a period not to exceed 6 months.

Sec. 561. 32 MRSA § 1153, 2nd sentence, as last repealed and replaced by PL 1977, c. 340, § 9, is amended to read:

The board shall keep correct records of all its proceedings and shall be authorized to ~~make~~ adopt, pursuant to the Maine Administrative Procedure Act, Title 5, section 8051 et. seq., such rules and regulations as it shall deem necessary for the holding of examinations and for carrying out this chapter, and to provide for the licensing requirements of Title 8, section 653, and to provide for reciprocity of licensing with similar boards of other states which maintain standards at least equal to this State.

Sec. 562. 32 MRSA § 1155, 1st ¶, as repealed and replaced by PL 1973, c. 363, is amended to read:

The board shall investigate or cause to be investigated all complaints made to it and all cases of noncompliance with or violation of this chapter. ~~The board shall have the authority, after hearing, to suspend a license until said complaint can be heard by the Administrative Court Judge. If the board finds that cause exists for suspension or revocation of licenses, it shall file its complaint with the Administrative Court pursuant to Title 5, section 10051. The Administrative Court Judge shall have the power, pursuant to the Maine Administrative Procedure Act, to suspend or revoke the license of any licensed electrician who is found guilty of:~~

Sec. 563. 32 MRSA § 1306, 2nd ¶, 1st sentence, is amended to read:

In carrying into effect this chapter, the board may, under the hand of its chairman and the seal of the board, subpoena witnesses and compel their attendance, and may require the production of books, records, papers, documents, etc., ~~in a case involving the revocation of a certificate of registration as a professional engineer or a certificate as an engineer-in-training in investigations to determine whether grounds exist to seek the suspension or revocation of an individual's license or in a case of practicing or offering to practice professional engineering without registration.~~

Sec. 564. 32 MRSA § 1356, 1st ¶, is amended to read:

~~The board~~ Administrative Court pursuant to Title 4, chapter 25 shall have the power to revoke or suspend the registration of a registered professional engineer or the certificate of an engineer-in-training who is found guilty of:

Sec. 565. 32 MRSA § 1356, 2nd, 3rd and 4th ¶¶ from the end are repealed.

Sec. 566. 32 MRSA § 1451, 2nd ¶, last sentence, as repealed and replaced by PL 1967, c. 253, § 2, is amended to read:

Such rules and regulations shall not become effective until adopted ~~and filed as provided in Title 5, chapter 301~~ in conformity with the Maine Administrative Procedure Act.

Sec. 567. 32 MRSA § 1455, 1st ¶, as last amended by PL 1973, c. 303, § 3, is further amended to read:

Whenever the board shall have reason to believe that any person to whom a license has been issued has become unfitted to engage in the practice of funeral service, funeral directing or embalming, as the case may be, or has violated any of the provisions of this chapter, or any rule or regulation prescribed, or whenever written complaint, charging the holder of a license with the violation of any provision of this chapter is filed with the board, it shall be the duty of said board to conduct an investigation, and if from such investigation it shall appear to the board that there is reasonable ground for belief that the accused may have been guilty of the violation or violations charged, the board shall file a statement or complaint with the Administrative Court Judge designated in Title 5, chapters 301 to 307 in conformity with the Maine Administrative Procedure Act.

Sec. 568. 32 MRSA § 1553, sub-§ 2, ¶ C, 2nd ¶, first sentence, as enacted by PL 1977, c. 398, § 10, is amended to read:

The board and the Department of Educational and Cultural Services shall make rules and regulations for the examination of applicants for certificates of registration as instructors of cosmetology, in accordance with the Maine Administrative Procedure Act, Title 5, section 8051 et seq.

Sec. 569. 32 MRSA § 1553, sub-§ 4, 2nd sentence, as enacted by PL 1977, c. 398, § 10, is amended to read:

The board shall have the authority, after a hearing in conformance with Title 5, section 9051 et seq., to refuse to issue or renew a certificate; or to suspend a certificate until the complaint can be heard by the Administrative Court Judge

Sec. 570. 32 MRSA § 1602, sub-§ 2, first ¶, as enacted by PL 1977, c. 398, § 10, is repealed and the following enacted in its place:

The board shall make rules and regulations commensurate with this chapter, subject to the Maine Administrative Procedure Act, Title 5, section 8051 et seq., and subject to the approval of the Commissioner of Human Services.

Sec. 571. 32 MRSA § 1602, sub-§ 2, 4th ¶, as enacted by PL 1977, c. 398, § 10, is repealed and the following enacted in its place:

The rules and regulations in effect on October 24, 1977, shall be considered temporary rules and regulations. Thereafter, the board shall adopt rules and regulations in accordance with the Maine Administrative Procedure Act, Title 5, section 8051 et seq. Before any rules or regulations can be adopted, the board shall hold a public hearing prior to which it shall send a copy of all proposed rules to all persons licensed under this chapter. A copy of all rules and regulations which are adopted by vote of the board after the hearing and which are approved by the commissioner of Human Services shall be sent to all persons licensed under this chapter and shall not take effect until 30 days after the date of the vote.

Sec. 572. 32 MRSA § 1602, sub-§ 3, as enacted by PL 1977, c. 398, § 10, is repealed and the following enacted in its place:

3. Hearings. The board shall conduct such hearings and keep such records and minutes as are necessary to the ordinary dispatch of its functions. All hearings shall be conducted in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375.

Sec. 573. 32 MRSA § 1658, first ¶, 2nd sentence, as enacted by PL 1977, c. 398, § 10, is amended to read:

The board shall have the authority, after a hearing in conformance with Title 5, section 9051 et seq., to refuse to issue or renew a registration or license ~~or to suspend a registration or license until the complaint can be heard by the Administrative Court Judge.~~

Sec. 574. 32 MRSA § 1658-N, 1st ¶, as repealed and replaced by PL 1975, c. 463, § 3, is repealed and the following enacted in its place:

The department may amend, modify or refuse to issue or refuse to renew any license; however, any aggrieved party shall be entitled to a hearing in conformity with the Maine Administrative Procedure Act. The department may suspend or revoke any license by filing a complaint with the Administrative Court pursuant to the Maine Administrative Procedure Act, for any one of the following causes:

Sec. 575. 32 MRSA § 1660, sub-§ 1, ¶ F, as repealed and replaced by PL 1975, c. 463, § 3, is amended to read:

F. To take action before the Administrative Court ~~Judge~~ in conformity with the Maine Administrative Procedure Act for the suspension or revocation of licenses when there is indication that such is proper;

Sec. 576. 32 MRSA § 1676, 2nd ¶, as enacted by PL 1967, c. 423, § 1, is amended to read:

In administering this chapter, the board may, under the hand of its chairman and the seal of the board, subpoena witnesses and compel their attendance, and may require the production of books, records, papers and documents, in a case ~~involving the revocation of certificates of registration as a land surveyor or a certificate as a land surveyor in training or in a case~~ or practicing of offering to practice land surveying without registration.

Sec. 577. 32 MRSA § 1688, 1st ¶, as enacted by PL 1967, c. 423, § 1, is amended to read:

~~The board~~ Administrative Court, pursuant to Title 4, chapter 25, shall have the power to revoke or suspend the certificate of a registered land surveyor or of a land surveyor-in-training who is found guilty of:

Sec. 578. 32 MRSA § 1688, 2nd, 3rd and 4th ¶¶ from the end, as enacted by PL 1967, c. 423, § 1, are repealed.

Sec. 579. 32 MRSA § 1702, last sentence, as repealed and replaced by PL 1977, c. 227, § 2, is repealed and the following enacted in its place:

The board may adopt rules and regulations pursuant to the Maine Administrative Procedure Act, Title 5, section 8051 et seq. If the board finds that cause exists for suspension or revocation of licenses, it shall file its complaint with the Administrative Court pursuant to Title 5, section 10051.

Sec. 580. 32 MRSA § 1703, last sentence, as amended by PL 1977, c. 227, § 4, is further amended to read:

Such license shall continue in force until the 31st day of December following the date of issue ~~but may be revoked at any time by the board for good cause after a hearing~~ or at such other time as the Commissioner of Business Regulation may designate. If the board finds that cause exists for suspension or revocation of licenses, it shall file its complaint with the Administrative Court pursuant to Title 5, section 10051.

Sec. 581. 32 MRSA § 1801, 1st ¶, 1st and last sentences, are amended to read:

The Commissioner of Agriculture shall, in a manner consistent with the Maine Administrative Procedure Act, after investigation and public hearing, adopt and promulgate rules and regulations to supplement and give full effect to this chapter.

Such rules and regulations ~~shall be filed and open for public inspection at the office of the commissioner and~~ shall have the force of law.

Sec. 582. 32 MRSA § 1802, 1st and last sentences, are amended to read:

The Commissioner of Agriculture shall have the power, in a manner consistent with the Maine Administrative Procedure Act, to refuse to renew, and the Administrative Court, upon complaint of the commissioner or the Attorney General shall have the power, in a manner consistent with the Maine Administrative Procedure Act, to revoke or suspend any license issued under section 1851 when it is determined ~~by him~~ that any of the provisions of this chapter, or rules or regulations promulgated thereunder, have been violated.

The ~~commissioner~~ Administrative Court may revoke or suspend such license temporarily until there is a compliance with this chapter or permanently for the unexpired period of such license.

Sec. 583. 32 MRSA § 1803 is repealed.

Sec. 584. 32 MRSA § 1851, last ¶, is amended to read:

All such licenses shall run for the current year until the 30th day of June following the date of the issuance, on which date, or on the date provided by the provisions of the Maine Administrative Procedure Act as to license expiration, whichever date is later, they shall terminate unless sooner revoked as provided in section 1802, and shall be renewed annually thereafter subject always to such revocation.

Sec. 585. 32 MRSA § 1867, sub-§ 6, as enacted by PL 1975, c. 739, § 16, is repealed and the following enacted in its place:

6. **Withdrawal of approval.** The Administrative Court may, in a manner consistent with the Maine Administrative Procedure Act, withdraw approval of a local redemption center if there has not been compliance with the approval order or if the local redemption center no longer provides a convenient service to the public.

Sec. 586. 32 MRSA § 1901, next to last sentence, is amended to read:

Such license may be revoked by the Administrative Court, in a manner consistent with the Maine Administrative Procedure Act, at any time for failure to comply

~~with the aforesaid requirements or for such other causes as may in the opinion of the Commissioner of Agriculture be sufficient.~~

Sec. 587. 32 MRSA § 1953, as amended by PL 1965, c. 226, § 70, is repealed.

Sec. 588. 32 MRSA § 2003, last ¶, as repealed and replaced by PL 1977, c. 360, § 25, is repealed and the following enacted in its place:

Any person licensed under this subchapter who violates any provisions of this chapter or any of the rules and regulations of the board shall be punished by the Administrative Court, after hearing held in accordance with Title 4, chapter 25, by revocation or suspension of his license. The board shall have the power, after hearing, to refuse to issue or renew a license for any violation of this chapter or of rules promulgated pursuant to this chapter.

Sec. 589. 32 MRSA § 2061, 1st ¶, as repealed and replaced by PL 1977, c. 360, § 30, is repealed and the following enacted in its place:

The board may refuse to issue or renew and the Administrative Court may suspend or revoke a license on any one or more of the following grounds:

Sec. 590. 32 MRSA § 2105, sub-§ 1, 1st sentence, as amended by PL 1973, c. 303, § 3, is repealed and the following enacted in its place:

The Administrative Court, pursuant to Title 4, chapter 25, may revoke or suspend any license to practice nursing issued pursuant to this chapter and the board may refuse to issue a license to practice if the licensee or applicant:

Sec. 591. 32 MRSA § 2353, 2nd sentence, as repealed and replaced by PL 1973, c. 384, is amended to read:

Said board shall keep proper records of its proceedings and shall be authorized to adopt standards and rules and regulations as it shall deem necessary, pursuant to the Maine Administrative Procedure Act, Title 5, section 8051, et. seq., for the holding of examinations and for carrying out this chapter, and to provide for reciprocity of licensing with similar boards of other states which maintain standards at least equal to this State.

Sec. 592. 32 MRSA § 2355, 2nd ¶, 1st sentence, as repealed and replaced by PL 1973, c. 384, is repealed and the following enacted in its place:

If the board finds that cause exists for suspension or revocation of licenses, it shall file its complaint with the Administrative Court pursuant to Title 5, section 10051 and the licensee shall be granted a right to hearing pursuant to Title 5, section 10003.

Sec. 593. 32 MRSA § 2402, sub-§ 1, 1st sentence, as last repealed and replaced by PL 1973, c. 384, is amended to read:

The board may make such reasonable rules and regulations as it deems suitable, pursuant to the applicable provisions of the Maine Administrative Procedure Act, Title 5, section 8051 et. seq., for the issuance of various types and classes of license to cover the various types of oil burner installations as set forth in section 2301.

Sec. 594. 32 MRSA § 2417, sub-§ 5, first ¶, as enacted by PL 1973, c. 788, § 156, is further amended to read:

The board shall, in accordance with the Maine Administrative Procedure Act, Title 5, section 8051 et seq., make reasonable rules and regulations, not inconsistent with the law, to govern the following:

Sec. 595. 32 MRSA § 2417, sub-§ 5, last ¶, first sentence, as repealed and replaced by PL 1977, c. 458, § 4-B, is amended to read:

The board may make such other reasonable rules and regulations, in accordance with Title 5, section 8051 et seq., as shall be otherwise necessary for the proper performance of its duties under this section, including rules and regulations relating to false, deceptive and misleading advertising.

Sec. 596. 32 MRSA § 2423, sub-§ 4, as enacted by PL 1973, c. 788, § 156, is repealed and the following enacted in its place:

4. **Default.** In case of default in payment of any license renewal fees by any registered optometrist, his certificate shall expire.

Sec. 597. 32 MRSA § 2424, sub-§ 3, as enacted by PL 1973, c. 788, § 156, is repealed and the following enacted in its place:

3. **Revocation.** If the holder of a reciprocity license fails to establish a practice in this State within one year after receipt of his license, the board shall file a complaint with the Administrative Court for revocation of the license.

Sec. 598. 32 MRSA § 2431, as enacted by PL 1973, c. 788, § 156, is repealed and the following enacted in its place:

§ 2431. **Revocation, refusal or suspension of certificate**

The board shall have the authority, after a hearing in accordance with the Maine Administrative Procedure Act, Title 5, section 9051 et seq., to refuse to issue or renew, and the Administrative Court Judge shall have the power to suspend or revoke, any certificate of registration for any one or more of the following causes:

1. **General grounds.** General grounds, as described in section 2432;
2. **Unprofessional conduct.** Unprofessional conduct, as described in section 2433.
3. **Unauthorized associations.** Unauthorized associations, as described in section 2434.

Sec. 599. 32 MRSA § 2591, sub-§ 1, 1st sentence, as enacted by PL 1973, c. 374, § 1, is amended to read:

The following complaints or allegations, after investigation, shall be grounds for convening the board in order to hear the same and allow the accused to respond, and shall be considered grounds for ~~censure, probation~~, suspension or revocation of a license by the Administrative Court or for an order of probation or censure by the board:

Sec. 600. 32 MRSA § 2591, sub-§ 2, as enacted by PL 1973, c. 374, § 1, is repealed.

Sec. 601. 32 MRSA § 2592, as amended by PL 1975, c. 770, § 184, is repealed and the following enacted in its place:

§ 2592. Disciplinary action

1. Investigation of complaints; violations; hearings. The board, on its own motion or upon complaint made to it or its secretary, shall order investigation of all complaints and all allegations of noncompliance with or violations of this chapter relating to physicians and surgeons. Upon completion of investigation by the secretary, the board's legal counsel or its agents, all information shall be presented to the board at a hearing held in accordance with rules adopted by the board. Hearings conducted under this section shall be considered "adjudicatory proceedings" and shall be conducted in accordance with the provisions of Title 5, chapter 375, subchapter IV. The board shall have the authority to issue subpoenas subject to the provisions of Title 5, section 9060.

If the board considers a violation of this chapter has occurred, it shall:

- A. File a complaint in the Administrative Court for suspension or revocation in accordance with Title 4, chapter 25;
- B. Report its findings to the Attorney General for prosecution in the Administrative Court for suspension or revocation in accordance with Title 4, chapter 25;
- C. Place the licensee on probation for a certain period of time during which the licensee shall file periodic affidavits of his practice in accordance with the standards set by the board;
- D. Censure, by letter, the licensee; or
- E. Require the licensee to submit to medical or other appropriate care, counseling or treatment.

A notice of any action taken by the board adverse to the accused practitioner, including reporting its findings to the Attorney General, shall be filed in the office of the Secretary and shall be open to public inspection.

2. Reinstatement of licenses; removal from probation. At any time after a license or certificate has been revoked, suspended or the licensee has been placed on probation as provided, the board may consider that revocation, suspension or probation for any reason deemed by it to be sufficient and may, in its discretion, reinstate the license of that person or remove that person from probationary status, provided that the application of this subsection is done in the best interest of public health and safety.

Sec. 602. 32 MRSA § 2594-D, sub-§ 1, 1st sentence, as enacted by PL 1977, c. 391, is repealed and the following enacted in its place:

The board may seek or request the Attorney General to seek, pursuant to Title 4, chapter 25, the revocation or suspension of the certificate of any physician's assistant whom the board determines:

Sec. 603. 32 MRSA § 2594-D, sub-§ 2, as enacted by PL 1977, c. 391, is amended by adding at the end the following new paragraph to read:

Pursuant to Title 4, section 1153, the Administrative Court shall immediately suspend the certificate of any physician's assistant who can be shown, through the results of the medical or physical examination conducted under this section or through other competent evidence to be unable to render medical services with reasonable skill and safety to patients by reason of mental illness, alcohol intemperance, excessive use of drugs or narcotics, or as a result of any mental or physical condition interfering with the competent rendering of medical services.

Sec. 604. 32 MRSA § 2594-D, sub-§§ 3 and 4, as enacted by PL 1977, c. 391, are repealed.

Sec. 605. 32 MRSA § 2955, is repealed and the following enacted in its place:

§ 2955. Refusal and revocation

The Secretary of State shall have the right to refuse a license when he has reason to believe that the applicant is not of good moral character or not financially responsible. The Administrative Court may for reasonable cause revoke the license of any itinerant photographer.

Sec. 606. 32 MRSA § 3053, is repealed and the following enacted in its place:

§ 3053. Refusal to issue; disciplinary action

1. Refusal to license. The board may refuse to license an applicant convicted of any state or federal crime in accordance with the provisions of Title 5, chapter 341.

2. Investigate complaints. The board on its own motion or upon complaint made to it or its secretary, shall order investigation of all complaints and allegations of non-compliance with or violations of this chapter. Upon completion of investigations by the secretary, the board's legal counsel or its agents, all information shall be presented to the board at a hearing held in accordance with rules adopted by the board. Hearings conducted under this section shall be considered "adjudicatory proceedings" and shall be conducted in accordance with the provisions of Title 5, chapter 375, subchapter IV. The board shall have the authority to issue subpoenas subject to the provisions of Title 5, section 9060.

If the board considers a violation of this chapter has occurred, it shall:

A. File a complaint in the Administrative Court for suspension or revocation in accordance with Title 4, chapter 25;

B. Report its findings to the Attorney General for prosecution in the Administrative Court for suspension or revocation in accordance with Title 4, chapter 25;

C. Place the licensee on probation for a certain period of time during which the licensee shall file periodic affidavits of his practice in accordance with the standards set by the board; or

D. Censure, by letter, the licensee.

A notice of any action taken by the board adverse to the accused practitioner, including reporting its findings to the Attorney General, shall be filed in the office of the secretary and shall be open to public inspection.

3. Suspension or revocation. The following shall be considered grounds for suspension or revocation of a license by the Administrative Court or for an order of probation or censure by the board:

A. Conviction in this State or another state or in a federal court of a felony or of a crime involving moral turpitude;

B. Making a false statement or submitting a forged or false document in application for a license under this chapter;

C. Treating or attempting to treat ailments of human beings except by physical therapy as authorized by this chapter or undertaking to treat except by prescription, direction or supervision of a duly licensed physician or surgeon;

D. Conviction of any crime in connection with the practice of physical therapy;

E. Conduct in the practice of physical therapy detrimental to the public health and safety;

F. Use of drugs or alcohol to an extent that it interferes with the competent practice of physical therapy; or

G. Mental illness of such severity that it interferes with the competent practice of physical therapy.

Sec. 607. 32 MRSA § 3270-C, sub-§ 1, 1st sentence, as enacted by PL 1975, c. 680, § 1, is repealed and the following enacted in its place:

The board may seek or request the Attorney General to seek, pursuant to Title 4, chapter 25, the revocation or suspension of the certificate of any physician's assistant whom the board determines:

Sec. 608. 32 MRSA § 3270-C, sub-§ 2 as enacted by PL 1975, c. 680, § 1, is amended by adding at the end a new paragraph to read:

Pursuant to Title 4, section 1153, the Administrative Court shall immediately suspend the certificate of any physician's assistant who can be shown, through the results of the medical or physical examination conducted under this section or through other competent evidence, to be unable to render medical services with reasonable skill and safety to patients by reason of mental illness, alcohol intemperance, excessive use of drugs or narcotics, or as a result of any mental or physical condition interfering with the competent rendering of medical services.

Sec. 609. 32 MRSA § 3270-C, sub-§§ 3 and 4, as enacted by PL 1975, c. 680, § 1, are repealed.

Sec. 610. 32 MRSA § 3282, 1st sentence, as repealed and replaced by PL 1977, c. 388, § 9, is amended to read:

The following complaints or allegations, after investigation, shall be grounds for convening the board in order to hear the same and allow the accused to respond and shall be considered grounds for suspension or revocation of a license by the Administrative Court or for an order of probation or censure by the board:

Sec. 611. 32 MRSA § 3283, as amended by PL 1977, c. 388, § 10, is repealed and the following enacted in its place:

§ 3283. Disciplinary action

The board on its own motion or upon complaint made to it or its secretary, shall order investigation of all complaints and all allegations of noncompliance with or violations of this chapter relating to physicians and surgeons. Upon completion of investigation by the secretary, the board's legal counsel or their agents, all information shall be presented to the board at a hearing held in accordance with rules adopted by the board. Hearings conducted under this section shall be considered "adjudicatory proceedings" and shall be conducted in accordance with the provisions of Title 5, chapter 375, subchapter IV. The board shall have the authority to issue subpoenas subject to the provisions of Title 5, section 9060.

If the board considers a violation of this chapter has occurred, it shall:

1. **Complaint in Administrative Court.** File a complaint in the Administrative Court for suspension or revocation in accordance with Title 4, chapter 25;

2. **Report to Attorney General.** Report its findings to the Attorney General for prosecution in the Administrative Court for suspension or revocation in accordance with Title 4, chapter 25;

3. **Probation.** Place the licensee on probation for a certain period of time during which the licensee shall file periodic affidavits of his practice in accordance with the standards set by the board; or

4. **Censure.** Censure, by letter, the licensee.

A notice of any action take by the board adverse to the accused practitioner, including reporting its findings to the Attorney General, shall be filed in the office of the secretary and shall be open to public inspection.

Sec. 612. 32 MRSA § 3284, as enacted by PL 1971, c. 591, § 1, is repealed.

Sec. 613. 32 MRSA § 3285, as enacted by PL 1971, c. 591, § 1, is repealed.

Sec. 614. 32 MRSA § 3294, as enacted by PL 1971, c. 591, § 1 is repealed.

Sec. 615. 32 MRSA § 3404, 2nd sentence, as repealed and replaced by PL 1977, c. 469, § 14, is repealed.

Sec. 616. 32 MRSA § 3404, 3rd sentence, as repealed and replaced by PL 1977, c. 469, § 14, is amended to read:

The Administrative Court Judge shall have the power to suspend or revoke the license of any licensed plumber who is found guilty of:

Sec. 617. 32 MRSA § 3605, as enacted by PL 1977, c. 458, § 6-A, is amended to read:

§ 3605. Rules and regulations

The board is authorized to promulgate rules and regulations, **in accordance with the Maine Administrative Procedure Act, Title 5, section 8051 et seq.**, relating to false, deceptive and misleading advertising, except that no such rules or regulations shall be inconsistent with any rules or regulations promulgated pursuant to Title 5, section 207, subsection 2.

Sec. 618. 32 MRSA § 3655, 1st ¶, as repealed and replaced by PL 1977, c. 458, § 7, is amended to read:

Any license to practice podiatry may be suspended or revoked by the Administrative Court Judge under ~~Title 5, chapters 301 to 307~~ **Title 4, section 1151 et seq.**, when, after hearing, it shall be found that the licensee used fraud in procuring his license or has used untruthful or improbable statements to patients or in advertisements; or that the licensee is incompetent to practice podiatry.

Sec. 619. 32 MRSA § 3838, first sentence, as enacted by PL 1967, c. 544, § 82, is amended to read:

The board may not refuse to issue or to renew any license for any cause listed, unless the person accused has been given at least 20 days' notice in writing by registered mail, with return receipt demanded, of the charges against him and a public hearing by the board **pursuant to the Maine Administrative Procedure Act.**

Sec. 620. 32 MRSA § 3991, 1st ¶, as enacted by PL 1967, c. 344, § 1, is repealed and the following enacted in its place:

The board may request the Attorney General seek, pursuant to Title 4, chapter 25, the revocation of any certificate or the suspension of any permit issued under section 3990, or it may censure, by letter, the holder of a permit, for any of the following causes:

Sec. 621. 32 MRSA § 3992, as enacted by PL 1967, c. 344, § 1, is repealed and the following enacted in its place:

§ 3992. Disciplinary action

1. Board; action. The board on its own motion or upon complaint made to it or its secretary, shall order investigation of all complaints and all allegations of noncompliance with or violations of this chapter. Upon completion of investigation by the secretary, the board's legal counsel or its agents, all information shall be presented to the board at a hearing held in accordance with

rules adopted by the board. Hearings conducted under this section shall be considered "adjudicatory proceedings" and shall be conducted in accordance with the provisions of Title 5, chapter 375, subchapter IV. The board shall have the authority to issue subpoenas subject to the provisions of Title 5, section 9060.

If the board considers a violation of this chapter has occurred, it shall:

A. Report its findings to the Attorney General for prosecution in the Administrative Court for suspension or revocation in accordance with Title 4, chapter 25;

B. Place the licensee on probation for a certain period of time during which the licensee shall file periodic affidavits of his practice in accordance with the standards set by the board; or

C. Censure, by letter, the licensee.

A notice of any action taken by the board adverse to the accused practitioner, including reporting its findings to the Attorney General, shall be filed in the office of the secretary and shall be open to public inspection.

2. **Board; consideration.** At any time after a license or certificate has been revoked, suspended or the licensee has been placed on probation as provided, the board may consider the revocation, suspension or probation for any reason deemed by it to be sufficient and may in its discretion reinstate the license of the person, provided the application of this subsection is done in the best interest of the public.

Sec. 622. 32 MRSA § 3993, as enacted by PL 1967, c. 344, § 1, is repealed:

Sec. 623. 32 MRSA § 4051-B, as enacted by PL 1977, c. 172, is amended to read:

§ 4051-B. Rules and regulations

The commission shall make reasonable rules and regulations, subject to the Maine Administrative Procedure Act and not inconsistent with law, to govern the following:

1. **Procedures in proceedings.** Procedures in proceedings before the commission including all hearings and the filing and processing of complaints subject to the requirements of ~~Title 5, chapter 309~~ **Maine Administrative Procedure Act**;

2. **Practices.** Practices of real estate brokers and salesmen consistent with standards set forth in this chapter; and

3. **Qualifications.** Qualifications and procedures for the approval and operation of real estate schools.

The commission may also ~~make adopt~~ such other reasonable rules and regulations, pursuant to the applicable provisions of the **Maine Administrative Procedure Act**, Title 5, sections 8051 to 8058, as shall be necessary for the performance of its duties under this chapter.

The proposed rules and regulations shall be printed in a newsletter sent to all licensees together with notice of the date, time and place for the hearing on the rules and regulations. ~~In addition, public notice of the hearing, to receive comments on the proposed rules and regulations, shall be made in the state newspaper and one other newspaper with statewide circulation twice, at least 10 days prior to the hearing.~~

Sec. 624. 32 MRSA § 4056, sub-§ 3, 1st sentence, as enacted by PL 1977, c. 365, is amended to read:

After hearing, the Administrative Court Judge as designated in ~~Title 5, Part 6~~ **Title 4, chapter 25**, shall have the power to suspend or revoke any license issued under this chapter at any time when:

Sec. 625. 32 MRSA § 4101, as last amended by PL 1975, c. 767, § 61, is further amended to read:

§ 4101. Rules and regulations

The commission shall make and enforce rules and regulations connected with the application for any license as shall be deemed necessary to administer and enforce this chapter, subject to the provisions of the Maine Administrative Code Procedure Act, Title 5, ~~Part 6~~ **section 8051 et seq.**

Sec. 626. 32 MRSA § 4153, 3rd sentence, as amended by PL 1965, c. 123, is further amended to read:

Said license shall run from January 1st ~~to and~~ **expire in a manner consistent with the provisions of the Maine Administrative Procedure Act as to license expiration or on December 31st of each year, whichever is later**, unless sooner revoked and shall be renewed annually thereafter.

Sec. 627. 32 MRSA § 4154 is amended to read:

§ 4154. Repeal, revocation or refusal; appeals

The Commissioner of Agriculture shall, ~~in a manner consistent with the Administrative Procedure Act, have the power to refuse to issue and to refuse to renew, and the Administrative Court, in a manner consistent with the Maine Administrative Procedure Act, shall have the power to revoke or to suspend any license issued under this chapter whenever he determines that any of the provisions of said chapter or rules or regulations promulgated or established thereunder have been violated. Any person, firm, corporation, association or society whose license has been so revoked or suspended shall discontinue the packing of sardines until this chapter has been complied with and a new license issued or the suspension removed. The commissioner~~ **Administrative Court** may revoke or suspend such license temporarily until there is a compliance with this chapter or permanently for the unexpired period of such license. ~~On refusal to issue or to renew and before revoking or suspending any license, the commissioner shall give written notice to the applicant or licensee affected stating that he contemplates refusing to issue or renew said license or the revocation or suspension of the same and giving his reasons therefor. Such notice shall appoint a time of hearing before said commissioner. On the date of hearing, the applicant or licensee may present evidence to the commissioner, and after hearing all the testimony, the said commissioner shall decide whether or not the~~

~~license shall be issued, renewed, revoked or suspended. Any licensee who feels aggrieved or dissatisfied with the decision of the commissioner may appeal from said decision within 10 days to the Superior Court.~~

Sec. 628. 32 MRSA § 4155, 1st ¶, 2nd sentence, is amended to read:

He shall, in a manner consistent with the Maine Administrative Procedure Act, make uniform rules and regulations, which shall have the effect of law, for carrying out this chapter and for insuring that sardines are packed in a sanitary environment and manner and for the sanitary storage and conditions of packing media, and may fix standards of quality in addition to standards fixed by law.

Sec. 629. 32 MRSA § 4155, 5th ¶, is amended by adding at the end a new sentence to read:

Orders for detention or embargo issued under this section shall not be considered to be licensing or an adjudicatory proceeding, as those terms are defined by the Maine Administrative Procedure Act.

Sec. 630. 32 MRSA § 4156, 2nd sentence, is amended to read:

The inspection fee provided for may be increased by the Commissioner of Agriculture, in a manner consistent with the rule-making provisions of the Maine Administrative Procedure Act, after consultation with the Sardine Industry Advisory Board to an amount not to exceed 8¢ per case, in the event the fee of 3¢ per case is not adequate to cover the cost of such inspection, but such increased fee shall be reasonable and shall cover as nearly as may be possible the cost of such inspection.

Sec. 631. 32 MRSA § 4157, 8th ¶, is amended by adding at the end a new sentence to read:

Orders for detention or embargo issued under this section shall not be considered to be licensing or an adjudicatory proceeding, as those terms are defined by the Maine Administrative Procedure Act.

Sec. 632. 32 MRSA § 4157, 9th ¶, 1st and 3rd sentences, are amended to read:

The commissioner may, in a manner consistent with the rule-making provisions of the Maine Administrative Procedure Act, establish official grades for sardines packed within the State and may from time to time modify such grades.

The commissioner may, in a manner consistent with the rule-making provisions of the Maine Administrative Procedure Act, establish and promulgate regulations for the marking, branding or labeling of sardines, and the use of grades established by him.

Sec. 633. 32 MRSA § 4157, 10th ¶, 2nd sentence, is amended to read:

Notice of such hearing shall be provided in a manner consistent with the rule-making provisions of the Maine Administrative Procedure Act and, in any case, shall be sent by registered mail to holders of licenses issued under section 4153 ~~and notice of such hearings shall be advertised for 3 successive weeks prior thereto in a newspaper or newspapers of general circulation within the county where the hearing is to be held.~~

Sec. 634. 32 MRSA § 4157-A, 3rd ¶, 1st sentence, as enacted by PL 1965, c. 332, § 3, is amended to read:

The commissioner shall detain or place an embargo upon such sardines by marking or tagging same; orders for detention or embargo issued under this section shall not be considered to be licensing or an adjudicatory proceeding as those terms are defined by the Maine Administrative Procedure Act.

Sec. 635. 32 MRSA § 4175, 2nd and 3rd ¶¶, as amended by PL 1971, c. 618, § 12, are amended to read:

Certificates shall continue in effect unless revoked by the ~~board~~ Administrative Court.

The ~~board~~ Administrative Court may revoke the certificate of an operator, following a hearing in accordance with Title 5, ~~chapters 301 to 307~~, 4, chapter 25, when it is found that the operator has practiced fraud or deception; that reasonable care, judgment or the application of his knowledge or ability was not used in the performance of his duties; or that the operator is incompetent or unable properly to perform his duties.

Sec. 636. 32 MRSA § 4452, 1st ¶, as amended by PL 1973, c. 460, § 18, is further amended to read:

The ~~Director of the Bureau of Forestry~~ may at any time for sufficient cause after notice and hearing Administrative Court, acting pursuant to Title 4, chapter 25, may suspend or revoke any registration for a period of not more than 2 years for any of the following violations of this chapter:

Sec. 637. 32 MRSA § 4452, next to the last ¶, as last amended by PL 1973, c. 460, § 18, is repealed.

Sec. 638. 32 MRSA § 4859, sub-§ 2, as enacted by PL 1975, c. 477, § 4, is repealed and the following enacted in its place:

2. License; register; set standards. The power to license and register and to set standards for practice for veterinarians practicing veterinary medicine in this State and for the performance of duties by animal technicians.

Sec. 639. 32 MRSA § 4859, sub-§ 3, as enacted by PL 1975, c. 477, § 4, is amended by adding at the end the following new sentence to read:

These rules and regulations shall be made in accordance with the purpose and intent of the law and the standards set forth in this chapter and shall include, but are not limited to, rules and regulations concerning misconduct, fraud, advertising, standards of competency, personal conduct, standards of sanitation for the operation of veterinary hospitals, associations with other veterinarians and unprofessional conduct.

Sec. 640. 32 MRSA § 4861, sub-§ 3, last ¶, as enacted by PL 1975, c. 477, § 4, is repealed.

Sec. 641. 32 MRSA § 4864, 1st ¶, as enacted by PL 1975, c. 477, § 4, is repealed and the following enacted in its place:

The board on its own motion or upon complaint made to it, may hold a hearing to determine whether or not violations of this chapter or the standards for the practice of veterinary medicine adopted by the board have been violated. Hearings conducted under this section shall be considered "adjudicatory proceedings" and shall be conducted in accordance with the provisions of Title 5, chapter 375, subchapter IV. The board shall have authority to issue subpoenas subject to the provisions of Title 5, section 9060. If the board considers a licensee has committed any of the acts set forth in this section, it shall either report its findings to the Attorney General for prosecution in the Administrative Court for suspension or revocation in accordance with Title 4, chapter 25, or place the licensee on probation for a certain period of time during which the licensee shall file periodic affidavits of his practice in accordance with the standards set by the board, or censure, by letter, the licensee. The following acts are grounds for disciplinary action by the board or for revocation or suspension by the Administrative Court:

Sec. 642. 32 MRSA § 4865-A, 1st ¶, as enacted by PL 1975, c. 477, § 4, is repealed and the following enacted in its place:

The board on its own motion or upon complaint made to it, may hold a hearing held in accordance with rules adopted by the board to determine whether or not violations of this chapter relating to animal technicians have been violated. Hearings conducted under this section shall be considered "adjudicatory proceedings" and shall be conducted in accordance with the provisions of Title 5, chapter 375, subchapter IV. The board shall have authority to issue subpoenas subject to the provisions of Title 5, section 9060. If the board considers an animal technician has committed any of the acts set forth in this section, it shall either report its findings to the Attorney General for prosecution in the Administrative Court for suspension or revocation of his registration in accordance with Title 4, chapter 25, or place the licensee on probation for a certain period of time during which the licensee shall file periodic affidavits of his duties in accordance with the standards set by the board, or censure, by letter, the animal technician. The following acts are grounds for disciplinary action by the board or for revocation or suspension by the Administrative Court:

Sec. 643. 32 MRSA § 4867, as enacted by PL 1975, c. 477, § 4, is repealed.

Sec. 644. 32 MRSA § 4868, as enacted by PL 1975, c. 477, § 4 is repealed.

Sec. 645. 32 MRSA § 4908, 1st ¶, 1st sentence, as repealed and replaced by PL 1975, c. 760, § 10-A, is amended to read:

The board may adopt, amend or repeal rules and regulations, pursuant to Title 5, chapter 375, subchapter II, to carry out this chapter, including, but not limited to, rules and regulations relating to professional conduct in accordance with the policy of this chapter.

Sec. 646. 32 MRSA § 4909, last ¶, last sentence, as enacted by PL 1973, c. 558, § 1, is amended to read:

Within 30 days after receipt of notice, such applicant may make written request to the board for a hearing which, if granted, shall be conducted ~~under the Administrative Hearing Code~~ pursuant to Title 5, chapter 375, subchapter IV.

Sec. 647. 32 MRSA § 4913, sub-§ 1, 2nd and 3rd sentences, as enacted by PL 1975, c. 760, § 17, are repealed and the following enacted in their place:

The board shall have the authority pursuant to Title 5, section 10004 to suspend or revoke a license issued by it. In addition, the board may, after affording a hearing pursuant to Title 5, chapter 375, subchapter IV, refuse to renew the license, or the Administrative Court may, pursuant to Title 4, chapter 25, suspend or revoke the license of any registrant who is found guilty of:

Sec. 648. 32 MRSA § 4913, sub-§§ 3 and 4, as enacted by PL 1975, c. 760, § 17, are repealed.

Sec. 649. 32 MRSA § 5009, as enacted by PL 1975, c. 490, is amended to read:

§ 5009. Bylaws and procedures

The board shall have the power, pursuant to Title 5, chapter 375, subchapter II, to make and promulgate all bylaws and rules reasonably necessary for the proper performance of its duties and the regulations of the proceedings brought before it so long as such bylaws and rules do not conflict with the Constitution and statutes of this State.

Sec. 650. 32 MRSA § 5018, 1st ¶, as enacted by PL 1975, c. 490, is repealed and the following enacted in its place:

The board shall have the power pursuant to Title 5, section 10004 to revoke or suspend the license of a professional forester. In addition, the board may, after affording a hearing pursuant to Title 5, chapter 375, subchapter IV, refuse to renew the license, or the Administrative Court may, pursuant to Title 4, chapter 25, revoke or suspend the license, of a professional forester who has been found guilty of any deceit, misconduct, misrepresentation, fraud, incompetence or gross negligence in his practice, or has been guilty of any fraud or deceit in obtaining his registration or certification, or aids or abets any person alleged to have been defrauded in the violation of any provisions of this chapter or fails in any material respect to comply with the provisions of this chapter.

Sec. 651. 32 MRSA § 5018, 4th ¶, as enacted by PL 1975, c. 490, is repealed.

Sec. 652. 32 MRSA § 5018, 5th ¶, as enacted by PL 1975, c. 490, is repealed.

Sec. 653. 32 MRSA § 5018, 6th ¶, as amended by PL 1975, c. 770, § 195, is repealed.

Sec. 654. 32 MRSA § 5018, 7th ¶, as enacted by PL 1975, c. 490, is repealed and the following enacted in its place:

Any person aggrieved by final board action shall be entitled to judicial review thereof in the Superior Court in the manner provided in Title 5, chapter 375, subchapter VII.

Sec. 655. 32 MRSA § 6013, sub-§ 2, 4th and 5th sentences, as enacted by PL 1975, c. 705, § 4, are repealed and the following enacted in their place:

Thereafter, the board, after a public hearing, may adopt rules and regulations pursuant to the applicable provisions of the Maine Administrative Procedure Act, Title 5, section 8051 et. seq.

Sec. 656. 32 MRSA § 6026, 2nd sentence, as enacted by PL 1975, c. 705, § 4, is repealed and the following enacted in its place:

The board shall have the authority, after hearing, to refuse to issue or renew a license. If the board finds that cause exists for suspension or revocation of licenses, it shall file its complaint with the Administrative Court.

Sec. 657. 32 MRSA § 6217, as enacted by PL 1977, c. 466, § 2, is repealed.

Sec. 658. 32 MRSA § 6217-A is enacted to read:

§ 6217-A. Suspension and revocation

The board shall have the power to suspend or revoke the certificate of provisional registration or certificate of registration of a substance abuse counselor for any criminal conviction which, if committed within this State, would constitute a Class A, B or C crime under the laws of Maine and may proceed by complaint in the Administrative Court seeking suspension or revocation of the certificate of provisional registration or certificate of registration of a substance abuse counselor for any of the following reasons:

1. Fraud or deceit. The practice of fraud or deceit in obtaining a certificate of provisional registration or a certificate of registration under this chapter or in connection with services rendered as a substance abuse counselor;

2. Active abuse. Active abuse of alcohol, or any other drug, which in the judgment of the board is detrimental to the performance or competency of a substance abuse counselor;

3. Mental incompetency. A legal finding of mental incompetency;

4. Aiding and abetting misrepresentation. Aiding or abetting a person, not duly certified as a provisionally registered or registered substance abuse counselor, in representing oneself as a provisionally registered or registered substance abuse counselor in this State;

5. Unprofessional conduct or negligence. Any gross negligence, incompetency or misconduct in the performance of substance abuse services; or

6. Valid cause. Any other valid cause.

Sec. 659. 32 MRSA § 6218, as enacted by PL 1977, c. 466, § 2, is repealed and the following enacted in its place:

§ 6218. Hearing on refusal to issue or renew; issuance after refusal, suspension or revocation

The board may refuse to issue or to renew any certificate of provisional registration or certificate of registration after written notice has been sent by

registered mail to the person's last known address stating the reasons for denial, at least 10 working days prior to any action taken by the board. The written notice shall inform the person of his right to request a hearing at which he can appeal the decision of the board. That hearing shall be held in accordance with the Maine Administrative Procedure Act, Title 5, section 9051 et seq. If, after such a hearing, at least 5 members of the board vote in favor of denial, the denial shall remain in effect pursuant to this section.

The board, for reasons it may deem sufficient, may issue or reissue a certificate of provisional registration or certificate of registration to any person whose certificate of provisional registration or certificate of registration has been denied, suspended or revoked, provided at least 5 members of the board vote in favor of that issuance.

Sec. 660. 34 MRSA § 92, 2nd sentence is repealed and the following enacted in its place:

These rules and regulations shall be filed and published pursuant to the provisions now contained in the Maine Administrative Procedure Act, Title 5, section 8056. The Secretary of State shall forward a copy thereof attested under the Great Seal of the State to the District Court in the area of jurisdiction.

Sec. 661. 34 MRSA § 536, first ¶, as enacted by P&SL 1975, c. 90, § 1, is amended by adding at the end the following new sentence to read:

Notice of the public hearing shall be given pursuant to the provisions contained in the Maine Administrative Procedure Act, Title 5, section 8053.

Sec. 662. 34 MRSA § 2619, sub-§ 2, last sentence, as enacted by PL 1977, c. 502, § 4, is amended to read:

~~Notice of the public hearing shall be published once, within 14 to 30 days before the hearing, in the state paper and in other newspapers or journals of general circulation adequate to provide reasonable notice to the public affected thereby given pursuant to the Maine Administrative Procedure Act, Title 5, section 8053.~~

Sec. 663. 34 MRSA § 2652, sub-§ 3, ¶ C, last sentence, as enacted by PL 1977, c. 502, § 4, is amended to read:

~~Notice of any public hearing shall be published at least once, within 14 to 30 days before the hearing, in the state paper and in other newspapers or journals of general circulation adequate to provide reasonable notice to the public affected thereby given pursuant to the Maine Administrative Procedure Act, Title 5, section 8053.~~

Sec. 664. 35 MRSA § 293 is repealed and the following enacted in its place:

§ 293. Hearings

The commission shall give notice of the time and place when and where the formal public hearing will be held, as provided in Title 5, section 9052. The commission shall have authority to issue subpoenas to require the attendance and testimony of witnesses and the production of any evidence relating to any fact at issue in the hearing. Any party to a hearing shall be entitled to be heard and to

have the subpoenas issued by the commission in the manner described in Title 5, section 9060.

Sec. 665. 35 MRSA § 603, 2nd sentence is amended to read:

The commission shall, on presentation of such petition, appoint a day for a hearing thereon, ~~and the petitioners shall give such notice thereof as said commission deems reasonable and proper~~ and shall give notice of the time and place where the public hearing will be held as provided in Title 5, section 9052, in order that all persons interested may have an opportunity to appear and be heard thereon.

Sec. 666. 35 MRSA § 606, 2nd sentence is amended to read:

The commission shall, on presentation of such petitioner, appoint a day for a hearing thereon, ~~and the petitioners shall give such notice as said commission deems reasonable and proper~~ and shall give notice of the time and place where the public hearing will be held as provided in Title 5, section 9052, in order that all persons interested may have an opportunity to appear and object.

Sec. 667. 35 MRSA § 781, first sentence is amended to read:

The commission, upon petition of responsible parties, representing that public convenience and necessity require the erection and maintenance of a station for freight and passengers or for passengers alone on the line of any railroad, ~~after 14 days' notice by copy of said petition upon such corporation and by publishing said petition, with the order of said commission thereon, in such public newspaper as is designated in said order, 2 weeks successively, the last publication to be prior to the time fixed for said hearing~~ after notice as provided in Title 5, section 9052, shall hear the parties and determine whether the prayer of the petitioners shall be granted.

Sec. 668. 35 MRSA § 1508, is amended to read:

§ 1508. Revocation of certificate

The commission shall have the right to ~~revoke~~ a file a complaint in the Administrative Court seeking revocation of the certificate of any person, firm or corporation who shall fail to comply with the rules and regulations as provided in section 1503.

Sec. 669. 35 MRSA § 1558, 5th sentence is amended to read:

The commission shall have the power and authority to ~~suspend, cancel or~~ refuse to renew any certificate or permit, issued under this chapter and chapter 95 for any willful or continued violations of said chapters or of any rules or regulations promulgated by the commission pursuant to the authority thereof.

Sec. 670. 35 MRSA § 1558, 7th sentence, is amended to read:

The commission shall have authority in the event ~~it shall suspend or cancel a certificate or permit, or in event~~ the holder of a certificate or of a permit shall fail to obey a cease and desist order issued by the commission, to require the return to the commission of any plates issued by it to such holder.

Sec. 671. 35 MRSA § 1558, as last amended by PL 1969, c. 50, is further amended by adding at the end the following 2 new sentences to read:

The exercise by the commission of its authority to issue cease and desist orders is not and shall not be deemed an adjudicatory proceeding under the Maine Administrative Procedure Act. The commission shall have the right to file a complaint in the Administrative Court seeking revocation or suspension of a certificate or permit.

Sec. 672. 35 MRSA § 1563, sub-§ 1, 2nd ¶, is amended to read:

If any such person, after being ordered to appear in court to answer any violation of chapters 91 to 97, fails to appear in court on the day specified, either in person or by counsel, the court shall notify the Secretary of State, who shall, pursuant to Title 29, chapter 17, at the expiration of 7 10 days after mailing such person ~~by registered mail~~, postage prepaid, a notice of his intention to do so, suspend or revoke his license to operate trucks, tractors or semitrailers, if licensed in this State, or suspend or revoke his right to operate trucks, tractors or semitrailers in this State, if a nonresident and not licensed to operate motor vehicles in this State, and suspend or annul the registration of the motor vehicle operated by such person so ordered to appear, if said motor vehicle is registered in this State, and such suspension, annulment or revocation shall continue in effect until such person so appears in court as ordered.

Sec. 673. 35 MRSA § 1563, sub-§ 5, first 4 sentences are repealed and the following enacted in their place:

In addition to any other penalty imposed for a violation of subsections 3 and 4, the court hearing the case may direct the Secretary of State to suspend the operator's license of any such driver or other employee for a term not exceeding 30 days, and in that case the license shall at once be surrendered forthwith by the holder thereof to the Secretary of State. The court hearing the case shall forward to the Secretary of State a report of that case and any recommendations as to further suspension, revocation or restoration of that license deemed necessary by the court. Refusal to surrender that license on demand by the Secretary of State shall be a violation of this chapter and chapter 95. Blanks for the report and recommendations shall be furnished to the courts by the Secretary of State. The Secretary of State may, pursuant to Title 29, chapter 17, and after hearing, suspend that license for a further time, revoke the same or may restore the same at the expiration of the time for which the same was suspended.

Sec. 674. 35 MRSA § 1563, sub-§ 6, is amended to read:

6. Suspension of license on appeal. In case any person convicted of any violation of this chapter and chapter 95 or of any rule, regulation or order of the commission, made or issued pursuant thereto, shall appeal, the operator's license of such person may be suspended by the Secretary of State, pursuant to Title 29, chapter 17, while said appeal is pending, if requested by the commission.

Sec. 675. 35 MRSA § 1563, sub-§ 7 is amended to read:

7. Willful and continued violation. In case of any willful and continued violation by any holder of a certificate or a permit, or by any person, firm or corporation required by this chapter and chapter 95 to have such a certificate or permit, of any

provision of said chapters or of any rule, regulation or order of the commission made or issued pursuant thereto, in addition to any penalty imposed by the commission or by any court of law, the Secretary of State, at the request of the commission, may suspend, pursuant to Title 29, chapter 17, the certificate of registration of any motor vehicle or vehicles owned or operated by said violator, and after notice to said violator as provided in Title 29, section 54, and to the commission, and otherwise after hearing thereon, pursuant to title 29, chapter 17, may suspend such registration for a definite time or may annul or restore the same. Any person aggrieved by the decision of the Secretary of State in suspending or annulling any such certificate of registration may appeal to the Superior Court in the manner provided by Title 29, section 2242, but pending said appeal the decision of the Secretary of State shall remain in full force.

Sec. 675-A. 35 MRS § 1566 is enacted to read:

§ 1566. Vehicle identification device and permit

The commission is authorized to issue a vehicle identification device and permit for each vehicle as a condition to operation on the highways of this State to holders of certificates issued pursuant to section 1505, interstate permits issued pursuant to section 1502, certificates issued pursuant to section 1552, contract carrier permits issued pursuant to section 1555, interstate permits issued pursuant to section 1556, or special or charter bus service licenses issued pursuant to section 1643. The commission may suspend the vehicle permits for violation of state statutes or commission rules and regulations.

Sec. 675-B. 35 MRS § 1643, 8th sentence is repealed and the following enacted in its place:

The commission shall have the right to file a complaint in the Administrative Court seeking the suspension or revocation of any license issued.

Sec. 676. 36 MRS c. 7 is enacted to read:

CHAPTER 7
UNIFORM ADMINISTRATIVE PROVISIONS

§ 151. Review of assessments and revocations

A taxpayer aggrieved by an assessment under this Title of any tax other than property tax may petition, within 15 days after receipt of notice of the assessment, for reconsideration of the assessment by the State Tax Assessor. The petition shall set forth the grounds on which the assessment is protested. For purposes of income taxation, the word "assessment" in this section shall have the same meaning as the term "proposed assessment" in the income tax law. A registrant aggrieved by a decision to revoke a registration certificate required under this Title may petition, within 15 days after receipt of notice of the revocation, for reconsideration of the revocation.

If a petition for reconsideration is filed within the specified time period, the State Tax Assessor shall reconsider the assessment or revocation, as the case may be. If the taxpayer or registrant has so requested in his petition, the State Tax Assessor shall hold an informal conference with the taxpayer or registrant to receive additional information and to hear argument regarding the protested assessment or revocation and shall give the taxpayer or registrant 10 days' notice

of the time and place thereof. The reconsideration, with or without an informal conference, shall not be deemed to be an "adjudicatory proceeding" within the meaning of that term in the Maine Administrative Procedure Act.

The taxpayer or registrant may petition for judicial review of a decision on reconsideration in accordance with the Maine Administrative Procedure Act, except that the absence of a record shall be resolved in all appeals exclusively by a hearing de novo on review.

Sec. 677. 36 MRSA § 292, 4th ¶ from the end, first sentence, as last repealed and replaced by PL 1975, c. 765, § 4, is amended to read:

Any party aggrieved by the decision of the board may appeal pursuant to the Maine ~~Rules of Civil Procedure, Rule 80B~~ Administrative Procedure Act.

Sec. 678. 36 MRSA § 576, next to the last ¶, as last amended by PL 1977, c. 549, § 4, is further amended to read:

The State Tax Assessor shall hold one or more public hearings, ~~with such reasonable notice to the public as he shall determine~~ upon the foregoing matters to be determined, shall provide for a transcript thereof, and shall issue ~~an order a rule or orders~~ rules stating said determinations on or before October 1, 1978 and on or before October 1st biennially thereafter. ~~The State Tax Assessor shall give public notice of such orders by certifying a copy of such orders to the Secretary of State and in such other manner as he determines reasonable.~~

Sec. 679. 36 MRSA § 576, last ¶, as amended by PL 1977, c. 509, § 5, is further amended to read:

The State Tax Assessor shall ~~place such orders on file in the Bureau of Taxation and shall~~ certify and transmit such ~~orders~~ rules to the municipal assessors of each municipality with respect to forest land therein on or before April 1st of each year.

Sec. 680. 36 MRSA § 576-B, first ¶, first sentence, as enacted by PL 1977, c. 549, § 5, is amended to read:

By February 1, 1978 and every 4th year thereafter, the State Tax Assessor shall determine ~~and prescribe by rule~~ the percentage factor by which the growth rates set by him pursuant to section 576 shall be reduced to reflect the growth which can be extracted on a sustained basis.

Sec. 681. 36 MRSA § 576-B, first ¶, 2nd sentence, as enacted by PL 1977, c. 549, § 5, is repealed.

Sec. 682. 36 MRSA § 576-B, 2nd ¶, first sentence, as enacted by PL 1977, c. 549, § 5, is amended to read:

By February 1st of each even-numbered year, the State Tax Assessor shall determine ~~and prescribe by rule~~ the capitalization rate which shall be applied to the value of the annual net wood production pursuant to section 576.

Sec. 683. 36 MRSA § 576-B, 2nd ¶, 2nd sentence, as enacted by PL 1977, c. 549, § 5, is repealed.

Sec. 684. 36 MRSA § 576-B, 3rd ¶, last sentence, as enacted by PL 1977, c. 549, § 5, is amended to read:

~~These hearings shall be held with reasonable notice to the public and a transcript shall be made of the proceedings.~~

Sec. 685. 36 MRSA § 576-B, last ¶, as enacted by PL 1977, c. 549, § 5, is amended to read:

Any person aggrieved by a determination of the State Tax Assessor under this section may appeal ~~it according to the procedures established in section 502 in accordance with the Maine Administrative Procedure Act.~~ A person aggrieved hereunder shall be any person with a legal interest in the land subject to the determination, any municipality in which the land subject to the determination lies and the Attorney General, upon the written petition of 10 residents of the State, if he sees fit to intervene or appeal, in which event the Attorney General shall be authorized to employ independent counsel to represent the petitioners if he deems it appropriate to do so.

Sec. 686. 36 MRSA § 582, as amended by PL 1973, c. 308, §§ 14, 15, 16 and 17, is repealed.

Sec. 687. 36 MRSA § 583, as last amended by PL 1977, c. 509, §§ 10, 11 and 12 and c. 549, §§ 6 and 7, is repealed and the following enacted in its place:

§ 583. Abatement

Assessments made under this subchapter are subject to the abatement procedures provided by section 841, except that appeal under section 843 from abatement decisions shall be to the Land Classification Appeals Board rather than to either a local board of assessment review or the State Board of Assessment Review.

Sec. 688. 36 MRSA § 841, sub-§ 1, last ¶, as enacted by PL 1977, c. 509, § 16, is amended to read:

Appeals from the decision of the assessor or assessors shall be taken in accordance with sections 843, subsection 1, and ~~844 and 845.~~

Sec. 689. 36 MRSA § 841, sub-§ 2, first ¶, last sentence, as enacted by PL 1977, c. 509, § 16, is amended to read:

Appeals from the decision of the chief assessor shall be taken in accordance with ~~sections~~ section 843, subsection 2 and ~~845.~~

Sec. 690. 36 MRSA § 841, sub-§ 2, first ¶, as enacted by PL 1977, c. 509, § 16, is amended by adding at the end the following new sentence:

The decision shall not be deemed "final agency action" under the Maine Administrative Procedure Act.

Sec. 691. 36 MRSA § 841, sub-§ 3, last ¶, as enacted by PL 1977, c. 509, § 16, is amended to read:

Appeals from the decision of the State Tax Assessor shall be taken in accordance with ~~sections~~ section 843, subsection 2 and ~~845~~. The decision shall not be deemed "final agency action" under the Maine Administrative Procedure Act.

Sec. 692. 36 MRSA § 841, sub-§ 5, last ¶, as enacted by PL 1977, c. 509, § 16, is amended to read:

Appeals from the decisions of the municipal officers shall be taken in accordance with section 843, subsection 2 and ~~section 845~~.

Sec. 693. 36 MRSA § 843, sub-§ 2, 2nd sentence, as repealed and replaced by PL 1977, c. 509, § 18, is repealed and the following enacted in its place:

The decision of the State Board of Assessment Review shall be deemed final agency action by that board under the Maine Administrative Procedure Act.

Sec. 694. 36 MRSA § 845, as amended by PL 1977, c. 509, § 20, is repealed.

Sec. 695. 36 MRSA § 846, as amended by PL 1973, c. 645, § 8, is repealed.

Sec. 696. 36 MRSA § 847 is repealed.

Sec. 697. 36 MRSA § 848, as last amended by PL 1977, c. 509, § 21, is repealed.

Sec. 698. 36 MRSA § 849, first, 2nd, 3rd and 5th ¶¶'s, as repealed and replaced by PL 1977, c. 509, § 23, are repealed.

Sec. 699. 36 MRSA § 1118, as amended by PL 1977, c. 549, § 9, is repealed and the following enacted in its place:

§ 1118. Abatement

Assessments made under this subchapter are subject to the abatement procedures provided by section 841, except that appeal under section 843 from abatement decisions shall be to the Land Classification Appeals Board rather than to either a local board of assessment review or the State Board of Assessment Review.

Sec. 700. 36 MRSA § 1754, next to the last ¶ is amended by adding at the end the following new sentence to read:

A registration certificate shall not be deemed to be a "license" within the meaning of that term in the Maine Administrative Procedure Act.

Sec. 701. 36 MRSA § 1754, last ¶ last sentence is amended to read:

In case of a vendor who has no fixed place of business and does not sell from a vehicle, the application for ~~license seller's certificate~~ shall nevertheless set forth a place to which any notice or other communication authorized by chapters 211 to 225 may be sent.

Sec. 702. 36 MRSA § 1757 is repealed and the following enacted in its place:

§ 1757. Revocation of registration

The State Tax Assessor may revoke the registration certificate of a registrant who fails to file, within 15 days after receipt of notice, a bond or deposit required under section 1759 and may revoke for cause a registration certificate issued under section 1756. The revocation shall be reviewable in accordance with section 151.

Sec. 703. 36 MRSA § 1923, as enacted by PL 1977, c. 316, § 2, is repealed and the following enacted in its place:

§ 1923. Revocation of registration

Upon the expiration of the 5-day period designated in section 1922, if any retailer fails to make the deposits required or, after making the deposits, withdraws any portion thereof, the State Tax Assessor may revoke any registration certificate which has been issued to the retailer. The revocation shall be reviewable in accordance with section 151.

Sec. 704. 36 MRSA §§ 1957 and 1958 are repealed.

Sec. 705. 36 MRSA § 1959, first sentence is amended to read:

If any amount required to be paid to the State under chapters 211 to 225, is not paid when due, and ~~has become final as to law and fact under section 1957 or 1958~~ no further review of the assessment is available under section 151, the State Tax Assessor may, within 3 years after ~~the amount has become final administrative and judicial review has been exhausted~~, notify the person who according to the records of the State Tax Assessor is liable, specifying the amount required to be paid and interest and penalty due, and demanding payment within 12 days after the sending of such notice.

Sec. 706. 36 MRSA § 1962, 3rd ¶, as repealed and replaced by PL 1977, c. 165, § 5 is amended to read:

The warrants may be in substantially the following form:

“..... ss.— To the Sheriffs of
(Name of County)
our respective counties or either of their Deputies, or any Agent of the State Tax Assessor authorized to collect taxes imposed under the Sales and Use Tax Law,

“Whereas, the State Tax Assessor has certified, that, pursuant to the terms of the Revised Statutes, Title 36, ~~sections 1957 or 1958, or both section 151~~, the amount of certain sales or use taxes, assessed againstof
....., with interest and penalty, has become final ~~as to law and fact~~ because of exhaustion of administrative and judicial review, to wit:

Sales or Use Tax \$.....
Penalty
Interest

Total \$.....

and \$.....costs of this proceeding.....
and the same is unpaid \$.....;

“We command you, therefore, that of the money, goods and chattels of said debtor, in your precinct, or the value thereof in money, you cause to be paid and satisfied unto the State of Maine said total and costs, and.....cents more for this warrant, together with your fees.

“Hereof fail not, and make due return of this warrant, with your doings thereon, unto my office within one year from the date hereof.

.....
Clerk of Courts, County of
Date.....”

Sec. 707. 36 MRSA § 2011, first ¶, last sentence is amended to read:

Nothing shall authorize the taxpayer, or anyone acting in his behalf, to apply for a refund of any amount assessed when ~~the assessment has become final as provided in section 1957~~ administrative and judicial review under section 151 has been completed.

Sec. 708. 36 MRSA § 2627 is repealed.

Sec. 709. 36 MRSA § 2968 is repealed.

Sec. 709-A. 36 MRSA § 3523, as amended by PL 1969, c. 437, § 5, is repealed and the following enacted in its place:

§ 3523. Value of property determined; appeal.

The value of the property upon which the tax is computed shall be determined by the State Tax Assessor and certified by him to the persons by whom the tax is payable. Any party interested in the succession or the executor, administrator or trustee may appeal from the decision of the State Tax Assessor in accordance with section 151.

Sec. 710. 36 MRSA § 3801, as amended by PL 1969, c. 437, § 6, is repealed.

Sec. 711. 36 MRSA § 4305 is repealed and the following enacted in its place:

§ 4305. Certification

Every processor or shipper of blueberries shall, each year before processing or shipping blueberries, obtain certification from the State Tax Assessor. The State Tax Assessor shall provide the applications for the certification, which shall contain the name under which the processor or shipper is transacting business within the State, the place or places of business, the names and addresses of the several persons constituting a firm or partnership, and, if a corporation, the corporate name and names and addresses of its principal officers and agents within the State. No processor or shipper shall process or ship any blueberries until the certification has been issued. Certification may be suspended or revoked by the State Tax Assessor for failure to pay such blueberry tax as may be due or for the filing of false or fraudulent reports or returns as required by the State Tax Assessor. All certification shall expire July 1st, annually, and shall not be deemed

to be a license within the meaning of that term in the Maine Administrative Procedure Act.

Sec. 712. 36 MRSA §§ 4377 and 4378 are repealed.

Sec. 713. 36 MRSA § 4507, first ¶ is amended by adding at the end the following new sentence to read:

The certificate shall not be deemed to be a "license" within the meaning of that term in the Maine Administrative Procedure Act.

Sec. 714. 36 MRSA § 4512, 2nd ¶ is repealed and the following enacted in its place:

Whenever any handler shall fail to pay any tax due or shall fail to file any report at the time it is required to be filed for 2 consecutive reporting periods, the State Tax Assessor may revoke the handler's certificate of such handler. The revocation shall be reviewable in accordance with section 151.

Sec. 715. 36 MRSA § 4526, first ¶, as enacted by PL 1975, c. 444, § 6, is amended by adding at the end the following new sentence to read:

The certificate shall not be deemed to be a "license" within the meaning of that term in the Maine Administrative Procedure Act.

Sec. 716. 36 MRSA § 4531, last ¶, as enacted by PL 1975, c. 444, § 6, is repealed and the following enacted in its place:

Whenever any dealer fails to pay any tax due, or fails to file any report at the time it is required to be filed for 2 consecutive reporting periods, the State Tax Assessor may revoke the dealer's certificate of such dealer. The revocation shall be reviewable in accordance with section 151.

Sec. 717. 36 MRSA § 4563-A, sub-§ 1, as enacted by PL 1975, c. 554, § 4, is amended to read:

1. Rules and regulations. To adopt and promulgate, in a manner consistent with the Maine Administrative Procedure Act, rules and regulations for the operation of the commission;

Sec. 718. 36 MRSA § 4567 is amended by adding at the end a new sentence to read:

This certificate shall not be deemed to be a license within the meaning of that term in the Maine Administrative Procedure Act.

Sec. 719. 36 MRSA §§ 4641-F and 4641-G, as amended by P&SL 1975, c. 78, § 21, are repealed.

Sec. 720. 36 MRSA § 4696 is amended by adding at the end a new sentence to read:

The certificate shall not be deemed to be a license within the meaning of that term in the Maine Administrative Procedure Act.

Sec. 721. 36 MRSA § 4700, 1st sentence, as amended by PL 1973, c. 513, § 22, is further amended to read:

Any packer who shall make any false or fraudulent report or return required by this chapter, or who shall evade or violate any of the provisions of this chapter shall be punished by a fine of not more than \$500, and his wholesale seafood dealer's and processor's license shall be suspended by the Commissioner of Marine Resources, and his state license to pack sardines shall be suspended by the Commissioner of Agriculture Administrative Court in a manner consistent with the Maine Administrative Procedure Act and his packer's certificate shall be suspended by the State Tax Assessor until such fine and all payments due the State on the sardine tax are paid in full.

Sec. 722. 36 MRSA §§ 5261, 5262, 5263 and 5264, as enacted by P&SL 1969, c. 154, § F, are repealed.

Sec. 723. 36 MRSA § 5265, sub-§ 3, as enacted by P&SL 1969, c. 154, § F, is amended to read:

3. Whether the taxpayer is liable for any increase in a deficiency where such increase is asserted initially after the notice of deficiency was mailed and a protest under section ~~5262~~ 5261 filed, unless such increase in deficiency is the result of a change or correction of federal taxable income required to be reported under section 5243, and of which change or correction the assessor had no notice at the time he mailed the notice of deficiency.

Sec. 724. 36 MRSA § 5266, as enacted by P&SL 1969, c. 154, § F, is amended to read:

§ 5266. Evidence of related federal determination

Evidence of a federal determination relating to issues raised in a proceeding under section ~~5262~~ 5261 shall be admissible under rules established by the assessor.

Sec. 725. 36 MRSA § 5269, sub-§ 1, 3rd sentence, as enacted by P&SL 1969, c. 154, § F, is amended to read:

If a notice of deficiency has been mailed, the amount of the deficiency shall be deemed to be assessed on the date provided in section ~~5261~~ 5269 15 days after receipt of the notice if no protest is filed; or, if a protest is filed, then upon the date when the determination of the assessor becomes final.

Sec. 726. 36 MRSA § 5280, 2nd sentence, as enacted by P&SL 1969, c. 154, § F, is repealed and the following enacted in its place:

The taxpayer may request an informal conference regarding the claim for refund, in which case the claim shall be treated in the same way as the reconsideration of an assessment under section 151.

Sec. 727. 36 MRSA § 5281, as enacted by P&SL 1969, c. 154, § F, is repealed.

Sec. 728. 36 MRSA § 5300, as enacted by P&SL 1969, c. 154, § F, is repealed.

Sec. 729. 36 MRSA § 5301, first sentence, as enacted by P&SL 1969, c. 154, § F, is amended to read:

The review of a determination of the assessor provided by section ~~5300~~ 151 shall be the exclusive remedy available to any taxpayer for the judicial review of the action of the assessor in respect to the assessment of a proposed deficiency.

Sec. 730. 36 MRSA § 5302, as enacted by P&SL 1969, c. 154, § F, is amended to read:

§ 5302. Assessment pending review; review bond

The assessor may assess a deficiency after the expiration of the period specified in section ~~5264~~ 151 notwithstanding that an application for judicial review in respect of such deficiency has been made by the taxpayer, unless the taxpayer at or before the time his application for review is made has paid the deficiency, or has desposited with the assessor the amount of the deficiency or has been filed with the assessor a bond, in the amount of the deficiency being contested including interest and other amounts as well as all costs and charges which may accrue against him in the prosecution of the proceeding and issued by a person authorized under the laws of this State to act as surety, conditioned upon the payment of the deficiency including interest and other amounts as finally determined and such costs and charges.

Sec. 731. 36 MRSA § 5303, sub-§ 2, as enacted by P&SL 1969, c. 154, § F, is repealed.

Sec. 732. 36 MRSA § 5305, as enacted by P&SL 1969, c. 154, § F is repealed.

Sec. 733. 36 MRSA § 5312, first ¶, as last repealed and replaced by PL 1977, c. 165, § 8, is amended to read:

If any taxpayer liable to pay any tax, addition to tax, penalty or interest imposed under this Part neglects or refuses to pay the same within 10 days after notice and demand and ~~the tax assessed is final as to law and fact under this Part~~ **no further review of the assessment is available under section 151**, or is due and owing based on a return filed by the taxpayer, the assessor may certify the tax required to be paid, interest and penalty to the Attorney General for collection, or the assessor may file in the office of the clerk of the Superior Court of Kennebec County, or any county, a certificate addressed to the clerk specifying the tax required to be paid, interest and penalty due, the name and address of the person liable as it appears on the records of the assessor, the facts whereby that tax has become final ~~as to law and fact~~, **because of exhaustion of administrative and judicial review**, or is due and owing based on a return filed by the taxpayer, the notice given, and requesting that a warrant be issued against the person for the tax required to be paid, together with interest and penalty as set forth in the certificate, and with costs.

Sec. 734. 36 MRSA § 5312-A, 3rd ¶, as repealed and replaced by PL 1977, c. 165, § 10, is amended to read:

The warrant may be in substantially the following form:

“.....,ss. — To the Sheriffs of our

(Name of County)

respective counties or either of their Deputies, or any Agent of the State Tax Assessor, authorized to collect taxes imposed under the Maine Income Tax Law.

“Whereas, the State Tax Assessor has certified that, pursuant to the terms of the Revised Statutes, Title 36, section 5312 the amount of income tax assessed against of, with interest and penalty, has become final ~~as to law and fact~~ because of exhaustion of administrative and judicial review, or is due and owing based on a return filed by the taxpayer, to wit:

Income Tax \$.....
Penalty
Interest

Total \$.....
and \$..... costs of this proceeding and the same is unpaid

“We command you, therefore, that of the money, goods, and chattels of said debtor, in your precinct, or the value thereof in money, you cause to be paid and satisfied unto the State of Maine said total and costs, and cents more for this warrant, together with your own fees.

“Hereof fail not, and make due return of this warrant, with your doings thereon, unto my office within one year from the date hereof.

.....
Clerk of Courts, County of
Date.....”

Sec. 735. 36 MRSA § 5321, sub-§ 4, as enacted by P&SL 1969, c. 154, § F, is repealed and the following enacted in its place:

4. Proceeding on reassessment. If a request for reassessment accompanied by a bond or other security is filed within the 10-day period, the assessor shall reconsider the assessment in accordance with section 151.

Sec. 735-A. 36 MRSA § 6116, as last amended by PL 1973, c. 303, § 3, is repealed and the following enacted in its place:

§ 6116. Appeal

A denial in whole or in part of relief claimed under this Part may be appealed in accordance with the Administrative Procedure Act, Title 5, chapter 375.

Sec. 736. 37-A MRSA § 12, as enacted by PL 1971, c. 580, § 1 is amended by adding at the end a new sentence to read:

Rules and regulations within the definition of the Maine Administrative Procedure Act, Title 5, section 8002, subsection 9 shall be adopted, modified or otherwise dealt with in accordance with the Maine Administrative Procedure Act, Title 5, section 8051 et seq.

Sec. 737. 37-A MRSA § 20, as enacted by PL 1971, c. 580, § 1, is amended by adding at the end a new sentence to read:

Regulations pertaining to the management of the Veterans Memorial Cemetery are not rules within the meaning of the Maine Administrative Procedure Act, Title 5, section 8002, subsection 9.

Sec. 738. 37-A MRSA § 25, as enacted by PL 1971, c. 580, § 1, is amended by adding at the end a new sentence to read:

Appeal from a determination may be had as in section 34.

Sec. 739. 37-A MRSA § 33, last sentence, as enacted by PL 1971, c. 580, § 1, is repealed and the following enacted in its place:

It shall, by procedures in accordance with the Maine Administrative Procedure Act, Title 5, section 8051, et seq., make rules and regulations with respect to those sections.

Sec. 740. 37-A MRSA § 34, as enacted by PL 1971, c. 580, § 1, is repealed and the following enacted in its place:

§ 34. Appeals

Any person who is denied a pension under section 23 or 24 or who is denied or is not satisfied with the amount of aid allotted to him by the bureau shall have the right of appeal to the director. Each applicant for a pension or for aid shall be advised, at the time a decision on his application is made, of his right of appeal and of the method and time for making the appeal. The appellant shall be provided with reasonable notice and a fair hearing, at which the director or a member of the bureau authorized by him shall hear all evidence pertinent to the matter at issue and render a decision thereon in the name of the director, within a reasonable time after the hearing. On request of the appellant, the director shall provide that the hearing be recorded in writing or on tape. A copy of the record shall be provided the appellant at his request and expense. An appeal to the Superior Court may be had in accordance with the Maine Administrative Procedure Act, Title 5, section 11001, et seq.

Sec. 741. 37-A MRSA § 50-K, 3rd sentence, as enacted by PL 1973, c. 788, § 196, is amended to read:

The bureau shall provide such forms and ~~make such rules and regulations~~ as it considers necessary for carrying out this subchapter. It shall, by procedures in accordance with the Maine Administrative Procedure Act, Title 5, section 8051, et seq., make rules and regulations for carrying out this subchapter.

Sec. 742. 37-A MRSA § 55, 1st ¶, as enacted by PL 1971, c. 580, § 1, is amended to read:

The director shall make, amend or rescind, ~~after public hearing thereon, notice of which has been duly advertised in the state paper~~ by procedures in accordance with the Maine Administrative Procedure Act, Title 5, section 8051, et seq., reasonable rules and regulations to carry out this chapter.

Sec. 743. 37-A MRSA § 62, last ¶, as amended by PL 1973, c. 709, § 4 and c. 728, § 2, is further amended by adding at the end a new sentence to read:

These rules and regulations are not rules within the meaning of the Maine Administrative Procedure Act, Title 5, section 8002, subsection 9.

Sec. 744. 37-A MRSA § 184, sub-§ 1, as enacted by PL 1973, c. 787, § 2, is repealed and the following enacted in its place:

1. **Rules and regulations.** The bureau may, by procedures in accordance with the Maine Administrative Procedure Act, Title 5, section 8051, et seq., adopt, modify or repeal regulations for the carrying out of this chapter.

Sec. 745. 37-A MRSA § 1403, 2nd and 3rd sentences, as enacted by PL 1977, c. 562, § 1, are amended to read:

~~They~~ It shall hold ~~their~~ its first meeting for organizational and other purposes, at which meeting the board shall elect a chairman and secretary for the fiscal year. Each succeeding year, the board shall hold ~~their~~ its first meeting in July.

Sec. 746. 37-A MRSA § 1403, as enacted by PL 1977, c. 562, § 1, is amended by adding after the 6th sentence a new sentence to read:

In making these rules and regulations, the board shall seek comments and information from home staff, members, members' families and other relevant sources, but the Maine Administrative Procedure Act regarding rulemaking, Title 5, section 8051 et seq., shall not apply.

Sec. 747. 38 MRSA § 90, sub-§ 1, ¶ D, as enacted by PL 1969, c. 410, § 1, is amended to read:

D. Issue, ~~suspend or revoke~~ any pilot's license in accordance with sections 85 to 105 and **initiate proceedings in the Administrative Court to suspend or revoke these licenses;**

Sec. 748. 38 MRSA § 99, as enacted by PL 1969, c. 410, § 1, is amended to read:

§ 99. Grounds for disciplinary action

The ~~board~~ Administrative Court may suspend any pilot for any period that it may deem proper, and may suspend, revoke or annul any pilot's license which shall be issued under sections 85 to 105, upon satisfactory proof that such pilot has willfully disobeyed or violated any of the provisions of sections 85 to 105 or any rule or regulation established by the commission; or such pilot has negligently lost or damaged any vessel under his care; or such pilot is so addicted to the habits of intoxication as to be unfit to be entrusted with the charge of a vessel; or the pilot is so mentally or physically incapable as to be unfit to carry on the duties of a pilot.

Sec. 749. 38 MRSA § 100, 1st sentence, as enacted by PL 1969, c. 410, § 1, is amended to read:

~~Before any person shall be proceeded against on any complaint, and before any pilot shall be removed or suspended, such person or pilot shall be notified in writing to appear before the commission.~~

Sec. 750. 38 MRSA § 104, as amended by PL 1973, c. 303, § 3, is repealed and the following enacted in its place:

§ 104. Appeals from commission

Any person aggrieved by any final order or decision of the commission with respect to any disciplinary action or any application for, or denial of, a pilot's

license may appeal therefrom to the Superior Court in accordance with the Maine Administrative Procedure Act.

Sec. 751. 38 MRSA § 343, sub-§ 3, first ¶, 2nd sentence, as enacted by PL 1977, c. 300, § 9, is amended to read:

Within ~~90~~ 60 days of receipt of a petition, the board shall either notify the petitioner in writing of its denial, stating the reasons therefor, or initiate appropriate rulemaking proceedings.

Sec. 752. 38 MRSA § 343, sub-§ 4, first ¶, as enacted by PL 1977, c. 300, § 9, is amended by adding at the end the following new sentence to read:

After expiration of the emergency period, such a rule shall not be adopted except in the manner prescribed in subsection 1.

Sec. 753. 38 MRSA § 344, sub-§ 3, last ¶, as enacted by PL 1977, c. 300, § 9, is amended to read:

All correspondence notifying the applicant of Board of Environmental Protection decisions shall be by ~~registered~~ certified mail, return receipt requested.

Sec. 754. 38 MRSA § 344, sub-§ 5, last ¶, as enacted by PL 1977, c. 300, § 9, is amended to read:

The running of the time for appeal ~~as provided in section 346~~ is terminated by a timely petition for reconsideration filed pursuant to this subsection, and the full time for appeal ~~as provided in section 346~~ commences to run and is to be computed from the date upon which notice is received of any administrative action denying the petition or any order or decision of the board as a result of the petition; provided that the filing of a petition for reconsideration shall not be deemed an administrative or judicial prerequisite for the filing of an appeal ~~pursuant to section 346~~.

Sec. 755. 38 MRSA § 345, sub-§ 2, ¶ A, 2nd sentence, as enacted by PL 1977, c. 300, § 9, is amended to read:

The date of the first publication shall be ~~no more than 21~~ at least 20 days ~~nor less than 14 days~~ prior to the date of the hearing and the 2nd publication shall be ~~at least 7, but in the same newspaper no more than 10 days~~, prior to the date of the hearing.

Sec. 756. 38 MRSA § 345, sub-§ 2, ¶ C, as enacted by PL 1977, c. 300, § 9, is amended to read:

C. Provide notice of the hearing at least 10 days before the date of the hearing by regular mail to persons who have filed with the commissioner within the ~~calendar~~ past year a written request to receive notification of hearings.

Sec. 757. 38 MRSA § 345, sub-§ 6, 2nd sentence, as enacted by PL 1977, c. 300, § 9, is amended to read:

A copy of the decision shall be delivered personally or by ~~registered~~ certified mail, return receipt requested, to each party of record to the hearing as recognized by department hearing regulations.

Sec. 758. 38 MRSA § 346, sub-§ 1, as enacted by PL 1977, c. 300, § 9, is repealed and the following enacted in its place:

1. Except as provided in section 347, subsection 2, any person aggrieved by any order or decision of the board may appeal there from to the Superior Court. These appeals to the Superior Court shall be taken in accordance with Title 5, chapter 375, subchapter VII.

Sec. 759. 38 MRSA § 346, sub-§ 2, as enacted by PL 1977, c. 300, § 9, is repealed.

Sec. 760. 38 MRSA § 347, sub-§ 3, first ¶, as enacted by PL 1977, c. 300, § 9, is repealed and the following enacted in its place:

3. Modification, revocation or suspension of licenses. After written notice to the licensee and opportunity for a hearing, the board may modify in whole or in part any license or issue an order prescribing necessary corrective action, or, with or without hearing, may initiate proceedings in the Administrative Court to revoke or suspend a license, whenever the board finds:

Sec. 761. P&SL 1941, c. 69, § 4, (a), (3) is amended to read:

(3) to adopt from time to time and amend by-laws covering its procedure, rules and regulations governing use of the turnpike and any of the other services made available in connection with said turnpike to ~~publish the same as such publication is necessary or advisable and to cause records of its proceedings to be kept in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter 1;~~

Sec. 762. Appropriation. The following funds shall be appropriated from the General Fund to carry out the purposes of this Act:

1978-79

PUBLIC UTILITIES COMMISSION

Personal Services	(2)	\$37,372
All Other		8,000
Total		<u>\$45,372</u>

The Public Utilities Commission is authorized to hire one employee in addition to the 2 employees authorized above, making a total of 3 additional employees to carry out the purposes of this Act. One additional employee authorized by this section shall be funded from revenues collected pursuant to Title 35, section 1557, subsection 2, first paragraph.

1978-79

ADMINISTRATIVE OFFICE OF THE COURT

Personal Services	(1)	\$17,293
All Other		15,686
Capital Expenditures		8,220
Total		<u>\$41,199</u>

Sec. 763. Effective date. This Act shall take effect July 1, 1978.