

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

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

PUBLISHED BY THE DIRECTOR OF LEGISLATIVE RESEARCH IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED, TITLE 3, SECTION 164, SUBSECTION 6.

K. J. Printing
Augusta, Maine
1979

PUBLIC LAWS
OF THE
STATE OF MAINE
AS PASSED AT THE
SECOND REGULAR SESSION
of the
ONE HUNDRED AND EIGHTH LEGISLATURE
January 4, 1978 to April 6, 1978

To provide for continuity for workshops and to offset additional costs of the voting methods established in the pilot project.

These funds appropriated for the fiscal year 1978-79 shall not lapse but shall carry forward to January 1, 1981 to be expended for the same purposes.

Effective July 6, 1978

CHAPTER 696

AN ACT to Make Additional Corrections of Errors and Inconsistencies in the Laws of Maine.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, Acts of this and previous Legislatures have resulted in certain technical errors and inconsistencies in the laws of Maine; and

Whereas, these errors and inconsistencies create uncertainties and confusion in interpreting legislative intent; and

Whereas, it is vitally necessary such uncertainties and confusion be resolved in order to prevent any injustice or hardship on the citizens of Maine; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 1 MRSA § 23 is repealed.

Sec. 2. 1 MRSA § 28 is repealed.

Sec. 3. 1 MRSA § 202, is repealed and the following enacted in its place:

§ 202. Removal, injury, neglect or refusal to deliver up state seal

Whoever intentionally removes the seal of the State of Maine from the office or custody of the Secretary of State at Augusta, or intentionally secretes, defaces, injures or destroys it, or, having the same in his possession or under his control, intentionally neglects or refuses to deliver it to the Secretary of State upon demand therefor, shall be guilty of a Class C crime.

Sec. 4. 1 MRSA § 203 is repealed and the following enacted in its place:

§ 203. Use of state seal in any place but office of Secretary of State

Whoever intentionally uses the seal of the State of Maine, or takes any impression therefrom, for any purpose, in any other place than the office of the Secretary of State at Augusta, or intentionally issues, or receives and acts under any commission, record, document, parchment, instrument or paper bearing the impression of the seal, knowing the same has not been sealed in the office of the Secretary of State at Augusta, shall be guilty of a Class D crime.

Sec. 5. 1 MRSA § 204, last sentence is repealed and the following enacted in its place:

Whoever violates any of the provisions of this section shall be guilty of a Class E crime.

Sec. 6. 1 MRSA § 252-A, last ¶, as enacted by PL 1973, c. 262, § 1, is repealed and the following enacted in its place:

Flying the United States flag in any manner in violation of the Federal United States Flag Code or in violation of this section is a Class E crime.

Sec. 7. 1 MRSA § 253, last ¶, is repealed and the following enacted in its place:

Any violation of this section shall be a civil violation for which a forfeiture not to exceed \$50 may be adjudged.

Sec. 8. 1 MRSA § 254, last ¶ is repealed and the following enacted in its place:

Any violation of this section shall be a Class E crime.

Sec. 9. 1 MRSA § 402, sub-§ 3, ¶¶ C and D, as enacted by PL 1975, c. 758, are amended to read:

C. Records, working papers and interoffice and intraoffice memoranda used or maintained by any Legislator, legislative agency or legislative employee to prepare proposed Senate or House papers or reports for consideration by the Legislature or any of its committees during the biennium in which the proposal or report is prepared; ~~and~~

D. Material prepared for and used specifically and exclusively in preparation for negotiations, including the development of bargaining proposals to be made and the analysis of proposals received, by a public employer in collective bargaining with its employees and their designated representatives; and

Sec. 10. 1 MRSA § 452, as repealed and replaced by PL 1969, c. 318, § 1, is repealed and the following enacted in its place:

§ 452. Removal, secretion, mutilation or refusal to return state documents

Whoever intentionally removes any book, record, document or instrument belonging to or kept in any state office, except books and documents kept and deposited in the State Library, or intentionally secretes, alters, mutilates, defaces or destroys any such book, record, document or instrument, or, having any such book, record, document or instrument in his possession, or under his control, intentionally fails or refuses to return the same to that state office, or to deliver the same to the person in lawful charge of the office where the same was kept or deposited, shall be guilty of a Class D crime.

Sec. 11. 1 MRSA § 521, sub-§ 2, as enacted by PL 1975, c. 360, is amended to read:

2. Dissemination. A copy of every executive order shall be filed with the Legislative Council, the Law and Legislative Reference Library and with every County law library in this State within one week after the Governor has issued that order.

Sec. 12. 1 MRSA § 1019, 1st sentence, as enacted by PL 1975, c. 621, § 1, is repealed and the following enacted in its place:

The intentional filing of a false statement shall be a Class E crime.

Sec. 13. 1 MRSA § 1020, as enacted by PL 1975, c. 621, § 1, is repealed and the following enacted in its place:

§ 1020. Penalty for false accusations

Any person who files a false charge of a conflict of interest with the commission or any member of the commission, which he does not believe to be true, or whoever induces another to file a false charge of a conflict of interest, which he does not believe to be true, shall be guilty of a Class E crime.

Sec. 14. 1 MRSA c. 29, as enacted by PL 1977, c. 490, § 2, is repealed.

Sec. 15. 1 MRSA c. 31 is enacted to read:

CHAPTER 31
REVIEW OF STATUTORY PROVISIONS

§ 2601. Review of statutory provision

The following statutory provisions shall be reviewed according to the schedule below:

36. Title 36.

- A. Title 36, sections 653, 654 and 655, as amended, shall be reviewed by January 1, 1982;
- B. Title 36, sections 652 and 656, as amended, shall be reviewed by January 1, 1979;
- C. Title 36, section 1760, subsections 3 to 14, 24 and 30 to 38, as amended, shall be reviewed by January 1, 1981; and
- D. Title 36, section 1760, subsections 15 to 23 and 25 to 29, as amended, shall be reviewed by January 1, 1980.

§ 2602. Committee review reports

Any legislative committee having jurisdiction over a statutory provision listed in section 2601 shall prepare and submit to the Legislature, within 30 legislative days after the convening of the first regular session after the date set out in section 2601 for review of that provision, a report evaluating the advisability of retaining the statutory provision. The appropriate departments of State Government are respectfully requested to provide all necessary assistance in preparing the report required by section 2603 and other statutory sections.

§ 2603. Contents of report

- 1. Report. A report prepared pursuant to section 2602 shall include:
 - A. An evaluation of the past effectiveness of the statutory provision;
 - B. An evaluation of the future need for the statutory provision;
 - C. An examination of alternative methods of attaining the purpose of the provision;
 - D. An estimate of the cost of retaining the provision; and
 - E. A recommendation of the committee as to the amendment, repeal, replacement or retention of the provision. If amendment or repeal is recommended, the report shall include the necessary legislation.
- 2. Hearing. The committee preparing this report shall devote at least part of one public hearing on the provision being reviewed prior to making its report.

Sec. 16. 3 MRSA § 2, as last amended by PL 1977, c. 564, § 2, is further amended by adding at the end a new paragraph to read:

If a member of the Legislature dies or otherwise vacates the office, the successor is entitled to a salary from the date of seating, computed as follows: Ninety dollars per week times the number of weeks remaining in the calendar year if the vacancy occurs in the first year and \$50 per week for the number of weeks remaining in the calendar year if the vacancy occurs in the 2nd year.

Sec. 17. 3 MRSA § 319, sub-§ 2, as reenacted by PL 1975, c. 724, is repealed and the following enacted in its place:

2. **Class E crime.** Any person who intentionally fails to file a registration or report as required by this chapter shall be guilty of a Class E crime. Any person who violates section 318 shall be guilty of a Class E crime.

Sec. 18. 3 MRSA c. 23, as enacted by PL 1977, c. 367, is reallocated to 3 MRSA c. 25.

Sec. 19 4 MRSA § 4, 1st sentence, as amended by P&SL 1973, c. 209, § 5, is repealed and the following enacted in its place:

Each Justice of the Supreme Judicial Court shall receive an annual salary of \$29,000 until June 30, 1978, and an annual salary of \$32,000 thereafter; and the Chief Justice of the Supreme Judicial Court shall receive an annual salary of \$30,500 until June 30, 1978, and an annual salary of \$33,500 thereafter.

Sec. 20. 4 MRSA § 102, 1st sentence, as amended by P&SL 1973, c. 209, § 6, is repealed and the following enacted in its place:

Each Justice of the Superior Court shall receive an annual salary of \$28,500 until June 30, 1978, and an annual salary of \$31,500 thereafter.

Sec. 21. 4 MRSA § 157, 4th sentence, as amended by P&SL 1973, c. 209, § 7, is repealed and the following enacted in its place:

Each judge shall receive an annual salary of \$26,000 until June 30, 1978, and an annual salary of \$29,000 thereafter; and the Chief Judge shall receive an annual salary of \$27,000 until June 30, 1978, and an annual salary of \$30,000 thereafter.

Sec. 22. 4 MRSA § 164, sub-§ 12, ¶ D, last sentence, as repealed and replaced by PL 1969, c. 299, is repealed and the following enacted in its place:

Swearing falsely to any such statement shall be a civil violation for which a forfeiture not to exceed \$50 may be adjudged.

Sec. 23. 4 MRSA § 164, sub-§ 15, as enacted by PL 1977, c. 544, § 10, is reallocated to 4 MRSA § 164, sub-§ 16.

Sec. 24. 4 MRSA § 561, is repealed and the following enacted in its place:

§ 561. Taking illegal fees

A clerk who exacts or receives more than his lawful fees commits a civil violation for which a forfeiture of \$50 may be adjudged.

Sec. 25. 4 MRSA § 567, 1st sentence, as repealed and replaced by PL 1977, c. 78, § 3, is repealed and the following enacted in its place:

No clerk, register or recording officer of any court of the State shall be attorney or counselor in any civil action or matter pending in that court; neither shall he commence actions to be entered therein, nor draft nor aid in drafting any document or paper which he is by law required to record, in full or in part. Violation of this section is a civil violation for which a forfeiture not to exceed \$100 may be adjudged.

Sec. 26. 4 MRSA § 807, 2nd sentence is repealed and the following enacted in its place:

Whoever, not being duly admitted to the bar of this State, shall practice law or any branch thereof, or hold himself out to practice law or any branch thereof, within the State or before any court therein, or demand or receive any remuneration for such services rendered in this State, shall be guilty of a Class E crime.

Sec. 27. 4 MRSA § 809, 5th ¶, last sentence, as enacted by PL 1965, c. 92, § 2, is amended to read:

Any person participating in the investigation who, except as required in the discharge of his official duties, discloses to any person other than to a person under investigation, the name of any person under investigation or of any witness examined, or any other information obtained in the investigation is guilty of a misdemeanor Class E crime.

Sec. 28. 4 MRSA § 859, is repealed and the following enacted in its place:

§ 859. False advertising or representation to be an attorney

If any person who has not been admitted to practice law in this State or whose name has been struck from the roll of attorneys advertises as or represents himself to be an attorney or counselor at law, he shall be guilty of a Class E crime.

Sec. 29. 4 MRSA § 1014-A, is enacted to read:

§ 1014-A. Presumption of compliance

For the purposes of section 1014, subsection 2, a certificate of acknowledgment taken in a state other than Maine shall be presumed to be in a form prescribed by the laws or regulations applicable in the place in which the acknowledgment is taken if upon that certificate appears, in stamped, printed or embossed form, either separately or together:

1. Notary public. The words "notary public;"

2. **Name.** The name of the notary public; and

3. **State.** The name of the state, or an abbreviation of the name of the state, in which the acknowledgment was taken.

Sec. 30. 5 MRSA § 8-H, as enacted by PL 1971, c. 588, is repealed and the following enacted in its place:

§ 8-H. Civil violation

Any violation of sections 8-A to 8-F is a civil violation for which a forfeiture not to exceed \$1,000 may be adjudged and any person violating any of those sections shall be dismissed from state service.

Sec. 31. 5 MRSA § 15, sub-§ 1, 1st ¶, as enacted by PL 1975, c. 539, is repealed and the following enacted in its place:

1. **Former executive employee.** Any person who has been a member of the classified or unclassified service employed by an executive agency shall be guilty of a Class E crime, if he:

Sec. 32. 5 MRSA § 15, sub-§ 2, 1st ¶, as enacted by PL 1975, c. 539, is repealed and the following enacted in its place:

2. **Partner of former executive employee.** Any former partner of a person who is currently a member of the classified or unclassified service employed by an executive agency shall be guilty of a Class E crime if that former partner, within one year after the partnership has ended, acts as agent or attorney for anyone other than the State in connection with any official proceeding in which:

Sec. 33. 5 MRSA § 97, as enacted by PL 1973, c. 625, § 16, is repealed and the following enacted in its place:

§ 97. Violation.

Violation of any provision of this chapter or any rules and regulations issued under section 95, subsection 3, except those violations for which specific penalties are provided, is a Class E crime.

Sec. 34. 5 MRSA § 191, 4th ¶ from the end, as amended by PL 1975, c. 770, § 20, is further amended to read:

For approval of certificate of organization of corporations under Title 9 9-B, section 996 313, subsection 3, §10 in advance;

Sec. 35. 5 MRSA § 212, 2nd sentence, as enacted by PL 1969, c. 577, § 1, is repealed and the following enacted in its place:

Any person who fails to appear, or with intent to avoid, evade or prevent compliance, in whole or in part, with any civil investigation under this section, removes from any place, conceals, withholds or destroys, mutilates, alters or by any other means falsifies any documentary material in the possession, custody or control of any person subject of any such notice, or knowingly conceals any

relevant information, shall be subject to a civil penalty of not more than \$5,000 payable to the State to be recovered in a civil action.

Sec. 36. 5 MRSA § 556, as last amended by PL 1975, c. 766, § 4, is further amended to read:

§ 556. Residency and citizenship

Employment in the classified service shall be open to all qualified persons who ~~have been~~ are residents of the State of Maine ~~for at least 6 months~~ immediately preceding that employment, except that at the request of the the appointing authority the residence requirement may be waived by the Commissioner of Personnel in exceptional or emergency cases when such action is necessary for the good of the service.

Employees holding technical or professional positions involving formulation, execution or review of broad public policy shall, in addition, be citizens of the United States of America. This requirement may be waived by the State Personnel Board on an individual basis when there exists compelling reasons for such waiver.

Sec. 37. 5 MRSA § 1004, 1st sentence, is repealed.

Sec. 38. 5 MRSA § 1031, sub-§ 1, 5th sentence, as amended by PL 1975, c. 622, § 7, is repealed and the following enacted in its place:

Each member of the board shall serve a term of 3 years, provided that the term of the member who is appointed to replace the public representative whose term expires on July 9, 1978, shall expire on December 31, 1979, and the term of the member who is appointed to replace the representative of the Maine Teachers Association whose term expires April 22, 1978, shall expire on December 31, 1978.

Sec. 39. 5 MRSA § 1062, sub-§ 2, ¶ C, last sentence, as repealed and replaced by PL 1975, c. 622, § 17, is amended to read:

Any member in service on January 1, 1976 and ineligible to make contributions under section 1094, subsection 12, paragraph B or subsection 14 because of ~~this Act~~ the amendments of those subsections by public law 1975, chapter 622, may make such additional contributions at a rate in excess of 10% of earnable compensation necessary to provide an increased retirement allowance equal to any benefits to which the member would have been entitled under section 1094, subsection 12, paragraph B or subsection 14 as in effect immediately prior to January 1, 1976.

Sec. 40. 5 MRSA § 1122, sub-§ 3, ¶ A, as repealed and replaced by PL 1977, c. 580, § 13, is repealed and the following enacted in its place:

A. The disability retirement allowance of a beneficiary shall cease on the 10th anniversary of his normal retirement age, as defined in section 1001, subsection 27, or prior thereto whenever the service retirement allowance of a beneficiary would equal or exceed the amount of his disability retirement allowance.

Sec. 41. Effective date. Section 40 of this Act shall shall become effective July 2, 1978.

Sec. 41-A. 5 MRSA § 1151, sub-§9, ¶ A, last ¶, as enacted by PL 1973, c. 788, § 22, is amended to read:

~~The mandatory 10 years of coverage immediately prior to retirement clause shall apply only to those individuals who become first insured under the group life insurance program on or after the first day of the first month following September 3, 1965, nor shall the mandatory 10 years of coverage not apply to any Judge or Justice of the Supreme, Superior and District Courts nor to any retired judge or justice who was insured and who is living on July 3, 1973.~~

Sec. 42. 5 MRSA § 1583, 2nd ¶, 1st sentence is repealed and the following enacted in its place:

Any person who knowingly violates this section shall be guilty of a Class E crime.

Sec. 43. 5 MRSA § 1585, as amended by PL 1977, c. 8 and as repealed and replaced by c. 576, § 1, is repealed and the following enacted in its place:

§ 1585. Transfer of unexpended appropriations

1. Transfers authorized. Any balance of any appropriation or subdivision of an appropriation made by the Legislature for any state department or agency, which at any time may not be required for the purposes named in such appropriation or subdivision, may be transferred at any time prior to the closing of the books, to any other appropriation or subdivision of an appropriation made by the Legislature for the use of the same department or agency for the same fiscal year subject to the limitations in subsections 2 and 3.

2. Governor. The Governor may transfer funds from one appropriation or subdivision of an appropriation to another appropriation or subdivision, if the aggregate sum of the funds transferred from the appropriation or subdivision or to another appropriation or subdivision in any one fiscal year does not exceed the smaller of:

A. \$100,000; or

B. 10% of the appropriation or subdivision in the appropriation, as approved by the Legislature, from which or to which the funds are to be transferred.

3. Governor and Legislature. A transfer of funds greater than that authorized in subsection 2 shall occur only after compliance with the following procedures.

A. If a department or agency head desires a transfer of appropriated funds, he shall recommend the transfer to the Governor. If the Governor desires such a transfer, he shall recommend the transfer to the Legislature.

B. Included with any recommendation for a transfer described under paragraph A, shall be a written statement as to why the funds to be transferred are not needed in the appropriation or subdivision of the appropriation for which they were appropriated, and a specification as to the uses to which the transferred funds shall be put.

C. When the Legislature is in regular or special session and the Governor desires to recommend a transfer of appropriated funds, the Governor shall

recommend the transfer to the Legislature by submitting his written recommendation, including a written statement which contains the information set forth in paragraph B, to the Joint Standing Committee on Appropriations and Financial Affairs of the Legislature.

If the Legislature does not act by majority vote of both Houses to disapprove the recommended transfer within 30 days of the date of submission of the recommended transfer to the Joint Standing Committee on Appropriations and Financial Affairs, the transfer shall be deemed to have been approved.

D. When the Legislature is not in regular or special session and the Governor desires to recommend a transfer, the Governor shall submit his written recommendation to the Legislative Council, the members of the Joint Standing Committee on Appropriations and Financial Affairs and the Legislative Finance Officer. Included with the Governor's recommendations, shall be a written statement which contains the information set forth in paragraph B and the reasons why the need for the transfer could not have been anticipated while the Legislature was in session and why the transfer is essential before the Legislature will be in session.

Transfers recommended while the Legislature is not in session shall also take effect 30 days after the date of submission of the recommended transfer to the Legislature, unless disapproved by majority vote of both houses.

Sec. 44. 5 MRSA § 1750, is repealed.

Sec. 45. 5 MRSA § 2301, sub-§ 1, as amended by PL 1977, c. 78, §§ 17 and 18; c. 347, § 1; c. 463, § 1; c. 543, § 1 and c. 564, § 34, is repealed.

Sec. 46. 5 MRSA § 7002, sub-§ 2, ¶ G, first ¶, as enacted by PL 1977, c. 308, is amended by adding at the end a new sentence to read:

This program shall take effect on July 1, 1978.

Sec. 47. 5 MRSA § 8002, sub-§ 7, ¶ B, as enacted by PL 1977, c. 551, § 3, is amended to read:

B. Any person participating in the adjudicatory proceeding pursuant to section ~~9051~~ 9054, subsection 1 or 2; and

Sec. 48. 5 MRSA c. 373, §§ 8001 — 8015, as enacted by PL 1977, c. 568, § 1, is reallocated to 5 MRSA, Pt. 19, c. 401, §§ 15001 — 15015 as follows:

PART 19
SMALL BUSINESS LOANS

Chapter 373
§ 8001
§ 8002
§ 8003
§ 8004
§ 8005
§ 8006
§ 8007
§ 8008
§ 8009
§ 8010

Chapter 401
§ 15001
§ 15002
§ 15003
§ 15004
§ 15005
§ 15006
§ 15007
§ 15008
§ 15009
§ 15010

§ 8011
§ 8012
§ 8013
§ 8014
§ 8015

§ 15011
§ 15012
§ 15013
§ 15014
§ 15015

Sec. 49. 6 MRSA § 203, sub-§ 1, as last amended by PL 1971, c. 404, § 28, is repealed and the following enacted in its place:

1. **Violations of rules or orders.** Any person who violates any provisions of chapters 1 to 13 pertaining to registration, trespass or the air traffic rules, or who violates any provisions of an order, rule or regulation made hereunder, or fails to answer a subpoena or to testify before the director shall be guilty of a Class E crime.

Sec. 50. 6 MRSA § 203, sub-§ 2, is repealed and the following enacted in its place:

2. **Fraud and forgery.** Any person who fraudulently forges, counterfeits, alters or falsely makes any certificate authorized under chapters 1 to 13, or any person who knowingly uses or attempts to use any such fraudulent certificate shall be guilty of a Class D crime.

Sec. 51. 6 MRSA § 203, sub-§ 3, is repealed and the following enacted in its place:

3. **Lights, signals and marks.** Any person who intentionally displays any false light, signal or air marking, or who intentionally moves, defaces, obstructs or otherwise interferes with the use of any airport or airway light or marking, any air navigation facility, or any device or equipment used in connection with air navigation shall be guilty of a Class C crime.

Sec. 52. 6 MRSA § 245, 1st sentence is repealed and the following enacted in its place:

Each violation of this chapter or of any regulation, order or ruling promulgated or made pursuant to this chapter is a Class E crime, and each day a violation continues to exist shall constitute a separate offense.

Sec. 53. 6 MRSA § 279 is repealed and the following enacted in its place:

§ 279. Penalties

Any person violating any of the provisions of this chapter shall be guilty of a Class E crime.

Sec. 54. 7 MRSA § 16, is repealed and the following enacted in its place:

§ 16. Penalties

Any person, firm, partnership or corporation who shall violate any of the provisions of this Title or of the rules and regulations promulgated thereunder, excepting only those for the violation of which a specific penalty has been provided, shall be guilty of a Class E crime.

Sec. 55. 7 MRSA § 69, 1st sentence is repealed.

Sec. 55-A. 7 MRSA § 74, 4th ¶, as repealed and replaced by PL 1971, c. 585, § 1, is repealed and the following enacted in its place:

Any person found participating in any pulling contest, after being prohibited from doing so by the commissioner under this section, commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 shall be adjudged. Each pulling contest in which that person has participated in violation hereof shall constitute a separate violation.

Sec. 56. 7 MRSA § 75, last ¶, as enacted by PL 1971, c. 585, § 2, is repealed and the following enacted in its place:

Any person, firm, corporation or unincorporated association or society which conducts or causes to be conducted any public or private pulling event between animals or pairs of animals within the State, without a permit from the commissioner, shall be guilty of a Class E crime.

Sec. 57. 7 MRSA § 445, last sentence is repealed and the following enacted in its place:

Violation of this section is a civil violation for which a forfeiture not to exceed \$50 may be adjudged for the first violation and a forfeiture not to exceed \$200 may be adjudged for each subsequent violation.

Sec. 58. 7 MRSA § 447, last sentence is repealed and the following enacted in its place:

Whoever obstructs or hinders the commissioner or any of his duly qualified assistants in the performance of his duties under this subchapter commits a civil violation for which a forfeiture of not less than \$10 nor more than \$100 shall be adjudged.

Sec. 59. 7 MRSA § 488 is repealed and the following enacted in its place:

§ 488. Prohibitions and penalties

No person shall adulterate or misbrand, within the meaning of this Title, any commercial feeding stuff, commercial fertilizer, drug, food or vinegar, or manufacture, sell, distribute, transport, offer or expose for sale, distribution or transportation any article of commercial feeding stuff, commercial fertilizer, drug, food or vinegar in violation of any of the provisions of this Title. Violation of these provisions shall be a civil violation for which the following forfeiture may be adjudged:

1. First violation. For the first violation, a forfeiture not to exceed \$100; and
2. Subsequent violations. For each subsequent violation, a forfeiture not to exceed \$200.

Sec. 60. 7 MRSA § 512, 1st sentence, as enacted by PL 1965, c. 65, is repealed and the following enacted in its place:

Any person violating any of the provisions of this subchapter is guilty of a Class E crime.

Sec. 61. 7 MRSA § 529, as enacted by PL 1969, c. 325, is repealed and the following enacted in its place:

§ 529. Violations

Any person, firm or corporation who shall fail, neglect or refuse to comply with any of the provisions of this subchapter, or the rules and regulations issued thereunder, commits a civil violation for which the following forfeiture may be adjudged:

1. First violation. For the first violation, a forfeiture not to exceed \$100; and
2. Subsequent violations. For each subsequent violation, a forfeiture not to exceed \$200.

Sec. 62. 7 MRSA § 532 is amended to read:

§ 532. Standard box for apples

The standard box for apples shall have the following inside dimensions when measured without distention of parts: Length, 17 inches; width, 13 inches; height, 11 inches. A box having a capacity of 2,431 cubic inches shall be a lawful ~~box~~ bushel.

Sec. 63. 7 MRSA § 538 is amended to read:

§ 538. Guaranty bar to prosecution

No person shall be ~~prosecuted~~ subject to suit under this subchapter, if he can establish a guaranty, signed by the person from whom he received any such article, to the effect that the same is not adulterated or misbranded within the meaning of section 531. Said guaranty, to afford protection, shall contain the name and address of the party or parties making the sale or such article to such dealer, and in such case said party or parties shall be amenable to the ~~prosecution, fines, suits, forfeitures~~ and other penalties which would attach, in due course, to the dealer under this subchapter.

Sec. 64. 7 MRSA § 544 is repealed and the following enacted in its place:

§ 544. Violations

Whoever adulterates or misbrands apples within the meaning of section 531, or whoever packs, sells, distributes, transports, offers or exposes for sale, distribution or transportation apples in violation of any provision of this subchapter commits a civil violation for which the following forfeitures may be adjudged:

1. First violation. For the first violation, a forfeiture not to exceed \$100; and
2. Subsequent violation. For each subsequent violation, a forfeiture not to exceed \$200.

Sec. 65. 7 MRSA § 616, sub-§ 1, as enacted by PL 1975, c. 382, § 3, is repealed and the following enacted in its place:

1. Violations. Any person violating any provisions of this subchapter or regulations adopted thereunder commits a civil violation for which the following forfeitures may be adjudged:

- A. For the first violation, a forfeiture not to exceed \$500; and
- B. For each subsequent violation, a forfeiture not to exceed \$1,000.

Sec. 66. 7 MRSA § 637, last sentence is repealed and the following enacted in its place:

The commissioner may recover the forfeitures imposed for violations of section 631 to 639 in a civil action brought in his own name, the venue to be as in other civil actions, and if he prevails in that action, shall recover full costs.

Sec. 67. 7 MRSA § 638, is repealed and the following enacted in its place:

§ 638. Disposal of forfeitures

All forfeitures received under section 631 to 639 by county treasurers shall be paid by them to the commissioner. All money received by the commissioner under those sections shall be paid by him to the Treasurer of State for deposit in the General Fund.

Sec. 68. 7 MRSA §639 is repealed and the following enacted in its place:

§ 639. Violations

Any person, firm, partnership, association or corporation who shall violate any of the provisions of sections 631 to 639 or shall neglect or refuse to comply with the provisions thereof or any rule or regulation promulgated hereunder commits a civil violation for which the following forfeitures shall be adjudged:

- 1. First violation. For the first violation, a forfeiture not to exceed \$50; and
- 2. Subsequent violation. For each subsequent violation, a forfeiture not to exceed \$200.

Sec. 69. 7 MRSA §643 is repealed and the following enacted in its place:

§ 643. Violations

Any person, firm or corporation who violates any provision of sections 640 to 642 shall be guilty of a Class E crime, and the commissioner is expressly empowered to enforce those sections and to be vigilant in discovering violations thereof, and making complaint to the proper authorities.

Sec. 70. 7 MRSA § 722, 1st, 2nd and 3rd ¶ ¶, as enacted by PL 1971, c. 77, §1, are repealed and the following enacted in their place:

Any person, violating any of the provisions of this subchapter or who shall impede, hinder or otherwise prevent, or attempt to prevent, the commissioner, or

his duly authorized agent, in the performance of his duty in connection with this subchapter, commits a civil violation for which a forfeiture of not less than \$100 nor more than \$200 shall be adjudged for the first violation and for which a forfeiture of not less than \$200 nor more than \$500 shall be adjudged for each subsequent violation.

Nothing in this subchapter shall be construed as requiring the commissioner, or his representative, to cause suit to be brought or institute seizure proceedings or issue a withdrawal from distribution order, as a result of minor violations of this subchapter, or when he believes the public interest will best be served by suitable notice of warning in writing.

It shall be the duty of those authorities to whom any violation is reported to cause appropriate proceedings to be instituted in a court of competent jurisdiction without delay. Before the commissioner reports a violation for suit to be brought, an opportunity shall be given the distributor to present his view to the commissioner.

Sec. 71. 7 MRSA § 722, last ¶, first sentence, as enacted by PL 1971, c. 77, § 1, is repealed and the following enacted in its place:

Any person who uses to his own advantage, or reveals to other than the commissioner or officers of the Maine Department of Agriculture, or to the courts when relevant in any judicial proceeding, any information acquired under the authority of this subchapter, concerning any method, records, formulations or processes which as a trade secret is entitled to protection, is guilty of a Class E crime.

Sec. 72. 7 MRSA § 750 is repealed and the following enacted in its place:

§ 750. Violations

Any person, firm or corporation violating any of the provisions of this subchapter, or any rule or regulation duly promulgated thereunder, or neglecting or refusing to comply with the provisions thereof commits a civil violation for which a forfeiture not to exceed \$100 may be adjudged for the first violation and for which a forfeiture not to exceed \$200 may be adjudged for each subsequent violation.

Nothing in this subchapter shall be construed as requiring the commissioner to report for suit or for the institution of seizure proceedings as a result of minor violations of this subchapter, when he believes that the public interests will be best served by a suitable notice of warning in writing.

Sec. 73. 7 MRSA § 795 is repealed and the following enacted in its place:

§ 795. Violations

Any person who violates any of the provisions of this subchapter, or the orders, rules or regulations promulgated by the commissioner under authority thereof, commits a civil violation for which a forfeiture not to exceed \$100 may be adjudged.

Sec. 74. 7 MRSA § 836 is repealed and the following enacted in its place:

§ 836. Disposition of fees and forfeitures

All fees received by the commissioner under this subchapter shall be paid by him to the Treasurer of State. All forfeitures and costs recovered under this subchapter, shall accrue to the Treasurer of State and shall be paid into the treasury of the county where the suit for violation is brought. All forfeitures recovered, and money received or collected, shall be paid to the Treasurer of State and all such forfeitures, together with all fees, shall be credited to the department and shall be expended by the commissioner for the purposes of this subchapter.

Sec. 75. 7 MRSA § 839 is repealed and the following enacted in its place:

§ 839. Violations

Any person, firm or corporation violating any of the provisions of this subchapter, or any rule or regulation duly promulgated thereunder, or neglecting or refusing to comply with the provisions thereof commits a civil violation for which the following forfeitures may be adjudged:

1. First violation. For the first violation, a forfeiture not to exceed \$100; and
2. Subsequent violation. For each subsequent violation, a forfeiture not to exceed \$200.

Sec. 76. 7 MRSA § 897, first ¶, last sentence as enacted by PL 1967, c. 104 is repealed and the following enacted in its place:

He may recover forfeitures imposed for violation of those sections in a civil action brought in his own name and if he prevails in that action, shall recover full costs.

Sec. 77. 7 MRSA § 897, 2nd ¶, as enacted by PL 1967, c. 104, is repealed and the following enacted in its place:

All money and forfeitures received by the commissioner for violations of sections 891 to 898 shall be paid by him to the Treasurer of State and shall be appropriated for carrying out those sections.

Sec. 78. 7 MRSA § 898, as enacted by PL 1967, c. 104, is repealed and the following enacted in its place:

§ 898. Violations

Any person, firm or corporation who shall violate any of the provisions of sections 891 to 898 or neglect or refuse to comply with any of the provisions required in those sections or in any way violates any of those provisions commits a civil violation for which the following forfeitures may be adjudged:

1. First violation. For the first violation, a forfeiture not to exceed \$100; and
2. Subsequent violations. For each subsequent violation, a forfeiture not to exceed \$200.

Sec. 79. 7 MRSA § 913 is repealed and the following enacted in its place:

§ 913. Violations

Any person, firm, corporation, association or society who manufactures, sells, distributes, transports, offers or exposes for sale, distribution or transportation any article of food containing mineral oil commits a civil violation for which the following forfeitures may be adjudged:

1. First violation. For a first violation, a forfeiture not to exceed \$100; and
2. Subsequent violations. For each subsequent violation, a forfeiture not to exceed \$200.

Sec. 80. 7 MRSA § 956, first ¶, last sentence is repealed and the following enacted in its place:

He may recover forfeitures imposed for violation of those sections in a civil action brought in his own name and, if he prevails in that action, shall recover full costs.

Sec. 81. 7 MRSA § 956, 2nd ¶, first sentence is repealed and the following enacted in its place:

All fees received under sections 951 to 957 by the commissioner and all money and forfeitures received by him under those sections shall be paid by him to the Treasurer of State and shall be appropriated for carrying out those sections.

Sec. 82. 7 MRSA § 957, as repealed and replaced by PL 1975, c. 687, § 2, is repealed and the following enacted in its place:

§ 957. Violations

Any person, firm or corporation who shall violate any of the provisions of sections 951 to 957 or neglect or refuse to comply with any of the provisions required therein or in any way violate any of those provisions shall be subject to the following civil penalties payable to the State to be recovered in a civil action:

1. First violation. For the first violation, a civil penalty of not less than \$100 nor more than \$200;
2. Second violation. For the 2nd violation, a civil penalty of not less than \$400 nor more than \$500; and
3. Third and subsequent violations. For the 3rd and subsequent violations committed during the year from September 1st to August 31st, a civil penalty of not less than \$1,000.

Sec. 83. 7 MRSA § 1006, first sentence is repealed and the following enacted in its place:

Violation of any of the provisions of sections 991 to 1006 or any provision of any marketing order duly issued by the commissioner thereunder, is a Class E crime.

Sec. 84. 7 MRSA § 1026, as enacted by PL 1971, c. 366, is repealed and the following enacted in its place:

§ 1026. Enforcement

The commissioner may recover the penalties imposed for violations of this Article and any rules and regulations promulgated thereunder in a civil action brought in his own name, the venue to be as in other civil actions and, if he prevails in that action, he may recover full costs. The commissioner shall be entitled to and shall receive assistance of the Attorney General and of the several district attorneys.

Sec. 85. 7 MRSA § 1027, as enacted by PL 1971, c. 366, is repealed and the following enacted in its place:

§ 1027. Jurisdiction and disposal of forfeitures

The District Court and the Superior Court shall have concurrent jurisdiction of actions brought for violation of this Article or the rules and regulations promulgated thereunder. All penalties received under this Article by county treasurers shall be paid by them to the Treasurer of State for deposit in the General Fund.

Sec. 86. 7 MRSA § 1028, as enacted by PL 1971, c. 366, is repealed and the following enacted in its place:

§ 1028. Violations

Any person who shall violate any of the provisions of this Article, except section 1017, subsection 1, paragraph B, or shall neglect or refuse to comply with the provisions thereof or any rule or regulation promulgated hereunder shall be subject to the following civil penalties payable to the State to be recovered in a civil action:

1. First violation. For the first violation, a civil penalty not to exceed \$1,000; and
2. Subsequent violation. For each subsequent violation, a civil penalty not to exceed \$2,000.

Sec. 87. 7 MRSA § 1045, as amended by PL 1969, c. 42, § 7, is repealed and the following enacted in its place:

§ 1045. Exemptions and violations

Sections 1043 and 1044 shall not apply to seed or grain not intended for sowing purposes, nor to seed in storage in, or consigned to, a seed cleaning or processing establishment for cleaning or processing. Any labeling or other representation which may be made with respect to the uncleaned or unprocessed seed shall be subject to this subchapter.

No person shall be deemed in violation of this subchapter for having sold or offered or exposed for sale in this State any agricultural vegetable or tree and shrub seed which were incorrectly labeled or represented as to kind, variety, type

or origin, which seeds cannot be identified by examination thereof, unless he has failed to obtain an invoice or grower's declaration giving kind, or kind and variety, or kind and type, and origin if required, and to take such other precautions as may be necessary to insure the identity to be that stated.

Violation of this subchapter is a civil violation for which the following forfeitures may be adjudged.

1. **First violation.** For the first violation, a forfeiture not to exceed \$100; and
2. **Subsequent violation.** For each subsequent similar violation, a forfeiture not to exceed \$250.

Sec. 88. 7 MRSA § 1308, as last amended by PL 1967, c. 22, § 3, is repealed and the following enacted in its place:

§ 1308. Violations

Any person, copartnership, association or corporation engaged in the business of buying or selling livestock or poultry, or both, as defined in this chapter without a license provided for in section 1304, or who shall violate any of the provisions of sections 1302 to 1307, shall be guilty of a Class E crime.

Any person, copartnership, association or corporation who shall violate any rule or regulation promulgated under sections 1302 to 1307, or neglect or refuse to comply with any of the provisions thereof, commits a civil violation for which a forfeiture not to exceed \$50 may be adjudged.

Sec. 89. 7 MRSA § 1706 is repealed and the following enacted in its place:

§ 1706. Penalties

Whoever violates any provisions of chapters 207, 301, 303, and 305, or any rule and regulation promulgated thereunder, unless a specific penalty or forfeiture is provided for, shall be guilty of a Class E crime.

Sec. 90. 7 MRSA § 2103, last sentence is repealed and the following enacted in its place:

Any person who shall knowingly misuse any such tag or certificate or who shall attach to any package or container of seed, which has not been duly inspected and certified, any such tag or certificate which shall have printed thereon the words "certified seed" or which by reason of color, size, shape or otherwise may convey the impression that the seed has been certified by the commissioner, or his agents, commits a civil violation for which a forfeiture of \$50 may be adjudged for each violation and shall be thenceforth denied the privileges of this chapter.

Sec. 91. 7 MRSA § 2203, last sentence is repealed and the following enacted in its place:

If the owner of that orchard, field or garden neglects or refuses to comply with that written order, he commits a civil violation for which a forfeiture of not less than \$10 nor more than \$50 shall be adjudged for each violation.

Sec. 92. 7 MRSA § 2205, 2nd sentence is repealed and the following enacted in its place:

Violation of this provision shall be a civil violation for which a forfeiture not to exceed \$100 may be adjudged for each violation.

Sec. 93. 7 MRSA § 2206, as amended by PL 1973, c. 788, § 30, is repealed and the following enacted in its place:

§ 2206. Jurisdiction

All suits shall be instituted by the commissioner and shall be directed by him. All forfeitures recovered for any violation of those sections shall accrue to the Treasurer of State for deposit in the General Fund.

Sec. 94. 7 MRSA § 2303 is repealed and the following enacted in its place:

§ 2303. Penalties

Any person violating any of the provisions of any quarantine, or rules or regulations supplemental thereto, issued by the commissioner in pursuance of section 2301, shall be guilty of a Class E crime.

Sec. 95. 7 MRSA § 2501, first ¶, 4th sentence, as enacted by PL 1977, c. 157, § 2, is repealed and the following enacted in its place:

Failure to register bees as prescribed in this section shall be a civil violation for which a forfeiture of not less than \$10 nor more than \$50 shall be adjudged for each violation.

Sec. 96. 7 MRSA § 2502, last sentence, as amended by PL 1977, c. 157, § 3, is repealed and the following enacted in its place:

Violation of any of the provisions of this section shall be a civil violation for which a forfeiture of not less than \$50 nor more than \$100 shall be adjudged for each violation.

Sec. 97. 7 MRSA § 2504, as amended by PL 1977, c. 157, § 4 and as repealed and replaced by c. 564, § 36, is repealed and the following enacted in its place:

§ 2504. Violations

A violation of chapter 503, 505 or 507 is a civil violation for which a forfeiture of not more than \$50 and costs may be adjudged for each violation.

Sec. 98. 7 MRSA § 2906 is repealed and the following enacted in its place:

§ 2906. Civil suits

The district attorney for the county in which any violation of sections 2901 to 2904 and 3101 to 3103 has occurred shall, if requested, assist the commissioner in suits arising thereunder.

Sec. 99. 7 MRSA § 2908, as amended by PL 1969, c. 41, § 3, is repealed and the following enacted in its place:

§ 2908. Violations

Any firm, person, corporation or society who shall produce grade A milk, or pasteurized grade A milk for sale in the State or who shall sell milk or cream in the State without the license or licenses provided in section 2902, or who shall violate any of the provisions of sections 2901 to 2904 and 3101 to 3103, or neglects, fails or refuses to comply with any of the provisions of those sections and the rules, regulations and standards of identity and quality issued thereunder, commits a civil violation for which the following forfeiture may be adjudged:

1. First violation. For the first violation, a forfeiture not to exceed \$100; and
2. Second violation. For each subsequent violation, a forfeiture not to exceed \$200.

Sec. 100. 7 MRSA § 2960 is repealed and the following enacted in its place:

§ 2960. Penalties

Whoever violates any of the provisions of this chapter or of any rule or order of the commission shall be guilty of a Class E crime.

Sec. 101. 7 MRSA § 3051, last sentence is repealed and the following enacted in its place:

Violation of this section shall be a civil violation for which a forfeiture not to exceed \$50 may be adjudged.

Sec. 102. 7 MRSA § 3052, last sentence is repealed and the following enacted in its place:

Whoever by himself, clerk, servant or agent ships or transports or causes to be shipped or transported any cans or other receptacles used in the transportation of milk or cream not cleansed and sterilized, or any cans or other receptacles used in the transportation of ice cream, sherbert or frozen milk not washed or cleansed as

provided in this section shall be deemed to have committed a civil violation for which a forfeiture not to exceed \$50 may be adjudged for each violation.

Sec. 103. 7 MRSA § 3403, as last amended by PL 1975, c. 771, § 102, is repealed.

Sec. 104. 7 MRSA § 3451, last sentence, as amended by PL 1975, c. 236, § 4, is repealed and the following enacted in its place:

Any person, firm or corporation maintaining a pet shop, boarding kennel or kennel without having obtained a license for the same, or after any license has been revoked or suspended, commits a civil violation for which a forfeiture not to exceed \$50 a day may be adjudged.

Sec. 105. 7 MRSA § 3457, as amended by PL 1977, c. 120, is repealed and the following enacted in its place:

§ 3457. Violations

In addition to seizing and impounding the dog, the officer, having jurisdiction, may bring suit against the owner of any dog running at large, and that owner commits a civil violation for which a forfeiture of not less than \$25 nor more than \$100 shall be adjudged.

Sec. 106. 7 MRSA § 3602, 2nd sentence, as amended by PL 1971, c. 572, § 1, is repealed and the following enacted in its place:

The owner or keeper of any dog hunting, chasing or pursuing any moose, caribou or deer at any time or any other wild animal in closed season commits a civil violation for which a forfeiture of not less than \$25 nor more than \$100 shall be adjudged.

Sec. 107. 7 MRSA § 3602, 3rd sentence, as enacted by PL 1971, c. 572, § 1, is repealed and the following enacted in its place:

The owner or keeper of any dog killing or wounding any moose, caribou or deer at any time or any other wild animal in closed season shall be guilty of a Class E crime, provided that the court shall impose a fine of not less than \$200 which shall not be suspended.

Sec. 108. 7 MRSA § 3652, next to the last ¶ is repealed and the following enacted in its place:

Any person who keeps a dog that kills or injures any livestock, poultry or domestic rabbits commits a civil violation for which a forfeiture not to exceed \$100 may be adjudged, in addition to costs, unless, before the final disposition of the case, the owner or keeper of the dog produces satisfactory evidence that the dog has been killed.

Sec. 109. 7 MRSA § 3701, as amended by PL 1965, c. 513, § 15, is repealed and the following enacted in its place:

§ 3701. Keeping unlicensed dog

Whoever keeps a dog contrary to this chapter and chapters 701, 703 and 711 and sections 3603 to 3605 commits a civil violation for which a forfeiture not to exceed \$25 may be adjudged.

Sec. 110. 7 MRSA § 3704, as last amended by PL 1975, c. 770, § 46, is repealed and the following enacted in its place:

§ 3704. Official refusal or neglect of duty

Any mayor, selectman, clerk, constable, police officer or sheriff who refuses or intentionally fails to perform the duties imposed by sections 3402, 3403, 3451, 3452, 3651 to 3653 and 3701 to 3703 commits a civil violation for which a forfeiture of not less than \$10 nor more than \$50, and costs, shall be adjudged.

Sec. 111. 7 MRSA § 3705, last sentence, as repealed and replaced by PL 1977, c. 630, § 1, is amended to read:

All fines and forfeitures imposed shall be paid into the treasury of the county where the offense is committed and shall be transmitted by the county treasurer to the treasurer of the municipality where the offense or violation is committed unless otherwise provided.

Sec. 112. 9-A MRSA § 1-202, sub-§ 7, as repealed and replaced by PL 1975, c. 318, is amended to read:

7. **Loan.** A loan made by a supervised financial organization or an institution of higher education when the loan is a low interest educational loan made for the purpose of financing expenses related to the borrower's attendance at an institution of post-secondary education, and on which the finance charge does not exceed 7 ½% per year on the unpaid balances of the amount financed or such finance charge in excess thereof as the United States Secretary of Health, Education and Welfare shall from time to time establish, and which is insured, guaranteed or subsidized by the Federal Government or a state or by a nonprofit private loan guaranty or organization or by the institution of higher education itself or through an endowment or trust fund affiliated with such an institution; or

Sec. 113. 9-A MRSA § 1-301, sub-§ 20-A, is enacted to read:

20-A. Institution of higher education. The term "institution of higher education" means an educational institution which:

A. Either admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of that certificate, or who are beyond the age of compulsory school attendance;

B. Is legally authorized to provide a program of education beyond secondary education;

C. Provides an educational program for which it awards a bachelor's degree or provides not less than a 2-year program which is acceptable for full credit toward such a degree;

D. Is a public or other nonprofit institution; and

E. Is accredited by a nationally recognized accrediting agency approved by the United States Commissioner of Education, or is an educational institution approved for participation in federal student loan programs by the Commissioner of Education or approved for participation in state student loan programs authorized by the State Board of Education under Title 20, sections 2231 to 2236.

Sec. 114. **Retroactivity.** Sections 113 and 114 of this Act shall be retroactive to January 1, 1978.

Sec. 115. **9-B MRSA § 161, sub-§ 2, ¶ D,** as enacted by PL 1977, c. 416 is amended to read:

D. The making of reports or returns required under chapter ~~41~~ 61 of the Internal Revenue Code of 1965;

Sec. 116. **10 MRSA § 1474, sub-§ 3, ¶ B, 1st ¶,** last sentence, as enacted by PL 1975, c. 770, § 57, is amended to read:

The notice must be sent by registered or certified mail to the dealer's last known business address.

Sec. 117. **11 MRSA § 1-105, sub-§ (2),** as amended by PL 1977, c. 526, § 1, is further amended to read:

(2) Where one of the following provisions of this Title specifies the applicable law, that provision governs and a contrary agreement is effective only to the extent permitted by the law (including the conflict of laws rules) so specified:

Rights of creditors against sold goods. Section 2-402.

Applicability of the Article on Bank Deposits and Collections. Section 4-102.

Bulk transfers subject to the Article on Bulk Transfers. Section 6-102.

Applicability of the Article on Investment Securities. Section 8-106.

~~Policy and scope of the Article on Secured Transactions. Sections 9-102 and 9-103.~~

Perfection provisions of the Article on Secured Transactions. Section ~~9-103 A~~ 9-103.

Sec. 118. **11 MRSA § 9-102, sub-§ (1), 1st ¶,** is amended to read:

(1) Except as otherwise provided in ~~section 9-103 on multiple state transactions and~~ in section 9-104 on excluded transactions, this Article applies

~~so far as concerns any personal property and fixtures within the jurisdiction of this State.~~

Sec. 119. 11 MRSA § 9-103, as repealed by PL 1977, c. 526, § 7, is reenacted to read:

§ 9-103. Perfection of security interests in multiple state transactions

(1) Documents, instruments and ordinary goods.

(a) This subsection applies to documents and instruments and to goods other than those covered by a certificate of title described in subsection (2), mobile goods described in subsection (3) and minerals described in subsection (5).

(b) Except as otherwise provided in this subsection, perfection and the effect of perfection or nonperfection of a security interest in collateral are governed by the law of the jurisdiction where the collateral is when the last event occurs on which is based the assertion that the security interest is perfected or unperfected.

(c) If the parties to a transaction creating a purchase money security interest in goods in one jurisdiction understand at the time that the security interest attaches that the goods will be kept in another jurisdiction, then the law of the other jurisdiction governs the perfection and the effect of perfection or nonperfection of the security interest from the time it attaches until 30 days after the debtor receives possession of the goods and thereafter if the goods are taken to the other jurisdiction before the end of the 30-day period.

(d) When collateral is brought into and kept in this State while subject to a security interest perfected under the law of the jurisdiction from which the collateral was removed, the security interest remains perfected, but if action is required by Part 3 of this Article to perfect the security interest,

(i) If the action is not taken before the expiration of the period of perfection in the other jurisdiction or the end of 4 months after the collateral is brought into this State, whichever period first expires, the security interest becomes unperfected at the end of that period and is thereafter deemed to have been unperfected as against a person who became a purchaser after removal;

(ii) If the action is taken before the expiration of the period specified in subparagraph (i), the security interest continues perfected thereafter;

(iii) For the purpose of priority over a buyer of consumer goods, section 9-307, subsection (3), the period of the effectiveness of a filing in the jurisdiction from which the collateral is removed is governed by the rules with respect to perfection in subparagraphs (i) and (ii).

(2) Certificate of title.

(a) This subsection applies to goods covered by a certificate of title issued under a statute of this State or of another jurisdiction under the law of

which indication of a security interest on the certificate is required as a condition of perfection.

(b) Except as otherwise provided in this subsection, perfection and the effect of perfection or nonperfection of the security interest are governed by the law, including the conflict of laws rules, of the jurisdiction issuing the certificate until 4 months after the goods are removed from that jurisdiction and thereafter until the goods are registered in another jurisdiction, but in any event not beyond surrender of the certificate. After the expiration of that period, the goods are not covered by the certificate of title within the meaning of this section.

(c) Except with respect to the rights of a buyer described in paragraph (d), a security interest, perfected in another jurisdiction otherwise than by notation on a certificate of title, in goods brought into this State and thereafter covered by a certificate of title issued by this State is subject to the rules stated in subsection (1), paragraph (d).

(d) If goods are brought into this State while a security interest therein is perfected in any manner under the law of the jurisdiction from which the goods are removed and a certificate of title is issued by this State and the certificate does not show that the goods are subject to the security interest or that they may be subject to security interests not shown on the certificate, the security interest is subordinate to the rights of a buyer of the goods who is not in the business of selling goods of that kind to the extent that he gives value and receives delivery of the goods after issuance of the certificate and without knowledge of the security interest.

(3) Accounts, general intangibles and mobile goods.

(a) This subsection applies to accounts, other than an account described in subsection (5) on minerals, and general intangibles and to goods which are mobile and which are of a type normally used in more than one jurisdiction, such as motor vehicles, trailers, mobile homes, rolling stock, airplanes, shipping containers, road building and construction machinery and commercial harvesting machinery and the like, if the goods are equipment or are inventory leased or held for lease by the debtor to others, and are not covered by a certificate of title described in subsection (2).

(b) The law, including the conflict of laws rules, of the jurisdiction in which the debtor is located when the last event occurs on which is based the assertion that the security interest is perfected or unperfected governs the perfection and the effect of perfection or nonperfection of the security interest.

(c) If, however, the debtor is located in a jurisdiction which is not a part of the United States, and which does not provide for perfection of the security interest by filing or recording in that jurisdiction, the law of the jurisdiction in the United States in which the debtor has its major executive office in the United States governs the perfection and the effect of perfection or nonperfection of the security interest through filing. In the alternative, if the debtor is located in a jurisdiction which is not a part of the United States or Canada and the collateral is accounts or general intangibles for money due or to become due, the security interest may be perfected by notification to the account debtor. As used in this paragraph,

“United States” includes its territories and possessions and the Commonwealth of Puerto Rico.

(d) A debtor shall be deemed located at his place of business if he has one, at his chief executive office if he has more than one place of business, otherwise at his residence. If, however, the debtor is a foreign air carrier under the Federal Aviation Act of 1958, as amended, it shall be deemed located at the designated office of the agent upon whom service of process may be made on behalf of the foreign air carrier.

(e) A security interest perfected under the law of the jurisdiction of the location of the debtor is perfected until the expiration of 4 months after a change of the debtor's location to another jurisdiction, or until perfection would have ceased by the law of the first jurisdiction, whichever period first expires. Unless perfected in the new jurisdiction before the end of that period, it becomes unperfected thereafter and is deemed to have been unperfected as against a person who became a purchaser after the change.

(4) Chattel paper. The rules stated for goods in subsection (1) apply to a possessory security interest in chattel paper. The rules stated for accounts in subsection (3) apply to a nonpossessory security interest in chattel paper, but the security interest may not be perfected by notification to the account debtor.

(5) Minerals. Perfection and the effect of perfection or nonperfection of a security interest which is created by a debtor who has an interest in minerals or the like, including oil and gas, before extraction and which attaches thereto as extracted, or which attaches to an account resulting from the sale thereof at the wellhead or minehead are governed by the law, including the conflict of laws rules, of the jurisdiction wherein the wellhead or minehead is located.

Sec. 120. 11 MRSA § 9-103-A, as enacted by PL 1977, c. 526, § 8, is repealed.

Sec. 121. 11 MRSA § 9-104, sub-§ (5), as repealed by PL 1977, c. 526, § 9, is reenacted to read:

(5) To a transfer by a government or governmental subdivision or agency;
or

Sec. 122. 11 MRSA § 9-104, sub-§ (5-A), as enacted by PL 1977, c. 526, § 10, is repealed.

Sec. 123. 11 MRSA § 9-105, sub-§ (1), ¶ ¶ (d-I) to (j), as amended, are repealed.

Sec. 124. 11 MRSA § 9-105, sub-§ (1), ¶ ¶ (e) to (n), are enacted to read:

(e) Deposit account. “Deposit account” means a demand, time, savings, passbook or like account maintained with a bank, savings and loan association, credit union or like organization, other than an account evidenced by a certificate of deposit;

(f) Document. "Document" means document of title as defined in the general definitions in Article 1, section 1-201, and a receipt of the kind described in section 7-201, subsection (2);

(g) Encumbrance. "Encumbrance" includes real estate mortgages and other liens on real estate and all other rights in real estate that are not ownership interests;

(h) Goods. "Goods" includes all things which are movable at the time the security interests attaches or which are fixtures, section 9-313, but does not include money, documents, instruments, accounts, chattel paper, general intangibles or minerals or the like, including oil and gas, before extraction. "Goods" also includes standing timber which is to be cut and removed under a conveyance or contract for sale, the unborn young of animals and growing crops.

(i) Instrument. "Instrument" means a negotiable instrument, defined in section 3-104, or a security, defined in section 8-102, or any other writing which evidences a right to the payment of money and is not itself a security agreement or lease and is of a type which is in ordinary course of business transferred by delivery with any necessary indorsement or assignment;

(j) Mortgage. "Mortgage" means a consensual interest created by a real estate mortgage, a trust deed on real estate or the like;

(k) Pursuant to commitment. An advance is made "pursuant to commitment" if the secured party has bound himself to make it, whether or not a subsequent event of default or other event not within his control has relieved or may relieve him from his obligation;

(l) Security agreement. "Security agreement" means an agreement which creates or provides for a security interest;

(m) Secured party. "Secured party" means a lender, seller or other person in whose favor there is a security interest, including a person to whom accounts or chattel paper have been sold. When the holders of obligations issued under an indenture of trust, equipment trust agreement or the like are represented by a trustee or other person, the representative is the secured party;

(n) Transmitting utility. "Transmitting utility" means any person primarily engaged in the railroad, street railway or trolley bus business, the electric or electronic communications transmission business, the transmission of goods by pipeline, or the transmission or the production and transmission of electricity, steam, gas or water or the provision of sewer service.

Sec. 125. 11 MRSA § 9-105, sub-§ (2), as amended by PL 1977, c. 526, § 24, is further amended to read:

(2) Other definitions applying to this Article and the sections in which they appear are:

- | | |
|--------------------------|--------------------------------|
| "Account." | Section 9-106. |
| "Attach." | Section 9-203. |
| "Construction mortgage." | Section 9-313, subsection (1). |

“Consumer goods.”	Section 9-109, subsection (1).
“Contract right.”	Section 9-106.
“Equipment.”	Section 9-109, subsection (2).
“Farm Products.”	Section 9-109, subsection (3).
“Fixture.”	Section 9-313.
“Fixture filing.”	Section 9-313.
“General intangibles.”	Section 9-106.
“Inventory.”	Section 9-109, subsection (4).
“Lien creditor.”	Section 9-301, subsection (3).
“Proceeds.”	Section 9-306, subsection (1).
“Purchase money security interest.”	Section 9-107
“United States.”	Section 9-103 A 9-103.

Sec. 126. 11 MRSA § 9-106, 1st line, as repealed and replaced by PL 1977, c. 526, § 25, is amended to read:

§ 9-106. Definitions: “Account;” ~~“contract right,”~~ “general intangibles”

Sec. 127. 11 MRSA § 9-203, as last amended by PL 1977, c. 526, § 27, is repealed and the following enacted in its place:

§ 9-203. Attachment and enforceability of security interest; proceeds, formal requisites

(1) Subject to the provisions of section 4-208 on the security interest of a collecting bank and section 9-113 on a security interest arising under the Article on sales, a security interest is not enforceable against the debtor or third parties with respect to the collateral and does not attach unless

(a) The collateral is in the possession of the secured party pursuant to agreement or the debtor has signed a security agreement which contains a description of the collateral and in addition, when the security interest covers crops growing or to be grown or timber to be cut, a description of the land concerned; and

(b) Value has been given; and

(c) The debtor has rights in the collateral.

(2) A security interest attaches when it becomes enforceable against the debtor with respect to the collateral. Attachment occurs as soon as all of the events specified in subsection (1) have taken place unless explicit agreement postpones the time of attaching.

(3) Unless otherwise agreed, a security agreement gives the secured party the rights to proceeds provided in section 9-306.

(4) A transaction, although subject to this Article, is also subject to the applicable provisions of Title 9-A, or to Title 30, section 3051 and sections 3151 to 3155 and in the case of conflict between the provisions of this Article and any such statute the provisions of such statute control. Failure to comply with any applicable statute has only the effect which is specified therein.

Sec. 128. 11 MRSA § 9-204, as last amended by PL 1977, c. 526, §§28-32, is repealed and the following enacted in its place:

§9-204. After-acquired property; future advances

(1) Except as provided in subsection (2), a security agreement may provide that any or all obligations covered by the security agreement are to be secured by after-acquired collateral.

(2) No security interest attaches under an after-acquired property clause to consumer goods other than accessions, section 9-314, when given as additional security unless the debtor acquires rights in them within 10 days after the secured party gives value.

(3) Obligations covered by a security agreement may include future advances or other value whether or not the advances or value are given pursuant to commitment, section 9-105, subsection (1).

Sec. 129. 11 MRSA § 9-301, 1st 2 lines, are amended to read:

§ 9-301. Persons who take priority over unperfected security interests; rights of "lien creditor"

Sec. 130. 11 MRSA § 9-302, sub-§ (1), ¶¶ (c-1) to (e), as amended, are repealed and the following enacted in their place:

(c) A security interest created by an assignment of a beneficial interest in a trust or a decedent's estate;

(d) A purchase money security interest in consumer goods where the amount financed, as defined in Title 9-A, section 1-301, subsection 5, paragraph A, is less than \$1,000, but fixture filing is required for priority over conflicting interests in fixtures to the extent provided in section 9-313.

(e) An assignment of accounts which does not alone or in conjunction with other assignments to the same assignee transfer a significant part of the outstanding accounts of the assignor;

(f) A security interest of a collecting bank, section 4-208, or arising under the Article on sales, see section 9-113, or covered in subsection (3).

(g) An assignment for the benefit of all the creditors of the transferor, and subsequent transfers by the assignee thereunder.

Sec. 131. 11 MRSA §9-302, sub-§ (3), ¶ (c), as repealed and replaced by PL 1977, c. 526, § 41, is amended to read:

(c) A certificate of title statute ~~or~~ of another jurisdiction under the law of which indication of a security interest on the certificate is required as a condition of perfection, section ~~9-103-A~~ 9-103, subsection (2).

Sec. 132. 11 MRSA § 9-302, sub-§ (4), 1st sentence, as repealed and replaced by PL 1977, c. 526, § 41, is amended to read:

Compliance with a statute or treaty described in subsection (3) is equivalent to the filing of a financing statement under this Article and a security interest in property subject to the statute or treaty can be perfected only by compliance therewith, except as provided in section ~~9-103-A~~ 9-103 on multiple state transactions.

Sec. 133. 11 MRSA § 9-306, sub-§ (1), last sentence, as repealed and replaced by PL 1977, c. 526, § 45, is amended to read:

Money, checks, deposit accounts and the like are "cash proceeds." All other proceeds are "noncash proceeds."

Sec. 134. 11 MRSA §9-306, sub-§ (3), ¶ (a-1), as enacted by PL 1977, c. 526, §48, and ¶ (b), are repealed and the following enacted in their place:

(b) A filed financing statement covers the original collateral and the proceeds are identifiable cash proceeds; or

(c) The security interest in the proceeds is perfected before the expiration of the 10-day period.

Sec. 135. 11 MRSA § 9-312, sub-§ (1), as repealed and replaced by PL 1977, c. 526, § 54, is amended to read:

(1) The rules of priority stated in other sections of this Part and in the following sections shall govern when applicable: Section 4-208 with respect to the security interests of collecting banks in items being collected, accompanying documents and proceeds; section ~~9-103-A~~ 9-103 on security interests related to other jurisdictions; and section 9-114 on consignments.

Sec. 136. 11 MRSA §9-312, sub-§ (3), ¶ ¶ (b-1) and (b-2), as enacted by PL 1977, c. 526, § 58, and ¶ (c), are repealed and the following enacted in their place:

(b) The purchase money secured party gives notification in writing to the holder of the conflicting security interest if the holder had filed a financing statement covering the same types of inventory (i) before the date of the filing made by the purchase money secured party or (ii) before the beginning of the 21-day period where the purchase money security interest is temporarily perfected without filing or possession, section 9-304, subsection (5); and

(c) The holder of the conflicting security interest receives the notification within 5 years before the debtor receives possession of the inventory; and

(d) The notification states that the person giving the notice has or expects to acquire a purchase money security interest in inventory of the debtor, describing such inventory by item or type.

Sec. 137. 11 MRSA §9-312, sub-§ (4), as last amended by PL 1977, c. 526, § 59, is further amended to read:

(4) A purchase money security interest in collateral other than inventory has priority over a conflicting security interest in the same collateral or its

proceeds ~~for~~ if the purchase money security interest ~~is~~ is perfected at the time the debtor receives possession of the collateral or within 20 days thereafter.

Sec. 138. 11 MRSA §9-312, sub-§ (5), ¶¶ (a) and (b), as repealed by PL 1977, c. 526, § 61, are reenacted to read:

(a) Conflicting security interests rank according to priority in time of filing or perfection. Priority dates from the time a filing is first made covering the collateral or the time the security interest is first perfected, whichever is earlier, provided that there is no period thereafter when there is neither filing nor perfection.

(b) So long as conflicting security interests are unperfected, the first to attach has priority.

Sec. 139. 11 MRSA §9-312, sub-§ (5), ¶¶ (d) and (e), as enacted by PL 1977, c. 526, § 62, are repealed.

Sec. 140. 11 MRSA §9-312, sub-§ (6), as repealed by PL 1977, c. 526, § 63 and sub-§§ (7) and (8), as enacted by PL 1977, c. 526, §64 are repealed and the following enacted in their place:

(6) For the purpose of subsection (5), a date of filing or perfection as to collateral is also a date of filing or perfection as to proceeds.

(7) If future advances are made while a security interest is perfected by filing or the taking of possession, the security interest has the same priority for the purposes of subsection (5) with respect to the future advances as it does with respect to the first advance. If a commitment is made before or while the security interest is so perfected, the security interest has the same priority with respect to advances made pursuant thereto. In other cases, a perfected security interest has priority from the date the advance is made.

Sec. 141. 11 MRSA § 9-313, as last amended by PL 1977, c. 526, §§ 65-72, is repealed and the following enacted in its place:

§ 9-313. Priority of security interests in fixtures

(1) In this section and in the provisions of Part 4 of this Article referring to fixture filing, unless the context otherwise requires:

(a) Goods are "fixtures" when they become so related to particular real estate that an interest in them arises under real estate law;

(b) A "fixture filing" is the filing in the office where a mortgage on the real estate would be filed or recorded of a financing statement covering goods which are or are to become fixtures and conforming to the requirements of section 9-402, subsection (5); and

(c) A mortgage is a "construction mortgage" to the extent that it secures an obligation incurred for the construction of an improvement on land including the acquisition cost of the land, if the recorded writing so indicates.

(2) A security interest under this Article may be created in goods which are fixtures or may continue in goods which become fixtures, but no security interest exists under this Article in ordinary building materials incorporated into an improvement on land.

(3) This Article does not prevent creation of an encumbrance upon fixtures pursuant to real estate law.

(4) A perfected security interest in fixtures has priority over the conflicting interest of an encumbrancer or owner of the real estate where:

(a) The security interest is a purchase money security interest, the interest of the encumbrancer or owner arises before the goods become fixtures, the security interest is perfected by a fixture filing before the goods become fixtures or within 10 days thereafter, and the debtor has an interest of record in the real estate or is in possession of the real estate; or

(b) The security interest is perfected by a fixture filing before the interest of the encumbrancer or owner is of record, the security interest has priority over any conflicting interest of a predecessor in title of the encumbrancer or owner, and the debtor has an interest of record in the real estate or is in possession of the real estate; or

(c) The fixtures are readily removable factory or office machines or readily removable replacements of domestic appliances which are consumer goods, and before the goods become fixtures the security interest is perfected by any method permitted by this Article; or

(d) The conflicting interest is a lien on the real estate obtained by legal or equitable proceedings after the security interest was perfected by any method permitted by this Article.

(5) A security interest in fixtures, whether or not perfected, has priority over the conflicting interest of an encumbrancer or owner of the real estate where:

(a) The encumbrancer or owner has consented in writing to the security interest or has disclaimed an interest in the goods as fixtures; or

(b) The debtor has a right to remove the goods as against the encumbrancer or owner. If the debtor's right terminates, the priority of the security interest continues for a reasonable time.

(6) Notwithstanding subsection (4), paragraph (a) but otherwise subject to subsections (4) and (5), a security interest in fixtures is subordinate to a construction mortgage recorded before the goods become fixtures if the goods become fixtures before the completion of the construction. To the extent that it is given to refinance a construction mortgage, a mortgage has this priority to the same extent as the construction mortgage.

(7) In cases not within the preceding subsections, a security interest in fixtures is subordinate to the conflicting interest of an encumbrancer or owner of the related estate who is not the debtor.

(8) When the secured party has priority over all owners and encumbrancers of the real estate, he may, on default, subject to the provisions of Part 5,

remove his collateral from the real estate but he must reimburse any encumbrancer or owner of the real estate who is not the debtor and who has not otherwise agreed for the cost of repair of any physical injury, but not for any diminution in value of the real estate caused by the absence of the goods removed or by any necessity of replacing them. A person entitled to reimbursement may refuse permission to remove until the secured party gives adequate security for the performance of this obligation.

Sec. 142. 11 MRSA § 9-401, as repealed by PL 1977, c. 526, § 76, is reenacted to read:

§ 9-401. Place of filing; erroneous filing; removal of collateral

(1) The proper place to file in order to perfect a security interest is as follows:

(a) When the collateral is timber to be cut or is minerals or the like, including oil and gas, or accounts subject to section 9-103, subsection (5), or is crops growing or to be grown, or when the financing statement is filed as a fixture filing, section 9-313, and the collateral is goods which are or are to become fixtures, then in the office where a mortgage on the real estate concerned would be filed or recorded;

(b) In all other cases, in the office of the Secretary of State.

(2) A filing which is made in good faith in an improper place or not in all of the places required by this section is nevertheless effective with regard to any collateral as to which the filing complied with the requirements of this Article and is also effective with regard to collateral covered by the financing statement against any person who has knowledge of the contents of such financing statement.

(3) A filing which is made in the proper place in this State continues effective even though the debtor's residence or place of business or the location of the collateral or its use, whichever controlled the original filing, is thereafter changed.

(4) The rules stated in section 9-103 determine whether filing is necessary in this State.

(5) Notwithstanding the preceding subsections and subject to section 9-302, subsection (3), the proper place to file in order to perfect a security interest in collateral, including fixtures, of a transmitting utility is the office of the Secretary of State. This filing constitutes a fixture filing, section 9-313, as to the collateral described therein which is or is to become fixtures.

Sec. 143. 11 MRSA § 9-401-A, as enacted by PL 1977, c. 526, § 77, is repealed.

Sec. 144. 11 MRSA § 9-402, sub-§ (1), 3rd sentence, as amended by PL 1977, c. 526, § 78 and the 4th sentence, as enacted by PL 1977, c. 526, § 78, are amended to read:

~~When the financing statement covers crops growing or to be grown, the statement must also contain a description of the real estate concerned. When the financing~~

statement covers timber to be cut or covers minerals or the like, including oil and gas, or accounts subject to section ~~9-103-A~~ 9-103, subsection (5), or covers crops growing or to be grown, or when the financing statement is filed as a fixture filing, section 9-313, and the collateral is goods which are or are to become fixtures, the statement must also comply with subsection ~~(4-A)~~ (5).

Sec. 145. 11 MRSA § 9-402, sub-§ (2), ¶ (d), as enacted by PL 1977, c. 526, § 79, is amended to read:

(d) Collateral acquired after a change of name, identity or corporate structure of the debtor, ~~subsection (4-C)~~. The secured party is not required to file a new financing statement to perfect or continue to perfect a security interest after such change of name, identity or corporate structure of the debtor.

Sec. 146. 11 MRSA § 9-402, sub-§ (4), last sentence, as repealed and replaced by PL 1977, c. 526, § 81, is amended to read:

In this ~~section~~ Article, unless the context otherwise requires, the term "financing statement" means the original financing statement and any amendments.

Sec. 147. 11 MRSA § 9-402, sub-§§ (4-A) to (5), as amended, are repealed and the following enacted in their place:

(5) A financing statement covering timber to be cut or covering minerals or the like, including oil and gas, or accounts subject to section 9-103, subsection (5), or covering crops growing or to be grown, or a financing statement filed as a fixture filing, section 9-313, where the debtor is not a transmitting utility, must show that it covers this type of collateral and the financing statement must contain a description of the real estate. If the debtor does not have an interest of record in the real estate, the financing statement must show the name of a record owner.

(6) A mortgage is effective as a financing statement filed as a fixture filing from the date of its recording if the goods are described in the mortgage by item or type, the goods are or are to become fixtures related to the real estate described in the mortgage, the mortgage complies with the requirements for a financing statement in this section and the mortgage is duly recorded. No fee with reference to the financing statement is required other than the regular recording and satisfaction fees with respect to the mortgage.

(7) A financing statement sufficiently shows the name of the debtor if it gives the individual, partnership or corporate name of the debtor, whether or not it adds other trade names or the names of partners. A filed financing statement remains effective with respect to collateral transferred by the debtor even though the secured party knows of or consents to the transfer.

(8) A financing statement substantially complying with the requirements of this section is effective, even though it contains minor errors which are not seriously misleading.

Sec. 148. 11 MRSA § 9-403, sub-§ (3), 2nd sentence, as repealed and replaced by PL 1977, c. 526, § 84, is amended to read:

Any such continuation statement must be signed by the secured party, identify the original statement by file number and state that the original statement is still

effective and if the continuation statement covers timber to be cut, minerals or the like, including oil and gas, or accounts subject to section ~~9-103-A~~ 9-103, subsection (5), or crops growing or to be grown or fixtures, it shall contain the name of the record owner.

Sec. 149. 11 MRSA § 9-403, sub-§§ (6) and (7), as enacted by PL 1977, c. 526, § 86, are amended to read:

(6) If the debtor is a transmitting utility, section 9-401, subsection ~~(6)~~ (5), and a filed financing statement so states, it is effective until a termination statement is filed. A real estate mortgage which is effective as a fixture filing under section 9-402, subsection ~~(4-B)~~ (6), remains effective as a fixture filing until the mortgage is released or satisfied of record or its effectiveness otherwise terminates as to the real estate.

(7) When a financing statement, continuation statement, termination statement, statement of assignment or a statement of release covers timber to be cut or covers minerals or the like, including oil and gas, or accounts subject to section ~~9-104~~ 9-103, subsection ~~(5-A)~~ (5), or covering crops growing or to be grown, or is filed as a fixture filing, the filing officer shall index it under the names of the debtor and any owner of record shown on the financing statement in the same fashion as if they were the mortgagors in a mortgage of the real estate described, and under the name of the secured party as if he were the mortgagee thereunder.

Sec. 150. 11 MRSA § 9-405, sub-§ (2), 4th sentence, as amended by PL 1977, c. 526, § 90, is further amended to read:

He shall note the assignment on the index of the financing statement, or in the case of a fixture filing, or a filing covering timber to be cut, or covering minerals or the like, including oil and gas, or accounts subject to section ~~9-103-A~~ 9-103, subsection (5), or covering crops growing or to be grown, he shall index the assignment under the name of the assignor as grantor and, he shall index the assignment of the financing statement under the name of the assignee.

Sec. 151. 11 MRSA § 9-405, sub-§ (2), last sentence, as enacted by PL 1977, c. 526, § 91, is amended to read:

Notwithstanding the provisions of this subsection, an assignment of record of a security interest in a fixture contained in a mortgage effective as a fixture filing, section 9-402, subsection ~~(4-B)~~ (6), may be made only by an assignment of the mortgage in the manner provided by the laws of this State other than this Title.

Sec. 152. 11 MRSA § 9-407, sub-§ (2), 2nd sentence, as amended by PL 1977, c. 90 and c. 526, § 94, is repealed and the following enacted in its place:

The uniform fee for a certificate shall be \$5 for the first page of that certificate, plus 50¢ for each additional page.

Sec. 153. 11 MRSA § 9-408, as repealed by PL 1977, c. 526, § 95, is reenacted to read:

§ 9-408. Financing statements covering consigned or leased goods

A consignor or lessor of goods may file a financing statement using the terms "consignor," "consignee," "lessor," "lessee" or the like instead of the terms

specified in section 9-402. The provisions of this Part shall apply as appropriate to such a financing statement but its filing shall not of itself be a factor in determining whether or not the consignment or lease is intended as security, section 1-201, subsection (37). However, if it is determined for other reasons that the consignment or lease is so intended, a security interest of the consignor or lessor which attaches to the consigned or leased goods is perfected by such filing.

Sec. 154. 11 MRSA § 9-408-A, as enacted by PL 1977, c. 526, § 96, is repealed.

Sec. 155. 11 MRSA § 10-105, sub-§ (4), as enacted by PL 1977, c. 586, is amended to read:

(4) If the record of a mortgage of real estate would have been effective as a fixture filing of goods described therein if the new code had been in effect on the date of recording the mortgage, the mortgage shall be deemed effective as a fixture filing as to those goods under section 9-402, subsection ~~(4-B)~~ (6) of the new code on the effective date of public law, 1977, chapter 526.

Sec. 156. 11 MRSA § 10-106, sub-§ (4), next to last sentence, as enacted by PL 1977, c. 586, is amended to read:

Sections ~~9-103-A~~ 9-103 and ~~9-401-A~~ 9-401 determine the proper place to file such a financing statement.

Sec. 157. 12 MRSA § 4504, as last amended by PL 1975, c. 743, § 16, is repealed and the following enacted in its place:

§ 4504. General penalty

A violation of any provision of chapters 401 to 419 or any regulation authorized thereunder or adopted by legislative directive shall be a Class D crime, unless another penalty has been expressly provided.

Sec. 158. 13 MRSA § 3025, first sentence, as last amended by PL 1973, c. 49, § 2, is further amended to read:

The clerk, treasurer and a majority of the board of trustees of every independent local church incorporated under sections 3021 to 3024 shall prepare a certificate in form approved by the ~~Attorney General~~ Secretary of State setting forth the name of such church, the town or city where located and the number and names of its board of trustees, and shall sign and make oath to it and shall file the same in the office of the Secretary of State.

Sec. 159. 13-A MRSA § 108, as enacted by PL 1971, c. 439, § 1, is repealed.

Sec. 160. 13-A MRSA § 1304, sub-§ 1, as enacted by PL 1971 c. 439, § 1, is amended to read:

1. Any person who signs any document required or permitted to be delivered for filing with the Secretary of State by any corporation, domestic or foreign, knowing that such document contains any untrue statement of a material fact or

omits to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, shall be deemed ~~guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than \$500~~ to have committed a civil violation for which a forfeiture not to exceed \$500 may be adjudged.

Sec. 161. 13-B MRSA § 1301, sub-§ 1, ¶¶ B, C, D and E, as enacted by PL 1977, c. 525, § 13, are repealed and the following enacted in their place:

B. The address of the registered office of the corporation in this State and the name of its agent for service of process if a domestic corporation, or its registered agent if a foreign corporation, in this State at such address, including the street or rural route number, town or city, county and state; and, in the case of a foreign corporation, the address of its registered or principal office in its jurisdiction of incorporation; and

C. The names and business or residence addresses of the officers of the corporation, including the street or rural route number, town, city and state.

Sec. 162. 14 MRSA § 704-A, sub-§ 2, ¶ B, as enacted by PL 1975, c. 770, § 80, is amended to read:

B. Doing or causing a tortious act to be done, or causing the consequences ~~for~~ of a tortious act to occur within this State;

Sec. 163. 14 MRSA § 704-A, sub-§ 2, ¶ I, as enacted by PL 1975, c. 770, § 80, is amended to read:

I. Maintain any other relation to the State or to persons or property which affords a basis for the exercise ~~and~~ of jurisdiction by the courts of this State consistent with the Constitution of the United States.

Sec. 164. 14 MRSA § 6021, sub-§ 4, ¶ B, first sentence, as enacted by PL 1977, c. 401, § 4, is amended to read:

The court may determine the fair value of the use and occupancy of the dwelling unit by the tenant from the date when the landlord received actual notice of the condition until such time as the condition is repaired, and further ~~declared~~ declare what, if any, moneys the tenant owes the landlord or what, if any, rebate the landlord owes the tenant for rent paid in excess of the value of use and occupancy.

Sec. 165. 14 MRSA § 8102, sub-§ 1, as enacted by PL 1977, c. 2, § 2, is amended to read:

1. **Employee.** "Employee" means a person acting on behalf of the governmental entity in any official capacity, whether temporarily or permanently, and whether with or without compensation from local, state or federal funds, including elected or appointed officials, volunteer firefighters as defined in Title 30, section 3771, ~~and~~ rescue squad members where the rescue squad receives full or partial financial support from political subdivisions, Maine National Guardsmen while in active state service under Title 37-A, sections 57 and 207 and while engaged in the Domestic Action Program, but the term "employee" shall not mean a person or other legal entity acting in the capacity of an independent contractor under contract to the governmental entity.

Sec. 166. 15 MRSA § 391 is repealed.

Sec. 167. 15 MRSA § 942, sub-§ 4, as enacted by PL 1973, c. 760, is amended to read:

4. **Failure to appear; penalty.** Any person charged with an offense who has been ordered released ~~by a~~ pending trial on his personal recognizance, or on execution of an unsecured or secured appearance bond, who fails without just cause to appear before any court or judicial officer as required, shall be punished by a fine of not more than the maximum provided for the offense charged, or by imprisonment for not more than 6 months if the offense charged was ~~a misdemeanor punishable by a maximum period of imprisonment of less than one year, or for not more than 5 years if the offense charged was a felony punishable by a maximum period of imprisonment of one year or more, or by both a fine and imprisonment.~~

Sec. 168. 17 MRSA § 2911, sub-§ 1, ¶ D, sub-¶ (3), as enacted by PL 1977, c. 410, § 2, is amended to read:

(3) Considered as a whole, lacks serious literary, artistic, ~~political~~ political or scientific value.

Sec. 169. 17-A MRSA § 15, sub-§ 1, ¶ A, sub-¶ (1), as repealed and replaced by PL 1977, c. 326 and by c. 510, § 24, is repealed and the following enacted in its place:

(1) **Murder;**

Sec. 170. 17-A MRSA § 554, sub-§ 2, ¶ B, as enacted by PL 1975, c. 499, § 1, is amended to read:

B. The defendant was a person acting pursuant to authority expressly or impliedly granted in Title ~~12~~ 22.

Sec. 171. 17-A MRSA § 1157, first sentence, as enacted by PL 1977, c. 384, § 5, is amended to read:

When a person is convicted of a criminal homicide in the first or 2nd degree or of a Class A, B or C crime, ~~the clerk of the court~~ prosecutor's office shall obtain and shall furnish to the court, prior to the imposition of sentence on that person, a criminal history report on that person from the State Bureau of Investigation setting forth all available information of prior criminal prosecutions, if any, of that person and the disposition of each prosecution.

Sec. 172. 18 MRSA § 2051, sub-§ 11, as enacted by PL 1977, c. 151, is amended to read:

11. **Guardians; release of ward's interest in real estate.** Of guardians, to sell or release any interest of the ward, which is of insignificant value to the ward but which encumbers a marketable title to the real estate.

Sec. 173. 18 MRSA § 3646, as last amended by PL 1977, c. 78, § 120 and as repealed and replaced by PL 1977, c. 528, § 5, is repealed and the following enacted in its place:

§ 3646. Duties of public guardian

Except as otherwise specifically provided in this subchapter, the general provisions of this chapter relating to the powers and duties of guardians of adult persons are applicable to the public guardian acting under this subchapter.

When the public guardian is appointed the guardian of the person of an incapacitated adult, the public guardian shall have custody of the person of the ward and shall determine the ward's place of residence. The public guardian may apply for and effect the placement of any ward in accordance with law, in an appropriate home, hospital or institution having facilities and staff adequate to provide care and supervision consistent with the need of the ward. Any placement, if in a facility described in Title 22, section 1811, shall be made only if that facility is duly licensed. In the event that the license of any facility shall be suspended or revoked, the public guardian having any ward placed therein shall remove that ward and effect an appropriate placement of the ward as soon as practicable after knowledge of the suspension or revocation of the license.

When the public guardian is appointed guardian of the estate of an incapacitated adult, the public guardian may apply for and receive on behalf of the ward any benefits, grants or public aid to which that ward is entitled. The public guardian shall keep books of account or other records showing separately the principal amount received, increments thereto and disbursements therefrom for the benefit of any ward, together with the name of the ward, the source from which the money was received and the purpose for which the money was expended. The public guardian shall settle the account of its ward in accordance with section 3901.

Upon termination of the guardianship, the public guardian shall file with the court its final accounting and shall make disposition of any assets of any ward then in its hands as ordered by the court. This section shall not abrogate any powers or duties vested by law in the head of any public institution, or vested by the settlor of a trust in the trustee thereof, for the benefit of any ward under the guardianship of the public guardian.

Sec. 174. 20 MRSA § 966, as repealed and replaced by PL 1977, c. 296, and as last amended by PL 1977, c. 610, § 6, is repealed and the following enacted in its place:

§ 966. Annual pupil count; transfer of pupils and state subsidies

1. Superintendent's report to commissioner. Each superintendent of schools, school agent and principal of a private school shall semiannually, on April 15th and October 15th, report to the commissioner the number of pupils in attendance. The report shall also set forth the number of pupils residing in each of the municipalities making up the administrative unit. The report shall be filed on forms to be furnished by the commissioner. Any resident pupil counted in a unit or school on October 15th shall maintain a minimum attendance of 85% between October 15th and April 15th, exclusive of sickness or other excused absences, to be included in the count on April 15th. Students transferring into a unit or school shall maintain a minimum attendance of 85%, exclusive of sickness or other excused absences, from the date of entry until April 15th to be counted in the April 15th count. For subsidy distribution purposes, the previous 2 sentences shall not be in effect until the 1979-80 school year.

2. Transfer of students; student count for subsidy purposes; no tuition.

A. Whenever it is in the best interest of a resident pupil or pupils and if the parents or legal guardians approve, the superintendent of schools or the school agents may approve a transfer of the pupil or pupils from one administrative unit to another. Any approval given shall be reviewed annually by the superintendents of schools or the school agents.

B. The unit which provides the educational program for that pupil or pupils shall count them in all reports required for purposes of computing state subsidies. For purposes of state aid with state participation as defined in section 3748, subsection 4, that pupil or pupils shall be counted as though they resided in the largest municipality within the administrative unit.

C. No tuition charges between units shall be permitted.

3. Annual approval. All transfers shall be subject to annual approval as provided in subsection 2 and the superintendent or agents shall notify the commissioner whenever a transfer is approved.

Sec. 175. 20 MRSA c. 308, as enacted by PL 1977, c. 361, § 10, and as amended by PL 1977, c. 625, § 4, is reallocated to 20 MRSA c. 308-A.

Sec. 176. 21 MRSA § 103, as enacted by PL 1977, c. 496, § 7, is reallocated to 21 MRSA § 103-A.

Sec. 177. 21 MRSA § 1253, sub-§ 2, 3rd sentence, as enacted by PL 1977, c. 500, § 1, is amended to read:

Such a 3rd person shall, unless good cause is shown, return an absentee ballot to the clerk's office ~~within 5 business days of the date the absentee ballot was sent or delivered to him or~~ within the time limits provided in section 1255 ~~whichever is earlier.~~

Sec. 178. 21 MRSA § 1424, as repealed and replaced by PL 1977, c. 496, § 33 and c. 575, § 19, is repealed and the following enacted in its place:

§ 1424. Questions of law

1. Appeals. An appeal from a final decision by the body with final determinative powers pursuant to section 1423 may be taken to the Supreme Judicial Court on questions of law, if taken within 3 days of the final determination, in accordance with the procedure described in subsection 2.

2. Procedure. The appellant shall file the required number of copies of the record of the findings of fact and opinions and any decision issued pursuant to the final determination made by the appropriate body with the clerk of courts within 5 days after filing notice of appeal. Within 10 days after the appeal is taken, the parties shall file briefs with the clerk of courts. As soon as the record and briefs have been filed, the court shall consider the case forthwith. The court shall not recount the ballots, but shall determine questions of law. The court shall issue its decision as soon as reasonably possible. The court shall allow costs to the prevailing party as justice may require.

Sec. 179. 21 MRSA § 1579, sub-§ 15 is enacted to read:

15. Return of absentee ballots. A 3rd person, designated in an application or request for an absentee ballot and to whom the clerk of a municipality furnishes an absentee ballot in accordance with that application or request, who, without good cause, fails to return that absentee ballot to the clerk's office within the time limit provided in section 1255.

Sec. 180. 21 MRSA §1579, sub-§ 30, as enacted by PL 1977, c. 500, § 3, is repealed.

Sec. 181. 22 MRSA § 1471-B, as last amended by PL 1975, c. 497, § 3, is further amended to read:

§ 1471-B. Board of Pesticides Control

There is established in the Department of Agriculture a Board of Pesticides Control to be composed of the Commissioner of Agriculture, the Commissioner of Human Services, ~~the Director of the Bureau of Forestry~~ Commissioner of Conservation, the Commissioner of Inland Fisheries and Wildlife, the Commissioner of Marine Resources, the Chairman of the Public Utilities Commission, the Commissioner of Transportation and the Commissioner of Environmental Protection. The commissioners of the state departments may appoint agents to serve in their absence. The board shall elect annually a chairman from its own membership and be authorized to employ necessary personnel.

Sec. 182. 22 MRSA §§ 1566 - 1571, as enacted by PL 1971, c. 521, § 1, are repealed.

Sec. 183. 22 MRSA §§ 1572 - 1576, as enacted by PL 1973, c. 518, §§ 1 to 5, are repealed.

Sec. 184. 22 MRSA § 1577, as enacted by PL 1977, c. 389, is repealed.

Sec. 185. 22 MRSA C. 263-A is enacted to read:

CHAPTER 263-A

COMPRESSED AIR

§ 1581. Purpose

The purpose of this chapter is to protect the public health; to regulate and license the suppliers of compressed air used in self-contained breathing apparatus; to set up rules and regulations to establish the maximum permissible amount of all contaminants expressed either in percentages or in parts per million of volume, or both; to set up standards for the condition of the compression equipment; and to prescribe penalties for violations of this chapter.

§ 1582. Definitions

As used in this chapter, unless the context otherwise indicates, the following words shall have the following meanings.

1. Breathing apparatus. "Breathing apparatus" means any breathing device, either high or low pressure, which is used to sustain human life under adverse conditions.

2. Department. "Department" means the Department of Human Services.

3. Suppliers of compressed air. "Suppliers of compressed air" means any organization, agency, individual, firm, partnership or corporation that provides compressed air to be used in self-contained breathing apparatus.

§ 1583. License

It is unlawful for any supplier of compressed air to fill or supply any breathing apparatus with life supporting gases in the State of Maine unless licensed to do so by the department. The initial license fee and the annual renewal license fee shall be \$10, except that fire departments shall be exempt from the licensing requirements of this chapter, so long as the use of the apparatus is restricted to departmental use.

§ 1584. Fees

All fees shall be collected by the department and remitted to the Treasurer of State and credited to the General Fund.

§ 1585. Rules and regulations

The department shall have the authority to promulgate rules and regulations as are necessary to promptly and effectively enforce this chapter.

§ 1586. Penalty

Whoever violates any of the provisions of this chapter or any rules and regulations made thereunder shall be punished by a fine of not less than \$100, nor more than \$500, or by imprisonment for not more than 6 months, or by both.

Sec. 186. 22 MRSA c. 263-B is enacted to read:

CHAPTER 263-B

ABORTIONS

§ 1591. Immunity and employment protection

No physician, nurse or other person who refuses to perform or assist in the performance of an abortion, and no hospital or health care facility that refuses to permit the performance of an abortion upon its premises, shall be liable to any person, firm, association or corporation for damages allegedly arising from the refusal, nor shall such refusal constitute a basis for any civil liability to any physician, nurse or other person, hospital or health care facility nor a basis for any disciplinary or other recriminatory action against them or any of them by the State or any person.

No physician, nurse or other person, who refuses to perform or assist in the performance of an abortion, shall, because of that refusal, be dismissed,

suspended, demoted or otherwise prejudiced or damaged by a hospital, health care facility, firm, association, professional association, corporation or educational institution with which he or she is affiliated or requests to be affiliated or by which he or she is employed, nor shall such refusal constitute grounds for loss of any privileges or immunities to which such physician, nurse or other person would otherwise be entitled nor shall submission to an abortion or the granting of consent therefor be a condition precedent to the receipt of any public benefits.

§ 1592. Discrimination for refusal

No person, hospital, health care facility, firm, association, corporation or educational institution, directly or indirectly, by himself or another, shall discriminate against any physician, nurse or other person by refusing or withholding employment from or denying admittance, when such physician, nurse or other person refuses to perform, or assist in the performance of an abortion, nor shall such refusal constitute grounds for loss of any privileges or immunities to which such physician, nurse or other person would otherwise be entitled.

§ 1593. Sale and use of fetuses

Whoever shall use, transfer, distribute or give away any live human fetus, whether intrauterine or extrauterine, or any product of conception considered live born for scientific experimentation or for any form of experimentation shall be punished by a fine of not more than \$5,000 and by imprisonment for not more than 5 years and any person consenting, aiding or assisting shall be liable to like punishment.

§ 1594. Failure to preserve life of live born person

Whenever an abortion procedure results in a live birth, failure to take all reasonable steps, in keeping with good medical practice, to preserve the life and health of the live born person shall subject the responsible party or parties to Maine law governing homicide, manslaughter and civil liability for wrongful death and medical malpractice.

§ 1595. Live born and live birth, defined

“Live born” and “live birth,” as used in this chapter, shall mean a product of conception after complete expulsion or extraction from its mother, irrespective of the duration of pregnancy, which breathes or shows any other evidence of life such as beating of the heart, pulsation of the umbilical cord or definite movement of voluntary muscles, whether or not the umbilical cord has been cut or the placenta is attached. Each product of such a birth is considered live born and fully recognized as a human person under Maine law.

§ 1596. Abortion data

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

A. “Abortion” means the intentional interruption of a pregnancy by the application of external agents, whether chemical or physical, or the ingestion of chemical agents.

B. "Miscarriage" means an interruption of a pregnancy other than as provided in paragraph A.

2. Reports. A report of each abortion performed and a report of each miscarriage which occurs when a physician is in attendance shall be made to the Department of Human Services on forms prescribed by the department. Such report forms shall not identify the patient by name or otherwise and shall contain only the following information:

- A. Weight in grams of the fetus aborted, to the extent practical;
- B. Measurement in centimeters of the fetus aborted, crown to rump, sitting height, to the extent practical;
- C. When an abortion is performed, the medical procedure used to abort;
- D. Given gestational age of fetus; and
- E. Any resulting medical complications.

The form containing such information and data shall be prepared by the attending physician, signed by him and transmitted to the department not later than 10 days following the end of the month in which the abortion is performed or the miscarriage occurs.

The identity of any physician reporting pursuant to this section is confidential and the department shall take such steps as are necessary to insure the confidentiality of the identity of physicians reporting pursuant to this section.

A physician who reports data on an abortion pursuant to this section shall be immune from any criminal liability for that abortion under Title 17, section 51.

Sec. 187. 22 MRSA c. 403, as amended by PL 1977, c. 110 and repealed by c. 457, § 4, is reenacted to read:

CHAPTER 403

TOWN HOSPITALS

§ 1761. Municipal hospitals

A municipality may establish and maintain one or more hospitals, nursing facilities, boarding homes or any other institution, place, building or agency for the care, accommodation or hospitalization of the sick or injured or for the care of any aged or other persons requiring or receiving chronic or convalescent care. Any such facility shall be subject to all statutes and licensing requirements applicable to the particular type of facility.

§ 1762. Temporary facilities

Notwithstanding the provisions of section 1761, in the event of an outbreak of any disease or health problem dangerous to the public health, the municipal officers or local health officer, with the approval of the department, may establish temporary health care facilities, subject to the supervision of the department.

Sec. 188. 22 MRSA § 2204-D, last sentence, as enacted by PL 1975, c. 257, is repealed as follows:

~~No gifts, premiums, trading stamps or bonuses shall be associated with such advertising.~~

Sec. 189. 22 MRSA § 2204-E, sub-§ 1, as enacted by PL 1975, c. 257, is repealed as follows:

~~1. No advertising on television shall be permitted.~~

Sec. 190. 22 MRSA § 3713, last ¶, as enacted by PL 1977, c. 577, §2, is repealed.

Sec. 191. Effective date. Section 190 of this Act shall become effective June 30, 1978.

Sec. 192. 22 MRSA § 5112, sub-§ 2, as amended by PL 1977, c. 78, § 151 and c. 480, § 1, is repealed and the following enacted in its place:

2. Serve as an advocate on behalf of older people promoting and assisting activities designed to meet at the national, state and community levels the problems of older people. The committee shall serve as an ombudsman on behalf of individual citizens and older people as a class in matters under the jurisdiction of State Government. It shall be a spokesman on behalf of older people to the director, commissioner, Governor, Legislature, public-at-large and Federal Government.

In order to serve as advocate and ombudsman for older people, the committee shall have the power to enter onto the premises of any boarding care facility licensed according to section 7801 and any nursing home facility licensed according to section 1817 in order to investigate complaints concerning those facilities. The committee may authorize up to 25 persons, including committee members, staff of the committee and other citizens, to carry out this function of the committee. Appropriate identification shall be issued to all such persons. The committee shall renew the authorization and reissue identification annually. The findings of the committee shall be available to the public upon request.

Any person, official or institution who in good faith participates in the registering of a complaint pursuant to this subsection about an act or practice in a boarding care facility or a nursing home licensed according to section 7801 or 1817, respectively, or who participates in a judicial proceeding resulting from that complaint, shall be immune from any criminal liability that otherwise might result by reason of these actions. For the purpose of any criminal proceedings, there shall be a rebuttable presumption that any person acting pursuant to this subsection did so in good faith.

Sec. 193. 23 MRSA § 1103, as amended by PL 1977, c. 112, § 1 and as repealed and replaced by c. 405, § 3, is repealed and the following enacted in its place:

§ 1103. Increase in aid

If any municipality shall in any single year increase its appropriations for state aid roads to an amount of 2, 3, 4 or 6 times the maximum amount which it may annually appropriate under section 1101, the department may, from any balance

of the fund for state aid construction or reconstruction, after the appropriations contemplated in section 1102 and subject to section 1105 as to apportionment, appropriate a like increase of state aid; that appropriation shall not deprive the municipality of its right to the regular annual state aid in other years. The appropriations contemplated by this section shall be united with and become a part of the joint fund referred to in section 1102. Municipalities may, upon petition of the municipal officers of the municipality and approval of the Department of Transportation, use a portion or all of the state aid joint fund of the municipality for the municipality's share of the cost of reconstruction of railroad grade separation structures, on nonfederal aid state aid highways, under section 3411 or toward the municipality's share of the cost of construction or reconstruction of bridges under the Bridge Act; except that not more than 3 times the maximum amount as provided by sections 1101 and 1102 may be used as the municipality's share for construction of a bridge unless it is for construction of an unimproved bridge and approaches which are located between sections of improved state aid highways.

This section shall apply to appropriations made by municipalities for improvement and construction of state highways under section 1101, and to the corresponding apportionments of state aid made under section 1102 and subject to section 1105. Any municipality may expend up to 3 times the maximum amount which it may annually appropriate under section 1101 as construction. Any municipality may expend the balance of the state aid joint fund raised in one year as reconstruction of improved state or state aid highways.

Each municipality which appropriates funds for state aid roads shall raise exactly 1, 2, 3, 4 or 6 times the maximum amount which it may annually appropriate under section 1101 and shall report to the Department of Transportation each year as to how these funds shall be expended in terms of construction or reconstruction.

Nothing in this section shall prohibit any municipality from expending exactly 1, 2, 3, 4 or 6 times the maximum amount which it may annually appropriate under section 1101 from its state aid joint fund for reconstructing improved state or state aid highways or in maintaining, including resurfacing, of improved state or state aid highways outside compact or built up sections of highways as defined in section 754, and in constructing unimproved bridges and approaches which are located between sections of improved state aid highways. The proposed locations and type of work proposed under this section shall be subject to the approval of the Department of Transportation.

The department shall increase its apportionment of state aid by 40% of the state aid joint fund so expended for reconstruction of improved state or state aid highways or for construction of unimproved bridges and approaches under the Bridge Act, provided the bridge is located between sections of improved state aid highways.

Sec. 194. 23 MRSA §1111, as repealed by PL 1977, c. 604, § 5, is reenacted to read:

§ 1111. Perambulation

The boundary line between the State of New Hampshire and the State of Maine, as established and marked in 1927, 1928 and 1929, under the public laws of 1927, chapter 21, shall be perambulated once in 7 years forever and the line marked and

bounds renewed whenever necessary. The Governor shall appoint a surveyor from the Department of Transportation who shall, in conjunction with a duly authorized representative of the State of New Hampshire, perambulate the boundary line from Bryant's Rock at East Pond to the Canadian Line.

Sec. 195. 23 MRSA § 1201, sub-§ 29, as enacted by PL 1977, c. 305, is reallocated to 23 MRSA § 1201, sub-§ 30.

Sec. 196. 23 MRSA § 1913, sub-§ 14, as enacted by PL 1977, c. 494, § 1, is repealed.

Sec. 197. 23 MRSA § 1914, sub-§ 9, as enacted by PL 1977, c. 494, § 1, is repealed and the following enacted in its place:

9. Jurisdiction by local authority in compact or built-up sections. Administration of this chapter by the Department of Transportation shall not apply to on-premise advertisements located in compact or built-up sections, the administration of which shall be the responsibility of local authority. In compact or built-up areas adjacent to the interstate, the Department of Transportation shall be responsible for the administration of this section. The "compact or built-up section" of any town or city shall be the territory contiguous to any highway which is built up with buildings devoted to business or dwelling purposes which are situated less than 200 feet apart for a distance of at least $\frac{1}{4}$ of a mile.

Sec. 198. 23 MRSA § 1924, sub-§ 1, first sentence, as enacted by PL 1977, c. 494, § 1, is amended to read:

Any license issued pursuant to repealed Title 32, section 2713, shall remain in effect for 6 years from ~~the effective date of this Act~~ January 1, 1978, provided a licensee shall apply annually and pay the annual fee to the commissioner provided in repealed Title 32, section ~~2714~~ 2713.

Sec. 199. 23 MRSA § 1924, sub-§ 2, as enacted by PL 1977, c. 494, § 1, is amended to read:

2. Fee permit. Any permit for which a fee is paid and which is issued pursuant to repealed Title 32, section ~~2713~~ 2714, shall remain in effect until the sign for which it is issued is removed pursuant to this chapter, provided a permittee shall apply annually and pay the annual fee to the commissioner provided in repealed Title 32, section ~~2713~~ 2714.

Sec. 200. 23 MRSA § 1924, sub-§ 3, as enacted by PL 1977, c. 494, § 1, is amended to read:

3. Existing directional signs. The commissioner may remove, or require to be removed, any existing directional sign erected and maintained pursuant to section 1153 or Title 32, section 2722, provided any such sign shall be removed no later than 6 years after ~~the effective date of this Act~~ January 1, 1978, unless it meets all requirements of an official business directional sign under this chapter.

Sec. 201. 24 MRSA § 2320, first ¶, as enacted by PL 1977, c. 470, § 1, is amended to read:

Every nonprofit hospital and medical service organization which issues ~~groups~~ group and individual health care contracts providing coverage for inpatient

hospital care to residents of this State shall make available coverage for home health services by a home health care provider which has contracted with the nonprofit hospital or medical service organization under terms and conditions which the organization deems satisfactory to its membership.

Sec. 202. 24-A MRSA § 2837, first ¶, as enacted by PL 1977, c. 470, § 3, is repealed and the following enacted in its place:

Every insurer which issues or issues for delivery in this State group or blanket health insurance policies or plans, which provide coverage on an expense incurred basis for inpatient hospital care, shall make available that coverage for home health care services by a home health care provider.

Sec. 203. 26 MRSA § 41, next to last sentence, as amended by PL 1971, c. 620, § 1, is repealed as follows:

~~The director shall appoint a woman factory inspector.~~

Sec. 204. 26 MRSA § 965, sub-§ 3, ¶ D, first sentence, as enacted by PL 1975, c. 717, § 6, is amended to read:

If the parties do not agree to follow the fact-finding procedures outlined in ~~paragraphs A or B~~ paragraph A, they may jointly apply to the executive director or his designee to waive fact-finding.

Sec. 205. 26 MRSA § 1221, sub-§ 15, 2nd sentence, as amended by PL 1977, c. 570, § 36, is further amended to read:

Each such application shall ~~identity~~ identify and authorize a group representative to act as the group's agent for the purposes of the subsection.

Sec. 206. 28 MRSA § 2, sub-§ 8, ¶ N, first sentence, as repealed and replaced by PL 1975, c. 741, § 1, is amended to read:

"Class A tavern" shall mean a reputable place operated by responsible persons of good reputation where food may be sold and malt liquors are sold at tables, booths and counters, and where no minors shall be permitted to remain on the licensed premises, unless employed under section 852.

Sec. 207. 28 MRSA § 2, sub-§ 13, 2nd ¶, last sentence, as repealed and replaced by PL 1975, c. 741, § 1, is amended to read:

No minor, unless in the company of his or her parent or guardian, or unless he is employed according to the provisions of section 852, shall be permitted in any part of a hotel where the license privilege is exercised with the exception of public dining room or rooms and of sleeping rooms.

Sec. 208. 28 MRSA § 452, 5th ¶, as repealed and replaced by PL 1977, c. 564, § 100-A, is amended to read:

The commission is authorized to give such proper credits and to make such proper tax adjustments as ~~they~~ it may from time to time deem the wholesale licensee to be entitled to upon the filing of affidavits in such form as ~~they~~ it may prescribe and shall refund all excise tax paid by the wholesale licensee on all malt

liquor or table wine caused to be destroyed by a supplier as long as the quantity and size are verified by the Bureau of Alcoholic Beverages and the destruction is witnessed by an inspector of the bureau ~~if credit is issued and allowed for same by the manufacturer.~~

Sec. 209. 28 MRSA § 807, sub-§ 1, as enacted by PL 1975, c. 540, § 4, is repealed and the following enacted in its place:

1. **Issue of licenses.** Licenses for the sale of spirituous and vinous liquors and malt liquor to be consumed on the premises may be issued to golf clubs, indoor tennis clubs and indoor ice skating clubs as defined in section 2, subsection 8, paragraphs E, H and I.

Sec. 210. 29 MRSA § 1, sub-§ 22, as enacted by PL 1977, c. 481, § 2, is amended to read:

22. **Wrecker.** "Wrecker" shall mean a motor vehicle with hoisting apparatus and special equipment designed and used for towing wrecked or disabled vehicles or freeing vehicles stalled or stuck in snow, mud or sand, including any ~~vehicles-~~ vehicle designed to carry one or more vehicles upon its own body.

Sec. 211. 29 MRSA § 6, as enacted by PL 1975, c. 731, § 21, is amended to read:

§ 6. Printing or reproduction of motor vehicle documents

Any person who prints or otherwise prepares, or who causes to be printed or otherwise prepared, or who sells or transfers a paper or document in the form of a certificate of registration, operator's license or any other certificate, permit, license or form used by the Secretary of State in administering ~~Title 29 this Title~~ or who reproduces, or who causes to be reproduced, any certificate, permit, license or other form, or any part thereof, or who sells or transfers any reproduced certificate, permit, license or other form, or any part thereof, used by the Secretary of State in administering ~~Title 29 this Title~~, without the written consent of the Secretary of State, shall be punished by a fine of not more than \$1,000 or by imprisonment for not more than 11 months, or by both.

Sec. 212. 29 MRSA § 242, sub-§ 1, ¶ A-1, as enacted by PL 1973, c. 588, § 5, is repealed.

Sec. 213. 29 MRSA § 242-A, as enacted by PL 1977, c. 481, § 7, is amended by adding at the end the following new paragraph:

No registration shall be required of special equipment when the same is used solely on that part of a way adjoining the premises of the owner of the special equipment or when used solely for farm purposes, and highway use is limited to travel from or to the premises where the same is kept, to or from a farm lot and between farm lots used for farm purposes by the owner of the special equipment. Special equipment used solely for farm purposes may also be operated without registration to and from a filling station or garage for gas, oil or repairs.

3. **Need for immediate examination.** Any applicant who has made application for a "Class 1" or "Class 2" license and provides the Secretary of State with satisfactory evidence that an immediate examination is needed for employment purposes shall be examined as provided in this section within 7 days of such notification.

4. Operation of vehicle not within license class prohibited. Any person who operates a vehicle or combination of vehicles not included within the class of license issued to him is deemed to be operating a vehicle without being duly licensed.

5. Exceptions.

A. Nothing in this section shall prevent a member of an organized or volunteer fire department from operating any fire apparatus, or any law enforcement officer from operating any motor vehicle or combination of vehicles in the performance of his law enforcement duties, on a "Class 3" operator's license.

B. Nothing in this section shall prevent any employer from imposing more stringent or additional qualifications, requirements, examinations or certificates than are imposed herein.

Sec. 214. 29 MRSA § 530 is enacted to read:

§ 530. Motor vehicle licenses; classes; qualifications

1. License required.

A. No resident of the State shall operate a motor vehicle on any way, unless licensed by the State to operate that motor vehicle. No license shall be issued until the Secretary of State is satisfied that the applicant is a proper person to receive it.

B. Any person who operates a motor vehicle on any way without being duly licensed to without holding a valid instruction permit or in violation of any condition or restriction placed on the use of an instruction permit or operator's license under the authority of this subchapter shall be guilty of a Class E crime.

2. License classes.

A. Each license issued by the Secretary of State shall indicate the class of license as described in paragraph B. The Secretary of State shall appropriately examine each applicant as provided in section 581, by examination or by such other means as the Secretary of State shall prescribe, according to the class for which the applicant applies. The Secretary of State shall appropriately endorse each applicant's license with respect to his qualifications to operate classes of vehicles.

B. There shall be 3 classes of licenses which shall entitle the holder to operate motor vehicles or a combination of vehicles as follows:

(1) Class 1 shall include any motor vehicle or combination of vehicles, including "Class 2 or 3," except school buses, motorcycles or motor driven cycles;

(2) Class 2 shall include any single unit vehicle of over 18,000 pounds registered weight or any such vehicle towing another of 8,000 pounds g.v.w. or less, any bus carrying passengers, including "Class 3," except school bus, motorcycle or motor driven cycle; and

(3) Class 3 shall include any motor vehicle or combination of vehicles not exceeding registered weight of 18,000 pounds or any registered farm motor truck bearing the letter F, except school bus, motorcycle or motor driven cycle.

C. School buses, motorcycles or motor driven cycles shall not be given a separate class, but their use shall be provided for by special endorsement on their operator's license. This endorsement shall be made only after the applicant has successfully passed the examination designed for the specific vehicle as provided elsewhere in this Title.

D. Mopeds shall not be operated by any person who does not possess a valid operator's license of any class or who does not possess a license specially endorsed to operate a motorcycle or motor driven cycle. Mopeds shall not be operated upon interstate highways or upon any way upon which a bicycle is prohibited.

Sec. 215. 29 MRSA § 531, as last amended by PL 1977, c. 402, § 3, is repealed.

Sec. 216. 29 MRSA § 947, sub-§ 3, ¶ C, 1st sentence, as last repealed and replaced by PL 1977, c. 171, § 1, is amended to read:

All vehicular traffic facing a steady circular red signal at an intersection may cautiously enter the intersection to make a right turn **after stopping** as required by paragraph A, unless such a turn is prohibited by an appropriate sign such as "NO RIGHT TURN ON RED."

Sec. 217. 29 MRSA § 2123, as last repealed and replaced by PL 1977, c. 485, and as amended by PL 1977, c. 564, § 109, is repealed and the following enacted in its place:

§ 2123. Penalties

1. Penalties. Notwithstanding the provisions of Title 17-A, section 4, whoever violates or fails to comply with any provision of sections 1369, 2122, 2124 or 2125, or any rules or regulations established thereunder, shall be punished by a fine of not less than \$10 nor more than \$100, or by imprisonment for not more than 90 days, or by both, except as provided in subsection 2.

2. Warnings. The owner or operator of a vehicle operated with an expired inspection sticker in violation of section 2122-A during the first month immediately after the expiration of the inspection sticker shall not be issued a summons to court but shall be issued a warning in a form to be designated by the Chief of the State Police. This warning shall state that the owner or operator shall within 2 business days therefrom cause the vehicle to be inspected in accordance with this chapter and that the person inspecting the vehicle shall sign the warning notice and forward it to the Chief of the State Police. Failure to comply with the provisions of a warning issued pursuant to this subsection shall constitute a violation of this section punishable in accordance with subsection 1.

Sec. 218. 29 MRSA § 2272, sub-§ 1, ¶ I, as enacted by PL 1971, c. 410, is amended to read:

I. Failure of the driver of a motor vehicle involved in an accident resulting only in damage to an attended or unattended vehicle or other property ~~in excess~~

of \$100 to stop close to the scene of such accident and report his identity or otherwise report such accident.

Sec. 219. 29 MRSA § 2304, first sentence, as amended by PL 1975, c. 430, § 58, is further amended to read:

Every court in every case wherein a person is convicted of or adjudicated to have committed the violation of any statute or appeals from any conviction or adjudication relative to motor vehicles or to the operation of any vehicle shall forthwith transmit to the Secretary of State an abstract, duly certified, setting forth therein the names of the parties, the nature of the offense, the date of the offense, the date of hearing, the plea, the judgment and the result; and in cases involving any violation of sections 1251 to 1254 and 1256, the abstract shall contain the legal speed involved and the speed of which the person was convicted; and they shall be open to public inspection during reasonable hours.

Sec. 220. 30 MRSA § 105-J, next to the last ¶, as repealed and replaced by PL 1977, c. 78, § 169, is amended to read:

Commissioner District number 3, consisting of the municipalities of Buckfield, Canton, Dixfield, Greenwood, Hartford, Hebron, Otisfield, Oxford, Paris, Peru, Sumner, West Paris and Woodstock.

Sec. 221. 30 MRSA § 346, sub-§ 1, as enacted by PL 1973, c. 289, § 1, is amended to read:

1. **Delivery to successor in office.** County officials shall deliver the records of their office to their successors in office upon the expiration of their terms ~~as provided in Title 17, section 3103.~~

Sec. 222. 30 MRSA § 505, as amended by PL 1973, c. 567, § 15, is further amended to read:

§ 505. Annual report to Attorney General

The district attorney shall, annually, by the 20th day of November, make such a report to the Attorney General of the business done in his office during the year ending on the first day of said November ~~as is required by Title 5, section 204,~~ and failing to do so, he forfeits $\frac{1}{2}$ of his salary for the current quarter, to be deducted by the Attorney General, unless he is satisfied that there was reasonable cause therefor.

Sec. 223. 30 MRSA § 2061, sub-§ 5, ¶ I is repealed and the following enacted in its place:

I. Instruction cards containing the substance of Title 21, sections 861 to 863, 891, 892, 921, 923, 1579 and 1580, to guide voters in obtaining and marking ballots and to inform them of penalties for improper conduct shall be printed.

Sec. 224. 30 MRSA § 2151, sub-§ 5, ¶ G is repealed.

Sec. 225. 30 MRSA § 2213, sub-§ 4, as enacted by PL 1973, c. 625, § 201, is amended to read:

4. **Delivery to successor in office.** Municipal officials shall deliver the records of their office to their successors in office upon the expiration of their terms ~~as provided in Title 17, section 3102.~~

Sec. 226. 30 MRSA § 4956, sub-§ 4, as last amended by PL 1977, c. 564, § 118-D, is further amended by adding after the first paragraph a new paragraph to read:

Any person, firm, corporation or other legal entity who sells, leases, develops, builds upon, or conveys for consideration, offers or agrees to sell, lease, develop, build upon or convey for consideration any land in a subdivision which has not been approved as required by this section shall be punished by a fine of not more than \$1,000 for each such occurrence. The Attorney General, the municipality, the planning board of any municipality or the appropriate municipal officers may institute proceedings to enjoin the violations of this section and, if a violation is found by the court, the municipality, municipal planning board or the appropriate municipal officers may be allowed attorney fees.

Sec. 227. 30 MRSA § 4956, last ¶, as last amended by PL 1977, c. 564, § 118-E, is repealed.

Sec. 228. 30 MRSA § 5153, 3rd sentence, as last amended by PL 1977, c. 476, § 3, is further amended to read:

Notwithstanding any provisions in a charter or special Act of the Legislature, but subject to the constitutional limit on indebtedness, any ~~municipality~~ plantation organized prior to November 1, 1977 or municipality which has contracted for and accepted an offer or a grant of federal or state aid or both, for a particular project, may by vote of its municipal officers incur indebtedness in anticipation of the receipt of such aid for the particular project by issuing its general obligation notes payable in not more than one year, which notes may be ~~renewal~~ renewed from time to time by the issue of other notes, provided that no notes shall be issued or renewed in an amount which at the time of such issuance or renewal exceeds the unpaid amount of the federal or state aid in anticipation of which such notes are issued or renewed, as the case may be.

Sec. 229. 30 MRSA § 5356, 1st ¶, is amended to read:

A candidate for municipal office of a city of 10,000 or more population is governed by Title 21, sections ~~1392-1391~~ 1397-1402, except that notices of appointment of a treasurer and campaign reports must be filed with the clerk instead of the Secretary of State.

Sec. 230. 31 MRSA § 312, as enacted by PL 1973, c. 377, § 1, is repealed.

Sec. 231. 31 MRSA § 312-A is enacted to read:

§ 312-A. Dissolution by decree of court

1. **Application by or for a partner.** On application by or for a partner, the court shall decree a dissolution whenever:

A. A partner has been declared a lunatic in any judicial proceeding or is shown to be of unsound mind;

B. A partner becomes in any other way incapable of performing his part of the partnership contract;

- C. A partner has been guilty of such conduct as tends to affect prejudicially the carrying on of the business;
- D. A partner willfully or otherwise so conducts himself in matters relating to the partnership business that it is not reasonably practicable to carry on the business in partnership with him;
- E. The business of the partnership can only be carried on at a loss; or
- F. Other circumstances render a dissolution equitable.

2. Application of the purchaser of a partner's interest. On the application of the purchaser of a partner's interest under sections 307 and 308, the court shall decree a dissolution:

- A. After the termination of the specified term of particular undertaking; or
- B. At any time if the partnership was a partnership at will when the interest was assigned or when the charging order was issued.

In case of a permanently installed power generating facility of more than 1,000

§ 315-A. Power of partner to bind partnership to 3rd persons after dissolution

1. Partnership; appropriate act; binding transactions. After dissolution, a partner can bind the partnership except as otherwise provided in this section:

A. By any act appropriate for winding up partnership affairs or completing transactions unfinished at dissolution; or

B. By any transaction which would bind the partnership if dissolution had not taken place, provided the other party to the transaction:

(1) Had extended credit to the partnership prior to dissolution and had no knowledge or notice of the dissolution; or

(2) Though he had not so extended credit, had nevertheless known of the partnership prior to dissolution, and, having no knowledge or notice of dissolution, the fact of dissolution had not been advertised in a newspaper of general circulation in the place, or in each place if more than one, at which the partnership business was regularly carried on.

2. Unknown as a partner; unknown and inactive. The liability of a partner under this section shall be satisfied out of partnership assets alone when that partner had been prior to dissolution:

A. Unknown as a partner to the person with whom the contract is made; and

B. So far unknown and inactive in partnership affairs that the business reputation of the partnership could not be said to have been in any degree due to his connection with it.

3. Partnership; dissolved; bankrupt; lack of authority. The partnership is in no case bound by any act of a partner after dissolution:

A. Where the partnership is dissolved because it is unlawful to carry on the business, unless the act is appropriate for winding up partnership affairs;

B. Where the partner has become bankrupt; or

C. Where the partner has no authority to wind up partnership affairs, except by a transaction with one who:

- (1) Had an extended credit to the partnership prior to dissolution and had no knowledge or notice of his want of authority; or
- (2) Had not extended credit to the partnership prior to dissolution, and, having no knowledge or notice of his want of authority, the fact of his want of authority has not been advertised in the manner provided for advertising the fact of dissolution under this section.

Nothing in this section shall affect the liability under section 296 of any person who, after dissolution, represents himself or consents to another representing him as a partner in a partnership engaged in carrying on business.

Sec. 234. 32 MRSA § 582, last sentence, as enacted by PL 1977, c. 564, § 119, is amended to read:

The Credit and Collection Board shall perform the functions and enjoy the privileges of the advisory committee referred to in ~~that~~ section Title 9-B, section 216.

Sec. 235. 32 MRSA § 751, 2nd ¶, last sentence, as enacted by PL 1973, c. 111, is amended to read:

The term "dealer" shall not include an issuer which engages in a sale of securities which is exempt under section 874, subsection 9 or 9-A.

Sec. 236. 32 MRSA § 1100-E, sub-§ 2, as enacted by PL 1977, c. 484, § 2, is amended to read:

2. License issued. The board shall issue a license for the practice in this State to each person who has passed the examination under section 1100 D ~~or who has met the equivalency training and experience standards established by the board.~~ This license shall authorize the licensee to practice as a denturist in the State for the year in which it is issued.

Sec. 237. 32 MRSA § 1153, last sentence, as 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 such rules and regulations as it shall deem necessary for the holding of examinations and for carrying out this chapter, and the licensing requirements of Title 8, section 653, and to provide for reciprocity of licensing with similar boards of other states which maintain electrical standards at least equal to this State.

Sec. 238. 32 MRSA § 1553, sub-§ 4, last sentence, as enacted by PL 1977, c. 398, § 10, is amended to read:

The Administrative Court Judge shall have the power to suspend or revoke the certificate of any school or instructor found guilty of violating any provision of this section or of violating any lawful order, rule or regulation rendered or adopted by the board.

Sec. 239. 32 MRSA § 1658, as enacted by PL 1977, c. 398, § 10, is reallocated to 32 MRSA § 1657-A.

Sec. 240. 32 MRSA § 1658-A, sub-§ 1, first sentence, as repealed and replaced by PL 1975, c. 463, § 3, is amended to read:

No person shall engage in the sale of or practice of fitting and dealing in hearing aids or display a sign or in any other way advertise or represent himself as a person who practices the fitting, dealing and sale of hearing aids after ~~the effective date of this Act~~ October 1, 1975, unless he holds a valid license issued by the department as provided in this chapter.

Sec. 241. 32 MRSA § 1659, sub-§ 13, 2nd sentence, as repealed and replaced by PL 1975, c. 463, § 3, is amended to read:

Any and all violations of the department's regulations or provisions of ~~chapter 23-A~~ this chapter shall be grounds for refusal to issue or renew said license.

Sec. 242. 32 MRSA § 1854, first sentence is amended to read:

All reusable glass containers used in the manufacture of beverages shall, before being filled or refilled, be thoroughly cleaned and sanitized by washing in an automatic washing machine in a solution of not less than 3% caustic alkali, at a temperature not lower than 110° ~~F~~ Fahrenheit to be followed by a rinsing in potable water.

Sec. 243. 32 MRSA § 1870, as enacted by PL 1977, c. 381, § 2, is reallocated to 32 MRSA § 1871.

Sec. 244. 32 MRSA § 2102, as last amended by PL 1977, c. 497, § 10, is further amended by adding a new first paragraph to read:

As used in this chapter, unless the context indicates otherwise, the following words shall have the following meanings.

Sec. 245. 32 MRSA § 3501, sub-§ 5, as enacted by PL 1977, c. 469, § 15, is repealed and the following enacted in its place:

5. **Examinations.** The following applicants for license shall present to the executive officer of the board a written application for examination and license, containing such information as the board may require, accompanied by the required fee of \$15 for a master plumber's examination, \$10 for a journeyman plumber's examination and \$15 for a limited plumber's examination. Examinations shall be in whole or in part in writing, shall be conducted by the board and shall be of a thorough and practical character commensurate with the responsibilities of the prospective license holder.

Applications for a first examination shall be received by the board at least 15 days prior to a scheduled meeting of the board.

The passing grade on any examination shall be not less than 70%. A candidate failing one examination may apply for reexamination, which may be granted upon payment of a fee established by the board. Any candidate for registration having an average grade of less than 50% may not apply for reexamination for one year.

When the unexpired term of license of an applicant is or will be more than one year at the time of licensure, the board may require the applicant to pay an additional fee not to exceed 1/2 the biennial license fee.

Sec. 246. 32 MRSA § 3984, as enacted by PL 1967, c. 344, § 1, is amended to read:

§ 3984. Certificate

Any person who shall have received from the board a certificate of his qualifications to practice as a public accountant, as provided in section 3985, prior to its repeal and section 3986, shall be styled and known as a public accountant, and no other persons shall assume ~~such that~~ title or any other words, letters or figures to indicate that the person ~~using the same is such a~~ public accountant.

Sec. 247. 32 MRSA § 3994, sub-§ 3, as enacted by PL 1967, c. 344, § 1, is amended to read:

3. Use of title by person, public accountant. No person shall assume or use the title or designation "public accountant" or any other title, designation, words, letters, abbreviation, sign, card or devices tending to indicate that ~~such that~~ person is a public accountant, unless ~~such that~~ person has received a certificate as a public accountant under section 3985 prior to its repeal or section 3986 and all of ~~such that~~ person's offices in this State for the practice of public accounting are maintained and registered as required under section 3989, or unless ~~such that~~ person has received a certificate as a certified public accountant under section 3981, holds a live permit issued under section 3990 and all of ~~such that~~ person's offices in the State for the practice of public accounting are maintained and registered as required under section 3989.

Sec. 248. 32 MRSA § 4151, first ¶ is repealed and the following enacted in its place:

For the purposes of this chapter, unless the context otherwise indicates, the following words shall have the following meanings.

Sec. 249. 32 MRSA § 4171, first ¶, as enacted by PL 1969, c. 237, is repealed and the following enacted in its place:

As used in this chapter, unless the context otherwise indicates, the following words shall have the following meanings.

Sec. 250. 32 MRSA § 4661, as enacted by PL 1969, c. 395, is amended by adding a new first paragraph to read:

As used in this subchapter, unless the context otherwise indicates, the following words shall have the following meanings.

Sec. 251. 32 MRSA § 4668, as last amended by PL 1973, c. 762, § 12, is further amended to read:

§ 4668. Limitation

This subchapter shall not apply to sales where the gross sales price, including any interest or carrying charges, is less than \$25, nor to any transaction covered

by Title 9-A, sections 3.501 to 3.507, nor shall it apply to any sale, by any dealer or agent or salesman of a registered dealer, registered pursuant to chapter 13, of stocks, bonds, debentures or securities representing stocks, bonds or debentures registered pursuant to chapter 13 or expressly exempt from registration thereof, nor shall it apply to any sale of insurance covered by Title 24-A sections 2515-A and 2717.

Sec. 252. 32 MRSA § 6051, sub-§ 6, as enacted by PL 1977, c. 508, § 3, is repealed and the following enacted in its place:

6. Polygraph expert. "Polygraph expert" means an expert in the analysis of polygraph test results; however, a full-time police officer may act as a polygraph examiner without a license.

Sec. 253. 32 MRSA § 6052, sub-§ 3, as enacted by PL 1977, c. 508, § 3, is repealed and the following enacted in its place:

3. Rules and regulations; review. Each rule and regulation promulgated by the commissioner shall be reviewed as provided in Title 5, chapter 308.

Sec. 254. 32 MRSA § 6056, 3rd sentence, as enacted by PL 1977, c. 508, § 3, is amended to read:

The applicant, or if the applicant is a corporation, its resident manager, superintendent or official representative, shall be at least 18 years of age and shall be of good moral character ~~or~~ and shall have been regularly employed for at least one year as a full-time investigative assistant or for not less than one year as ~~a detective an investigator~~ doing investigating work, a member of an investigative service of the United States or a police officer of the State of Maine or any political subdivision thereof.

Sec. 255. 32 MRSA § 6060, sub-§ 1, ¶¶ A and B, as enacted by PL 1977, c. 508, § 3, are repealed and the following enacted in their place:

A. A licensee may employ, to assist him in his business, as many persons as he may deem necessary, except that a licensed person engaged in the private investigation business may not employ more than one person to act as a private investigator or engage in the private investigation business. A person so employed or engaged shall be bonded in the amount of \$20,000 and that bond shall be on file with the Commissioner of Public Safety. The person employed or engaged shall be licensed as an assistant private investigator with the Commissioner of Public Safety for a fee of \$150, provided he is a resident of this State and meets all application requirements for license to engage in the private investigation business, excepting one year's experience as an investigator. A license shall be issued as an assistant private investigator for a period of one year, provided the person so licensed shall remain employed by the same licensed private investigator for that period.

B. The assistant private investigator license may not be renewed. At the end of one year, the licensed assistant private investigator may apply for a private investigator license in accordance with sections 6056 to 6059.

Sec. 256. 32 MRSA c. 79, as enacted by PL 1977, c. 466, § 2, is reallocated to 32 MRSA c. 81.

Sec. 257. 33 MRSA § 465, as enacted by PL 1973, c. 505, is amended to read:

§ 465. Abutters own the centerline of road or way

Any person owning land in this State abutting a town or private way, county road or highway, whose predecessors in title have not reserved any title in such road or way as provided in sections 460 and 461, or filed the notice provided in section 462 within the time specified therein, shall be deemed to own to the centerline of such road or way except as provided in the following sections 466 to 469.

Sec. 258. 33 MRSA § 561, first ¶, as enacted by PL 1965, c. 357, is repealed and the following enacted in its place:

As used in this chapter, unless the context otherwise indicates, the following words shall have the following meanings.

Sec. 259. 33 MRSA § 562, as enacted by PL 1965, c. 357, is amended to read:

§ 562. Application

This chapter shall be applicable only to property, the sole owner or all of the owners of which submit the same to the provisions herein of this chapter by duly executing and recording a declaration as provided.

Sec. 260. 33 MRSA § 1001, first ¶ is repealed and the following enacted in its place:

As used in this chapter, unless the context otherwise indicates, the following words shall have the following meanings.

Sec. 261. 34 MRSA § 5, last sentence, as last amended by PL 1967, c. 391, § 5, is further amended to read:

Any prisoner or inmate who escapes from any assignments described in this section, or any other assignment beyond the walls of the State Prison or off the grounds of the ~~Men's~~ Maine Correctional Center shall be guilty of escape under this Title or Title ~~17~~ 17-A, section ~~1405~~ 755.

Sec. 262. 34 MRSA § 504 is amended to read:

§ 504. Convicts to labor; keeper; profits

The keeper of the jail, workhouse, house of correction, or, in case of a sentence to any town farm or almshouse, the overseers of the poor of such town or the keeper or agent of such town farm or almshouse may require a convict committed thereto to labor at any lawful work within the town where such institution is situated, and may appoint any suitable person keeper over him, and may collect and receive the wages, compensation or profits of his labor, and at the expiration of his sentence pay to the convict such reasonable compensation as in their judgment the profits of his labor will warrant, deducting therefrom the costs of commitment and ~~any fine imposed under Title 17, section 3757.~~

Sec. 263. 34 MRSA § 708, 3rd sentence, as amended by PL 1975, c. 756, § 18 and by c. 771, § 382, is repealed and the following enacted in its place:

When the warden believes that there are more convicts in the State Prison than can be confined there securely, he shall certify the fact to the commissioner, who may authorize him to transfer them, so far as is necessary, to some jail.

Sec. 264. 36 MRSA § 6, as enacted by PL 1977, c. 477, § 1, is repealed.

Sec. 264-A. 36 MRSA § 6-A is enacted to read:

§ 6-A. Payments; refund or abatement

A taxpayer may pay any tax, make any deposit or file any bond, at any time, without forfeiting any right to apply for a refund or an abatement, or to seek review of the validity of the tax. No such tax, bond or deposit need be paid, filed or made under protest or under duress, to entitle the taxpayer to apply for a refund or an abatement or to seek review of the validity of the tax.

Sec. 265. 36 MRSA § 312, as last amended by PL 1975, c. 545, § 9, is repealed and the following enacted in its place:

§ 312. Violation

After July 1, 1980, no person shall be eligible to perform the duties of a chief assessor of a primary assessing area or the duties of a professional assessor of any municipality or primary assessing area unless he or she shall have been certified in the manner provided. Violation of this section shall be a civil violation for which a forfeiture of not less than \$100 nor more than \$250 shall be adjudged.

Sec. 266. 36 MRSA § 660, as enacted by PL 1977, c. 490, § 3, is amended to read:

§ 660. Legislative review

1. **Review; committee jurisdiction.** The following sections of this subchapter are subject to review under Title 1, section ~~2501~~ 2601; sections 652, 653, 654, 655 and 656. The legislative committee having jurisdiction over the review provided for in Title 1, section ~~2502~~ 2602, shall be the Joint Standing Committee on Taxation. Any further property tax exemptions enacted in this Title shall be assigned a date of review in Title 1, section ~~2501~~ 2601, that is no more than 5 years from its effective date.

2. **Additional contents of report.** In addition to the contents of the committee report set out in Title 1, section ~~2503~~ 2603, a report on property tax exemptions shall include:

A. An evaluation of the economic impact of the exemption on the State or community; and

B. A determination of which groups or individuals are assisted by the exemption and their approximate number.

Sec. 267. 36 MRSA § 704 is repealed and the following enacted in its place:

§ 704. Delinquent assessors; violation

Any assessor who refuses to assess a state, county or municipal tax as required by law, or shall knowingly omit or fail to perform any duty imposed upon him by law, commits a civil violation for which a forfeiture not to exceed \$100 may be adjudged.

Sec. 268. 36 MRSA § 894 is repealed and the following enacted in its place:

§ 894. Delinquent tax collectors; forfeiture

Any tax collector who refuses to collect a state, county or municipal tax as required by law, or who shall knowingly omit or fail to perform any duty imposed upon him by law, commits a civil violation for which a forfeiture not to exceed \$100 may be adjudged.

Sec. 269. 36 MRSA § 1110, as amended by PL 1977, c. 467, § 12 and by c. 509, § 28, is repealed and the following enacted in its place:

§ 1110. Reclassification

Land subject to taxes under this subchapter may be reclassified as to land classification by the municipal assessor, chief assessor or State Tax Assessor upon application of the owner with a proper showing of the reasons justifying that reclassification or upon the initiative of the respective municipal assessor, chief assessor or State Tax Assessor where the facts justify the same. In the event that the municipal assessor, chief assessor or State Tax Assessor determines, upon his own initiative, to reclassify land previously classified under this subchapter, he shall provide to the owner or owners of the land by certified mail, return receipt requested, notice of his intention to reclassify that land and the reasons therefor:

Sec. 270. 36 MRSA § 1231, last ¶ is repealed and the following enacted in its place:

Any such owner or person who knowingly makes a fraudulent return under this section commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 for each violation shall be adjudged.

Sec. 271. 36 MRSA § 1490 is repealed and the following enacted in its place:

§ 1490. False statements to any person receiving tax

Any person intentionally making any false statement to any person charged with the duty of receiving this tax and issuing the receipt therefor, when making statement for the purpose of the levy of the tax hereunder, commits a civil violation for which a forfeiture not to exceed \$25 may be adjudged.

Sec. 272. 36 MRSA § 1491, as enacted by PL 1973, c. 588, § 14, is repealed and the following enacted in its place:

§ 1491. False entry on renewal forms

Any person making a false entry on the renewal form provided by the Secretary of State in the collection of the excise tax, as authorized by section 1482, subsection 6, paragraph E, commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 shall be adjudged.

Sec. 273. 36 MRSA § 1752, sub-§ 9-A, as enacted by PL 1977, c. 198, § 1, is reallocated to 36 MRSA § 1752, sub-§ 9-C.

Sec. 273-A. 36 MRSA § 1760, sub-§ 37, as enacted by PL 1977, c. 542, § 4, is reallocated to 36 MRSA § 1760, sub-§ 38.

Sec. 274. 36 MRSA § 1760-A, as enacted by PL 1977, c. 490, § 4, is amended to read:

§ 1760-A. Legislative review

1. Review; committee jurisdiction. Section 1760, except for subsections 1 and 2, is subject to review under Title 1, section ~~2501~~ 2601. The legislative committee having jurisdiction over the review provided for in Title 1, section ~~2502~~ 2602, shall be the Joint Standing Committee on Taxation. Any sales tax exemptions enacted in this Title after ~~the effective date of this section~~ October 24, 1977, shall be assigned a date of review in Title 1, section ~~2501~~ 2601, that is no more than 5 years from its effective date.

2. Additional contents of report. In addition to the contents of the committee report set out in Title 1, section ~~2503~~ 2603, a report on sales tax exemptions shall include:

A. An evaluation of the economic impact of the exemption on the State or community; and

B. A determination of which group or individuals are assisted by this exemption and their approximate number.

Sec. 275. 36 MRSA § 1761 is amended to read:

§ 1761. Advertising of payment by retailer

It shall be unlawful for any retailer to advertise or hold out or state to the public or to any consumer, directly or indirectly, that the tax or any part thereof imposed by chapters 211 to 225 will be assumed or absorbed by the retailer, or that property sold, or if added or included that it or any part thereof will be refunded. Any person violating any part of this section shall be guilty of a ~~misdemeanor~~ Class E crime.

Sec. 276. 36 MRSA § 1813 is amended to read:

§ 1813. Illegal collection of sales tax prohibited

~~It shall be unlawful for any~~ Any retailer ~~to who knowingly charge or collect~~ charges or collects as the sales tax due on the sale price of any property or rental an amount in excess of that provided by section 1812 ~~Any person violating this section shall be guilty of a misdemeanor~~ Class E crime.

Sec. 277. 36 MRSA § 2113, first sentence is repealed and the following enacted in its place:

Any violation of any provision of chapters 211 to 225 for which a penalty or forfeiture is not provided by any other Title of the Revised Statutes shall be a Class E crime.

Sec. 278. 36 MRSA § 2518, last sentence, as repealed and replaced by PL 1973, c. 727, § 8, is repealed and the following enacted in its place:

Whoever, after such notice, does business for such company or association shall be guilty of a Class E crime.

Sec. 279. 36 MRSA § 2688, last sentence is repealed and the following enacted in its place:

Any corporation, association or person refusing or neglecting to make the returns required by law or to exhibit to the State Tax Assessor, or to his duly authorized agent, its or his books for the purpose aforesaid, or making returns which the president, clerk, treasurer or other person certifying those returns knows to be false shall be subject to a civil penalty of not less than \$1,000 nor more than \$10,000 payable to the State to be recovered in a civil action in any county into which the telegraph or telephone lines extend.

Sec. 280. 36 MRSA § 2908, as amended by PL 1977, c. 270 and by c. 477, § 12, is repealed and the following enacted in its place:

§ 2908. Refund of 8/9 of tax in certain cases; time limit

Any person, association of persons, firm or corporation who shall buy and use any internal combustion engine fuel as defined in this chapter for the purpose of operating or propelling commercial motor boats, tractors used for agricultural purposes not operating on public ways, or in such vehicles as run only on rails or tracks, or in stationary engines, or in the mechanical or industrial arts, or for any other commercial use except in motor vehicles operated or intended to be operated upon any of the public highways of this State, or turnpikes operated and maintained by the Maine Turnpike Authority, or except as provided in section 2910, in the operation of aircraft, and who shall have paid any tax on internal combustion engine fuel levied or directed to be paid as provided by this chapter, either directly by the collection of the tax by the vendor from the consumer, or indirectly by adding the amount of that tax to the price of that fuel and paid by that consumer, shall be reimbursed and repaid to the extent of 8/9 of the amount of the tax paid by him upon presenting to the State Tax Assessor a sworn statement accompanied by the original invoices or other evidence as the State Tax Assessor may require showing those purchases, which statement shall show the total amount of the fuel so purchased and used by that consumer other than in motor vehicles operated or intended to be operated upon any of the public highways of the State and in the operation of aircraft. Applications for refunds shall be filed with the State Tax Assessor within 15 months from the date of purchase.

Sec. 281. 36 MRSA § 2913, first sentence, as amended by PL 1967, c. 94, § 9, is repealed and the following enacted in its place:

Any person who shall knowingly make any false or fraudulent report or return required by this chapter, or who shall make any false statement in any claim or invoice presented to the State Tax Assessor, or who shall knowingly present to the

State Tax Assessor any claim or invoice containing any false statement, or who shall, with the intent to defraud, collect or cause to be paid to him or to any other person any refund provided for by the Gasoline Tax Act without being entitled thereto, or who shall, with intent to defraud, evade or violate any of the provisions of this chapter, or any rules or regulations duly made thereunder, or who shall engage in the business in this State as a distributor, importer or exporter without being the holder of an uncanceled certificate to engage in that business, shall be subject to a civil penalty of not more than \$2,000 payable to the State to be recovered in a civil action.

Sec. 282. 36 MRSA § 2967, as last amended by PL 1975, c. 11, § 2, is repealed and the following enacted in its place:

§ 2967. Violations

Any motor carrier subject to this chapter that knowingly fails to file the reports required commits a civil violation for which a forfeiture not to exceed \$500 may be adjudged for each failure.

Any motor carrier, or any private carrier included within section 2971, or any agent or employee of either of them, who shall operate a motor vehicle which operation renders that motor carrier or private carrier liable to this chapter at any time when that motor carrier or private carrier has failed to file any report or pay tax, penalty or interest as required by this chapter commits a civil violation for which a forfeiture of not less than \$10 nor more than \$300 shall be adjudged.

Sec. 283. 36 MRSA § 3032, last sentence is repealed and the following enacted in its place:

Any person intentionally violating any of the provisions of this section shall be subject to a civil penalty of not more than \$2,000 payable to the State to be recovered in a civil action.

Sec. 284. 36 MRSA § 3034, last ¶ is repealed and the following enacted in its place:

Any person violating any of the provisions of this section commits a civil violation for which a forfeiture of not less than \$50 nor more than \$300 shall be adjudged.

Sec. 285. 36 MRSA § 3038, as last amended by PL 1971, c. 21, § 3, is repealed and the following enacted in its place:

§ 3038. Failure to file statement; false statement

Any person who shall refuse or neglect to make any statement, report, payment or return required by this chapter, or who shall knowingly make, or shall aid or assist any other person in making a false statement in a return or report to the State Tax Assessor, or in connection with an application for refund of any tax, or who shall knowingly collect or attempt to collect, or cause to be paid to him or to any other person, either directly or indirectly, any refund of that tax without being entitled to the same, shall be subject to a civil penalty of not more than \$2,000 payable to the State to be recovered in a civil action.

Sec. 286. 36 MRSA § 3039, as last amended by PL 1975, c. 11, § 3, is repealed and the following enacted in its place:

§ 3039. Additional violations

Any user, or any agent or employee of any user, who shall consume any fuel in a motor vehicle on a public highway or on a turnpike operated and maintained by the Maine Turnpike Authority, when that user is not the holder of an uncanceled license as required by this chapter, or when that user has failed to file any report or pay tax, penalty or interest as required by this chapter, commits a civil violation for which a forfeiture of not less than \$10 nor more than \$300 shall be adjudged. Each day or part thereof during which any person shall consume any fuel in a motor vehicle on a public highway or on a turnpike owned and maintained by the Maine Turnpike Authority, when that user is not the holder of an uncanceled license as required by this chapter, or when that user has failed to file any report or pay tax, interest or penalty as required by this chapter, shall constitute a separate violation within the meaning of this section.

Sec. 287. 36 MRSA § 4362, 10th & 11th sentences are repealed and the following enacted in their place:

Any person who shall sell, offer for sale or possess with intent to sell any cigarettes, without a license as provided in this section, commits a civil violation for which a forfeiture not to exceed \$25 may be adjudged for the first violation and a forfeiture not less than \$25 nor more than \$200 shall be adjudged for each subsequent violation. Any unclassified importer who shall import, receive or acquire from without the State cigarettes for use or consumption within the State without a license as provided in this section commits a civil violation for which a forfeiture not to exceed \$25 may be adjudged for the first violation and a forfeiture not less than \$25 nor more than \$200 shall be adjudged for each subsequent violation.

Sec. 288. 36 MRSA § 4365, as last amended by PL 1977, c. 477, §§ 13 and 14, is further amended by adding after the first sentence 2 new sentences to read:

Any increase in tax authorized under this section shall terminate when a federal program similar to that provided in Title 22, section 3283, becomes effective. The Governor shall determine by proclamation when the federal program has become effective.

Sec. 289. 36 MRSA § 4370, last sentence is repealed and the following enacted in its place:

Any person violating any provision of this section shall be guilty of a Class E crime, provided that no imprisonment penalty shall be imposed for a first offense.

Sec. 290. 36 MRSA § 4372, last ¶, as enacted by PL 1975, c. 31, § 2, is repealed and the following enacted in its place:

Any person possessing contraband cigarettes at the time of seizure shall be guilty of a Class E crime; provided the amount of seized cigarettes totals at least 20 cartons of cigarettes or 4,000 cigarettes.

Sec. 291. 36 MRSA § 4374 is repealed and the following enacted in its place:

§ 4374. Fraudulent stamps

Any person who shall, with the intent to defraud, make or utter or shall forge or counterfeit any stamp prescribed by the State Tax Assessor under this chapter or who shall cause or procure the same to be done, or who shall knowingly utter, publish, pass or render as true, any false, altered, forged or counterfeited stamp, or who shall knowingly possess any such false, altered, forged or counterfeited stamp, or who shall use more than once any stamp provided for and required by this chapter, for the purpose of evading the tax imposed by this chapter, shall be guilty of a Class D crime.

Sec. 292. 36 MRSA § 4443 is repealed and the following enacted in its place:

§ 4443. Civil violation

Whoever sells, offers or exposes for sale a mixed fertilizer without having filed the statement and paid the fee required by section 4441 commits a civil violation for which a forfeiture not to exceed \$100 for the first violation and \$200 for each subsequent violation may be adjudged.

Sec. 293. 36 MRSA § 4641-J, as enacted by PL 1975, c. 572, § 1, is repealed and the following enacted in its place:

§ 4641-J. Recording without tax

Any register of deeds who, upon recording any deed upon which a tax is imposed by this chapter, fails to collect that tax or to obtain the declaration of value required by this chapter and does so with the intent of defeating the purposes of this chapter commits a civil violation for which a forfeiture not to exceed \$200 may be adjudged.

Sec. 294. 36 MRSA § 4641-K, as amended by P&SL 1975, c. 78, § 21, is repealed and the following enacted in its place:

§ 4641-K. Falsifying declaration of value

Any person who knowingly falsifies the consideration or value prescribed by section 4641-D or refuses to permit the State Tax Assessor, or any of his agents or representatives to inspect that property, books, papers, records or memoranda within 2 years after recording, or knowingly alters, cancels or obliterates any part thereof, or knowingly makes any false entry therein shall be guilty of a Class E crime.

Sec. 295. 36 MRSA §§ 5330, 5331, 5332 and 5333, as enacted by P&SL 1969, c. 154, § F, are repealed and the following enacted in their places:

§ 5330. Attempts to evade or defeat tax

Any person who intentionally attempts in any manner to evade or defeat any tax imposed by this Part or the payment thereof shall, in addition to any other penalties provided by law, be guilty of a Class C crime.

§ 5331. Failure to collect or pay over

Any person required under this Part to collect, truthfully account for and pay over any tax imposed by this Part, who intentionally fails to collect or truthfully account for any pay over that tax shall, in addition to other penalties provided by law, be guilty of a Class C crime.

§ 5332. Failure to file return, supply information, pay tax

Any person required under this Part to pay any tax or estimated tax, or required by this Part or regulation prescribed thereunder to make a return, other than a return of estimated tax, keep any records or supply any information, who intentionally fails to pay that tax or estimated tax, make the return, keep the records or supply the information, at the time or times required by law or regulation, shall, in addition to other penalties provided by law, be guilty of a Class D crime.

§ 5333. False statements

Any person who knowingly makes and subscribes any return, statement or other document, which contains or is verified by a written declaration that it is made under the penalties of perjury, and which he does not believe to be true and correct as to every material matter; or knowingly aids or procures the preparation or presentation in a matter arising under this Part of a return, affidavit, claim or other document which is fraudulent or is false as to any material matter shall be guilty of a Class D crime.

Sec. 296. 37-A MRSA § 19, as enacted by PL 1971, c. 580, § 1, is amended by inserting at the end the following paragraph:

Eligible family members of servicemen who are permanently buried overseas, buried at sea, missing in action and declared dead, or whose bodies are unrecoverable for other reasons, may be buried in the Maine Veterans Memorial Cemetery providing the deceased serviceman or veteran would be eligible for burial in the cemetery.

Sec. 297. 37-A MRSA § 36, as enacted by PL 1971, c. 580, § 1, is repealed and the following enacted in its place:

§ 36. Fraud

Whoever knowingly shall make a false statement, oral or written, relating to a material fact in support of application for aid under these sections shall be guilty of a Class E crime.

Sec. 298. 37-A MRSA § 59, sub-§ 7, last sentence, as repealed and replaced by PL 1973, c. 728, § 1, is repealed and the following enacted in its place:

Failure to comply with such an order is a Class E crime.

Sec. 299. 37-A MRSA § 62-A, subsection 1, ¶ D, as enacted by PL 1975, c. 617, is repealed and the following enacted in its place:

D. Any person who knowingly makes a misstatement of fact in connection with an application for financial assistance under this section shall be guilty of a Class D crime.

Sec. 300. 37-A MRSA § 67, 2nd sentence, as enacted by PL 1971, c. 580, § 1, is repealed and the following enacted in its place:

Any person who thus refuses without reasonable cause shall be guilty of a Class E crime.

Sec. 301. 37-A MRSA § 68, as enacted by PL 1971, c. 580, § 1, is amended to read:

§ 68. Right of way; violation; jurisdiction

Men and equipment required to respond to emergency calls under this chapter shall have the right of way over all public ways and roads and the Governor is granted the right to close or restrict traffic on all roads in any area.

~~Whoever shall fail to give the right of way to men, vehicles and equipment required to respond to emergency calls under this chapter, or whoever shall enter upon roads which have been closed to traffic under this chapter, shall upon conviction be punished by a fine of not more than \$1,000 or by imprisonment for not more than 11 months, or by both guilty of a Class E crime. The District Court shall have jurisdiction of all such offenses.~~

Sec. 302. 37-A MRSA § 70, as enacted by PL 1971, c. 580, § 1, is repealed and the following enacted in its place:

§ 70. Violations

Every officer of a political subdivision of this State who, having administrative responsibilities under this chapter, intentionally violates any of the provisions of this chapter commits a civil violation for which a forfeiture of \$20 may be adjudged.

Sec. 303. 37-A MRSA § 165, as last amended by PL 1973, c. 728, § 2, is further amended to read:

§ 165. Intentional injury or interference with property

Whoever intentionally destroys, impairs, injures, interferes or tampers with real or personal property with reasonable grounds to believe that such act will hinder, delay or interfere with the preparation of the United States or of any of the states for defense or for war, or with the prosecution of war by the United States, or with preparations and plans for civil emergency preparedness, or with the execution thereof under chapter 3 shall be ~~punished by imprisonment for not more than 10 years or by a fine of not more than \$10,000 or by both~~ guilty of a Class B crime. If such person so acts with the intent to hinder, delay or interfere with the preparation of the United States or of any of the states for defense or for war, or with the prosecution of war by the United States, or with preparations and plans for civil emergency preparedness, or with the execution thereof under chapter 3, the minimum ~~punishment~~ sentence shall be imprisonment for not less than one year.

Sec. 304. 37-A MRSA § 166, as last amended by PL 1973, c. 728, § 2, is further amended to read:

§ 166. Intentional defective workmanship

Whoever intentionally makes or causes to be made or omits to note on inspection any defect in any article or thing with reasonable grounds to believe that ~~such~~ that article or thing is intended to be used in connection with the preparation of the United States or any of the states for defense or for war, or for the prosecution of war by the United States, or with preparations and plans for civil emergency preparedness, or with the execution thereof under chapter 3, or that ~~such~~ that article or thing is one of a number of similar articles or things, some of which are intended so to be used, shall be ~~punished by imprisonment for not more than 10 years or by a fine of not more than \$10,000 or by both~~ guilty of a Class B crime. If ~~such~~ that person ~~so~~ acts or ~~so~~ fails to act with the intent to hinder, delay or interfere with the preparation of the United States or of any of the states for defense or for war, or with the prosecution of war by the United States, or with preparations and plans for civil emergency preparedness, or with the execution thereof under chapter 3, the minimum ~~punishment~~ sentence shall be imprisonment for not less than one year.

Sec. 305. 37-A MRSA § 167, as enacted by PL 1971, c. 580, § 1, is repealed.

Sec. 306. 37-A MRSA § 168, first sentence, as enacted by PL 1971, c. 580, § 1, is repealed and the following enacted in its place:

If 2 or more persons conspire to commit any crime defined by this chapter, each of those persons is guilty of conspiracy which shall be a crime of the same class as the crime which those persons conspired to commit, whether or not any act was done in furtherance of the conspiracy.

Sec. 307. 37-A MRSA § 170, last sentence, as enacted by PL 1971, c. 580, § 1, is repealed and the following enacted in its place:

Whoever without permission of that owner shall intentionally enter upon premises so posted shall be guilty of a Class E crime.

Sec. 308. 37-A MRSA § 172, last ¶, as enacted by PL 1971, c. 580, § 1, is repealed and the following enacted in its place:

Whoever violates any order made under this section shall be guilty of a Class E crime.

Sec. 309. 37-A MRSA § 186, as enacted by PL 1973, c. 787, § 2, is repealed and the following enacted in its place:

§ 186. Violations

In addition to any other forfeitures or penalties provided by law, any person who violates any provisions of this chapter or any regulation or order promulgated or issued hereunder shall be subject to a civil penalty of not less than \$100 nor more than \$5,000 for each day that any violation shall continue, payable to the State to be recovered in a civil action.

Sec. 310. 37-A MRSA § 204, last sentence, as enacted by PL 1971, c. 580, § 1, is repealed and the following enacted in its place:

A failure to comply with all requirements of any proclamation issued pursuant to this section or to do or perform any of the acts provided in this section shall be a Class E crime.

Sec. 311. 37-A MRSA § 220, next to the last ¶, as amended by PL 1973, c. 788, § 201, is repealed and the following enacted in its place:

Any municipal officer who fails to take effective measures for providing and maintaining suitable armories, other necessary buildings and target ranges as prescribed by this section, or who uses the buildings without authority, or who abuses the authority granted shall be guilty of a Class E crime. Any fine imposed by the authority of this section shall be paid into the State Treasury and credited to the General Fund.

Sec. 312. 37-A MRSA § 254, as enacted by PL 1971, c. 580, § 1, is repealed and the following enacted in its place:

§ 254. Refusal to give information

Any person knowingly refusing information or giving false information to an assessor or other authorized person making the enrollment, respecting the name, age, residence, occupation, military or naval service, physical or mental condition or other proper subject of inquiry, of himself or any person within his knowledge liable to be enrolled, shall for each act of concealment, refusal or giving of false information be guilty of a Class E crime. The officer making the enrollment shall, within 10 days, report all persons violating this section to the Adjutant General.

Sec. 313. 37-A MRSA § 255, first sentence, as enacted by PL 1971, c. 580, § 1, is repealed and the following enacted in its place:

Any assessor neglecting or refusing faithfully to perform the duties of enrolling officer as required by law, or making any false entry upon those rolls or committing any other fraud therein, and any clerk neglecting to make and forward the statement required by section 253 shall be guilty of a Class E crime.

Sec. 314. 37-A MRSA § 934, 10th sentence, as enacted by PL 1971, c. 580, § 1, is repealed and the following enacted in its place:

Any person so drafted, in any order to report, as provided, who, having been personally served with a copy of that order, shall fail to appear at the time and place designated by that order or who shall fail to present to the commanding officer a sworn certificate from a physician in good standing, of physical disability, commits a civil violation for which a forfeiture of not less than \$10 nor more than \$50 shall be adjudged for each day he shall fail to appear.

Sec. 315. 37-A MRSA § 1052, next to the last sentence, as enacted by PL 1971, c. 580, § 1, is repealed and the following enacted in its place:

Any person who violates this section shall be guilty of a Class E crime.

Sec. 316. 37-A MRSA § 1054, as enacted by PL 1971, c. 580, § 1, is repealed and the following enacted in its place:

§ 1054. Sale of equipment

Any person who shall sell, or offer for sale, barter, exchange, pledge, loan or

give away, secrete or retain after demand made by any officer of the State, civil or military, any clothes, arms, military outfits or accouterments furnished by or through the State to a member of the National Guard or other authorized state military or naval forces, or who shall receive by purchase, barter, exchange, pledge, loan or gift, any such clothes, arms, military outfits or accouterments, shall be guilty of a Class E crime.

Sec. 317. 37-A MRSA § 1058, first sentence, as enacted by PL 1971, c. 580, § 1, is repealed and the following enacted in its place:

Any officer, enlisted man or other person, who shall knowingly destroy, injure or deface any article of military property belonging to the State or United States, or shall use it for other than military purposes, or shall have or retain the same in violation of law or regulation, commits a civil violation for which a forfeiture not to exceed \$50 may be adjudged.

Sec. 318. 37-A MRSA § 1101, as enacted by PL 1971, c. 580, § 1, is repealed and the following enacted in its place:

§ 1101. Enlistment of minors into the Army

Whoever in this State enlists or causes to be enlisted into the Armed Forces of the United States, a minor under the age of 17 years, knowing him to be such, without the written consent of his parent, master or guardian, or persuades him to leave the State with intent thus to enlist him, shall be guilty of a Class E crime.

Sec. 319. 37-A MRSA § 1107, last sentence, as enacted by PL 1971, c. 580, § 1, is repealed and the following enacted in its place:

Any person violating any provision of this section shall be guilty of a Class E crime.

Sec. 320. 37-A MRSA § 1108, last sentence, as enacted by PL 1971, c. 580, § 1, is repealed and the following enacted in its place:

All others who shall hinder, delay or obstruct any portion of the National Guard or other authorized state military or naval forces whenever parading or performing any military duty, or who shall attempt to do so, shall be guilty of a Class E crime.

Sec. 321. 37-A MRSA § 1110, first ¶, as enacted by PL 1971, c. 580, § 1, is repealed and the following enacted in its place:

Any person who either by himself or with another, intentionally deprives a member of the National Guard or other authorized state military or naval forces of his employment, or prevents his being employed by himself or another, or obstructs or annoys that member of the National Guard or other authorized state military or naval forces or his employer in respect to his trade, business or employment, because that member of the National Guard or other authorized state military or naval forces is a member, or dissuades any person from enlisting in the National Guard or other authorized state military or naval forces by threat of injury to him in case he shall enlist; in respect to his employment, trade or business, shall be guilty of a Class E crime.

Sec. 322. 37-A MRSA § 1111, last sentence, as enacted by PL 1971, c. 580, § 1, is repealed and the following enacted in its place:

Any person who aids in enforcing any such provisions against a member of the National Guard or other authorized state military or naval forces with intent to discriminate against him because of that membership shall be guilty of a Class E crime.

Sec. 323. 37-A MRSA § 1112, as enacted by PL 1971, c. 580, § 1, is repealed and the following enacted in its place:

§ 1112. Discrimination in public places

Whoever makes any distinction, discrimination or restriction against any soldier or sailor duly enlisted in the service of the United States or of the State relative to admission to, or treatment in, a theatre, skating rink or other public place of amusement, or in any public conveyance or public meeting, or in an inn or hotel, or other public place kept for gain or hire while wearing the uniform of the United States or of this State, except for good cause, shall be guilty of a Class E crime.

Sec. 324. 37-A MRSA § 1113, as enacted by PL 1971, c. 580, § 1, is repealed and the following enacted in its place:

§ 1113. Molestation of members

Whoever shall intentionally molest, insult or abuse any member of the National Guard or other authorized state military or naval forces while in the performance of his duty shall be guilty of a Class E crime.

Sec. 325. 37-A MRSA § 1115, as enacted by PL 1971, c. 580, § 1, is repealed and the following enacted in its place:

§ 1115. Neglect of civil officers to perform duties imposed on them

Civil officers named in chapters 8 to 27, neglecting or refusing to obey their provisions, shall be guilty of a Class E crime.

Sec. 326. 37-A MRSA § 1119, as enacted by PL 1971, c. 580, § 1, is repealed and the following enacted in its place:

§ 1119. Unauthorized use of certain badges

Whoever intentionally wears the badge, button or other insignia of the Grand Army of the Republic, of the Sons of Union Veterans of the Civil War, of the United Spanish War Veterans, of the Veterans of Foreign Wars or of the American Legion, or the official discharge button of the Army, Air Force, Navy or Marine Corps, or of any other military, naval or patriotic organization legally incorporated, or uses or wears the same to obtain aid or assistance thereby within the State, unless he shall be entitled to use or wear the same under the rules and regulations respectively of the Department of Maine of the Grand Army of the Republic, of the Sons of Union Veterans of the Civil War, of the United Spanish War Veterans, of the Veterans of Foreign Wars, or of the American Legion or under the regulations of the Army, Air Force, Navy or Marine Corps or of any other military, naval or patriotic organization legally incorporated, shall be guilty of a Class E crime.

Sec. 327. 37-A MRSA § 1120, as enacted by PL 1971, c. 580, § 1, is repealed and the following enacted in its place:

§ 1120. Sale or purchase of military decorations prohibited

It shall be unlawful for any person to expose for sale, offer for sale, sell, pawn or pledge, or for any person to buy, purchase or loan money on any military badge, button, decoration or other insignia issued under the regulations of the Army, Air Force, Navy or Marine Corps of the United States or the National Guard. Whoever violates this section shall be guilty of a Class E crime.

Sec. 328. 37-A MRSA § 1326, sub-§ 1, ¶ C, as reallocated by PL 1971, c. 580, § 3, is amended to read:

C. ~~Willfully~~ Intentionally neglects or refuses to appear or refuses to qualify as a witness or to testify or to produce any evidence which that person may have been legally subpoenaed to produce ~~is guilty of an offense against the State of Maine.~~

Sec. 329. 37-A MRSA § 1326, sub-§ 2, as reallocated by PL 1971, c. 580, § 3, is repealed and the following enacted in its place:

2. Offenses. Any person who violates subsection 1 shall be guilty of a Class E crime.

Sec. 330. 38 MRSA § 1, 1st sentence is repealed and the following enacted in its place:

Selectmen of towns, on request by any person desiring mooring privileges or regulation of mooring privileges for boats or vessels, shall annually appoint a harbor master who shall be subject to all the duties and liabilities of that office as prescribed by law, and in case of the failure or refusal of the harbor master to perform these duties, he commits a civil violation for which a forfeiture of \$25 shall be adjudged, for the benefit of the town, for each intentional neglect or refusal to attend the same.

Sec. 331. 38 MRSA § 5, 2nd sentence is repealed and the following enacted in its place:

Whoever neglects or refuses to obey the orders of the harbor master shall be guilty of a Class E crime.

Sec. 332. 38 MRSA § 88, 2nd sentence as enacted by PL 1969, c. 410, § 1, is repealed and the following enacted in its place:

Violation of this provision shall be a Class E crime.

Sec. 333. 38 MRSA § 98, last 2 sentences, as enacted by PL 1969, c. 410, § 1, are repealed and the following enacted in their place:

Any person violating this section commits a civil violation for which a forfeiture not to exceed \$500 may be adjudged for each violation.

Sec. 334. 38 MRSA § 101, as enacted by PL 1969, c. 410, § 1, is repealed and the following enacted in its place:

§ 101. Surrender or suspended or revoked license

A pilot whose license has been revoked or suspended shall surrender his license to the commission which shall retain it until the period of his suspension shall expire. Any such suspended pilot who refuses to surrender his license on demand or continues to pilot commits a civil violation for which a forfeiture not to exceed \$500 may be adjudged for each week after demand that he refuses to so surrender or for each vessel piloted without a license, and the commission may cause to be published in a newspaper of general circulation published in the State a notice that that person has no authority to act as pilot unless and until reinstated by law.

Sec. 335. 38 MRSA § 124 is repealed and the following enacted in its place:

§ 124. Unlawful disposal or taking of ballast

The master of any vessel who shall throw overboard ballast in any road, port or harbor commits a civil violation for which a forfeiture of \$60 may be adjudged. Any person who shall take any stone or other ballast from any island, beach or other land, without consent of the owner shall be liable for a civil penalty not to exceed \$7 for each violation, to be recovered in a civil action, $\frac{1}{2}$ to the person bringing the action and $\frac{1}{2}$ for the town where the violation is committed.

Sec. 336. 38 MRSA § 281, is repealed and the following enacted in its place:

§ 281. Speed restrictions

Whoever operates any watercraft, vessel, water skis, surfboard, similar device or motorboat, however propelled, upon the tidewaters of any municipality or upon any of the offshore waters within the jurisdiction of this State at a speed greater than is reasonable and proper, having due regard for traffic, proximity to wharves, docks, moorings or shores, and for any other conditions then existing, shall be guilty of a Class E crime.

Sec. 337. 38 MRSA § 282 is repealed and the following enacted in its place:

§ 282. Endangering persons or property

Whoever operates any watercraft, vessel, water skis, surfboard, similar device or motorboat, however propelled, upon the tidewaters of any municipality or upon any of the offshore waters within the jurisdiction of this State in a manner which endangers any person or property shall be guilty of a Class E crime.

Sec. 338. 38 MRSA § 283 is repealed and the following enacted in its place:

§ 283. Operating recklessly

Whoever operates any watercraft, vessel, water skis, surfboard, similar device or motorboat, however propelled, upon the tidewaters of any municipality or upon any of the offshore waters within the jurisdiction of this State recklessly shall be guilty of a Class E crime.

Sec. 339. 38 MRSA § 284 is repealed and the following enacted in its place:

§ 284. Operation under influence of drugs or liquor

Whoever operates any watercraft, vessel, water skis, surfboard, similar device

or motorboat, however propelled, upon the tidewaters of any municipality or upon any of the offshore waters within the jurisdiction of this State while intoxicated or under the influence of any narcotic drug, barbiturate or marijuana, shall be guilty of a Class E crime.

Sec. 340. 38 MRSA § 326, as last amended by PL 1973, c. 460, § 19, is repealed and the following enacted in its place:

§ 326. Violation of rules and regulations

Whoever violates any of the rules and regulations or any notices posted by the Bureau of Parks and Recreation in conformity with this subchapter or who intentionally mutilates, defaces or destroys any monument or marker lawfully erected within the borders of these public facilities shall be guilty of a Class E crime. For the purposes of this section the words monument or marker shall not include monuments or markers placed by the State as aids to navigation or for the purpose of regulating watercraft.

Sec. 341. 38 MRSA § 329, as last amended by PL 1973, c. 460, § 19, is repealed and the following enacted in its place:

§ 329. Penalties

Whoever marks waters contrary to the rules established by the Director of the Bureau of Parks and Recreation shall be guilty of a Class E crime.

Whoever moors a vessel, boat, scow or raft to any buoy, beacon or permanent structure placed by the State in any waters of this State or in any manner makes fast thereto shall be guilty of a Class E crime.

Whoever intentionally destroys, defaces, damages, moves off station or sinks any buoy, beacon or marking device either floating on the waters of the State or permanently fixed to the land or structures adjacent to the water areas of the State, placed by the State, shall be guilty of a Class E crime.

Sec. 342. 38 MRSA § 346, sub-§ 2-A is enacted to read:

2-A. Appeal. Any party to the appeal in the Superior Court under this section may obtain review by appeal to the Supreme Judicial Court sitting as the law court. The appeal shall be taken as in other civil cases.

Sec. 343. 38 MRSA § 484, 4th ¶ is amended to read:

In case of a permanently installed power generating facility of more than 1,000 kilowatts or a transmission line carrying ~~125~~ 100 kilovolts or more proposed to be erected within this State by an electrical company or companies, the proposed development, in addition to meeting the requirements of subsections 1 to 4, shall also have been approved by the Public Utilities Commission under Title 35, section 13-A.

Sec. 344. 38 MRSA § 571 is repealed and the following enacted in its place:

§ 571. Corrupting waters forbidden

Whoever intentionally or knowingly poisons, defiles or in any way corrupts the

waters of any well, spring, brook, lake, pond, river or reservoir used for domestic purposes for man or beast, or knowingly corrupts the sources of any public water supply, or the tributaries of those sources of supply in a manner which affects the purity of the water supplied, or knowingly defiles that water in any manner, whether the water be frozen or not, or puts the carcass of any dead animal or other offensive material in those waters or upon the ice thereof, shall be guilty of a Class A crime.

Sec. 345. 38 MRSA § 601, sub-§ 4, as enacted by PL 1977, c. 602, § 3, is amended to read:

4. **Ambient monitoring system.** Notwithstanding anything contained in subsection 2, paragraphs A, B and C, as long as ambient monitoring data is available to demonstrate, on a case by case evaluation, that ambient air quantity quality standards will not be violated by emissions from any specific wood waste teepee incinerator, wood waste teepee incinerators may emit particulate air contaminants not to exceed either 0.3 grain per standard cubic foot of dry flue gas during any continuous 2-hour period, corrected to 12% carbon dioxide without the contribution of carbon dioxide from the auxiliary fuel or a number 2 on the Ringelmann Chart, excluding the emission of water vapor, for a period or periods aggregating more than 3 minutes in any hour, excluding the emission of water vapors.

Sec. 346. 38 MRSA § 891, 3rd sentence is repealed and the following enacted in its place:

For neglecting or refusing to weigh the same when required, or failing to grind the same in the order received, or for taking more than lawful toll, he commits a civil violation for which a forfeiture of not less than \$10 nor more than \$50 shall be adjudged for each violation.

Sec. 347. 38 MRSA § 1161, as enacted by PL 1965, c. 310, is repealed and the following enacted in its place:

§ 1161. **Injury to property of districts**

Any person who shall place, discharge or leave any offensive or injurious matter or material on or in the conduits, catch basins or receptacles of any sanitary district formed under this chapter contrary to its regulations, or shall knowingly injure any conduit, pipe, reservoir, flush tank, catch basin, manhole, outlet, engine, pump or other property held, owned or used by that district shall be liable to pay twice the amount of the damages to the district, to be recovered in any proper action; and that person and any person who violates section 1159 and 1160 shall be guilty of a Class E crime.

Sec. 348. 38 MRSA § 1202, first ¶, as last amended by PL 1975, c. 461, § 3, is further amended by inserting at the end the following new sentence:

In this subchapter, the words "other lawful charges" or "other charges" shall include, but not be limited to, interest on delinquent accounts at a rate not to exceed the highest lawful rate set by the Treasurer of State for municipal taxes.

Sec. 349. 39 MRSA § 104-A, sub-§ 2, as repealed and replaced by PL 1977, c. 333, is repealed and the following enacted in its place:

2. Failure. In the event of failure by the employer or insurance carrier to pay compensation as provided in this section a forfeiture not to exceed \$25 for each day of noncompliance shall be assessed against the employer or the insurance carrier.

This section shall not apply to claims involving employees of the State.

If any employer who is required to secure the payment to his employees of the compensation provided for by this Act, fails to do so, he shall be guilty of a Class D crime. Failure of any employer, after imposition of the foregoing penalty, to secure the payment of compensation under this Act after notice by the commission to that employer to do so shall, as to each such notice, be deemed a further violation in respect thereof and the same punishment shall be imposed. If that employer is a corporation, the president or treasurer, or both, shall be liable for that punishment.

Sec. 350. 39 MRSA § 109 is repealed.

Sec. 351. PL 1977, c. 509, § 30-C, 1st 2 lines, are repealed and the following enacted in their place:

Sec. 30-C. 36 MRSA § 1281, 4th sentence, as last amended by PL 1969, c. 2, § 1, is further amended to read:

Sec. 352. P&SL 1865, c. 532, § 4, 7th and 8th sentences, as last repealed and replaced by PL 1973, c. 625, § 28 are repealed and the following enacted in their place:

Subsequent terms of office shall be fixed at 7 years and each term shall expire on May 26th of the appropriate year, except that a member shall continue to serve until a successor trustee has been appointed and qualified to assume office.

Sec. 353. P&SL 1865, c. 532, § 4, 9th sentence, as repealed and replaced by P&SL 1967, c. 229, § 2 and as amended by PL 1975, c. 771, § 426, is repealed as follows:

~~Any vacancy shall be filled by the Governor, subject to review by the Joint Standing Committee on Education and to confirmation by the Legislature, for the unexpired balance of the term.~~

Sec. 354. P&SL 1865, c. 532, § 4, 9th sentence, as repealed and replaced by PL 1973, c. 625, § 280, is repealed and the following enacted in its place:

Any vacancy shall be filled by the Governor, subject to review by the Joint Standing Committee on Education and to confirmation by the Legislature, for the unexpired balance of the term.

Sec. 355. P&SL 1868, c. 565, § 5 is amended to read:

Sect. 5. The annual meeting shall be holden ~~in the month of May~~ at such time as may be fixed by the bylaws of the corporation, and at that meeting, and all other meetings, it shall require seven persons at least to constitute a quorum for the transaction of business; and meetings may be directed at other times by the president or the corporation, and said corporation may provide in what manner their meetings shall be notified and called. The fact that annual meetings of the

corporation were held in August of 1976 and 1977, pursuant to the amended bylaws of the corporation adopted at the annual meeting on May 21, 1976, instead of in the month of May shall not be a basis for invalidating those meetings or the actions taken thereat.

Sec. 356. P&SL 1977, c. 10, § 4-A is enacted to read:

4-A. Elections. This Act shall be effective June 1, 1978, solely for the following purposes:

1. Determining, pursuant to the Revised Statutes, Title 21, section 1571, the electoral district in which Otisfield is to be included for voting in the primary election to be held on the 2nd Tuesday of June, 1978;
2. Determining the commissioner district in which Otisfield is to be included pursuant to the Revised Statutes, Title 30, section 105-J, for the election of county commissioners; and
3. Voting in the primary election to be held in June, 1978, for candidates for the office of register of deeds in the eastern registry district of Oxford County.

Sec. 357. Resolves, 1977, c. 10, District Number One Hundred Thirteen (One), is amended to read:

District Number One Hundred Thirteen (One), consisting of that part of the municipality of Sanford described as follows: Beginning at the intersection of Deering Neighborhood Road and Main Street; thence north on Main Street 1,100 feet to an intersection with unnamed road; thence 6/10 of a mile to Littlefield Road; thence east and south on Littlefield Road to Elm Street; thence southwest on Elm Street 500 feet to power line; thence south on power line to Beaver Hill Road; thence east on Beaver Hill Road to Cebung Road; thence north on Cebung Road to the Sanford-Alfred town line; thence southeast on the Sanford-Alfred town line to the Sanford-Kennebunk town line; thence southwest on the Sanford-Kennebunk town line to the Sanford-Wells town line which continues in a southeast direction to the Sanford-North Berwick town line; thence north on the Sanford-North Berwick town line to the Great Works River; thence north along the Great Works River to Old Mill Road; thence west on Old Mill Road to Twombly Road; thence north on Twombly Road to Great Works River; thence southeast on Great Works River to Old Mill Road; thence east on Old Mill Road to the intersection with Main Street and dirt road; thence east and north on dirt road to Mousam River; thence northwest on Mousam River to School Street; thence east on School Street to Rushton Street; thence northeast on Rushton Street to High Street; thence west on High Street to ~~Shington~~ Washington Street; thence south on ~~Shington~~ Washington Street to Main Street; thence northwest on Main Street to Pleasant Avenue; thence northeast on Pleasant Avenue to William Oscar Emery Drive; thence north on William Oscar Emery Drive to River Street; thence southeast on River Street to Shaw Road; thence north on Shaw Road to southerly end of intersection with Shaws Ridge Road; thence north on intersection with Shaws Ridge Road; thence northwest on Shaws Ridge Road crossing abandoned railroad grade to Pleasant Street; thence northwest on Pleasant Street to Bridge Street; thence southwest on Bridge Street to Main Street; thence northwest on Main Street to point of beginning, 1 Representative;

Sec. 358. 7 MRSA § 1025, as enacted by PL 1971, c. 366, is amended to read:

§ 1025. Forfeiture of bond; recovery on bond

If any ~~dealer~~ licensee shall fail to make such payment as provided in section 1017, subsection 1, paragraph B, such ~~dealer~~ licensee, by reason of such nonpayment shall be in default as to all producers or licensees whose accounts shall then remain unpaid, and the bond provided for shall be forfeited to the extent of all sums then due from such ~~dealer~~ licensee to said producers or licensees, and by nature of such default, the conditions of such bond shall be deemed to be broken, and any such producer or licensee may bring an action on the defaulted bond in the name of the commissioner for the benefit of said producer or licensee.

Sec. 359. 9 MRSA § 5003, sub-§ 5-A is enacted to read:

5-A. Independent public accountant. "Independent public accountant" means a public accountant who is not the principal officer or other officer, professional solicitor, professional fund-raising counsel or commercial co-venturer of the charitable organization or parent organization.

Sec. 360. 9 MRSA § 5005, sub-§ 3, 2nd sentence, as enacted by PL 1977, c. 488, § 1, is amended to read:

The financial report shall set forth in detail the financial activities of the charitable organization in the State, shall be ~~audited~~ prepared by an independent public accountant and shall contain either:

Sec. 361. 9 MRSA § 5005, sub-§ 3, ¶ A, as enacted by PL 1977, c. 488, § 1, is repealed.

Sec. 362. 9 MRSA § 5005, sub-§ 3, ¶ B, as enacted by PL 1977, c. 488, § 1, is amended to read:

B. A copy of a financial statement covering, in a consolidated report, complete information as to the preceding year's fund-raising activities showing the balance sheet, changes in fund balances, kind and amount of funds raised, fund-raising expenses, allocation or disbursement of funds raised and notes to the audit and opinion if an audit, opinion or statement has been prepared as to the fairness of the presentation by the accountant.

Sec. 363. 9 MRSA § 5006, sub-§ 2, as enacted by PL 1977, c. 488, § 1, is amended by adding after the 2nd sentence a new sentence to read:

For purposes of this section a charitable organization shall not include persons exempt in paragraph C who are organized for a limited time for the sole purpose of providing immediate relief to a named beneficiary.

Sec. 364. 16 MRSA § 355, last sentence is amended to read:

When the plaintiff is a corporation, the affidavit may be made by its president, vice president, secretary or treasurer.

Sec. 365. 17 MRSA § 314, first ¶, last sentence, as enacted by PL 1975, c. 307, § 2, is amended to read:

Said 2 years' limitation shall not apply to any chartered posts of veterans organizations, nationally established, even though such posts have not been in existence for 2 years prior to their application for a license **nor shall the 2 years' limitation apply to any volunteer fire department or rescue unit;** and provided

that a license may be issued to an agricultural fair association when sponsored, operated and conducted for the benefit of such agricultural fair association.

Sec. 366. 17 MRSA § 3964, last sentence, as amended by PL 1973, c. 360, is repealed and the following enacted in its place:

This section shall not apply to agreements entered into pursuant to Title 39 and approved by the Workers' Compensation Commission.

Sec. 367. 20 MRSA § 4755, sub-§ 2, ¶ B, as enacted by PL 1977, c. 625, § 8, is repealed and the following enacted in its place:

B. Notwithstanding any provision of statute or charter to the contrary, municipalities, School Administrative Districts and community school districts may adopt their respective annual budgets at any time prior to June 30th, except that the school budgets for vocational regions shall be adopted on or before August 1st.

Sec. 368. 20 MRSA § 4755-A is enacted to read:

§ 4755-A. School budget adoption; extension

Notwithstanding any provision of statute or charter to the contrary, municipalities, School Administrative Districts and community school districts may adopt their respective annual budgets at any time prior to June 30, 1978, except that the school budgets for vocational regions shall be adopted on or before August 1, 1978. Municipalities officers and school directors or trustees may not certify to the assessors any amount to be raised by taxation until such time as a final budget has been approved that includes the total education cost estimates for the current or ensuing fiscal year. Expenditures may be made by municipalities or school districts after the commencement of, and prior to adoption of a final budget for, the current or ensuing fiscal years 1978 and 1979 based on interim or partial budgets adopted by the municipal officers, boards of directors of School Administrative Districts, or boards of trustees of community school districts. A final budget approved by a municipality or school district prior to March 7, 1977, may be reconsidered and any warrants issued to assessors pursuant to the adopted budgets may be revoked. If a municipal charter provides that a budget proposed by a municipal official or body becomes effective when the municipal legislative body fails to adopt a budget by a specified date or within a specified period of time and that date falls prior to July 1st, that date shall be governed by the provisions of this section for the calendar year 1978.

Sec. 369. 21 MRSA § 445, sub-§ 5, ¶ D-1 is enacted to read:

D-1. For a candidate for county commissioner in any county having 50,000 population or less, at least 50 and not more than 75 voters;

Sec. 370. 22 MRSA § 3173, 1st ¶, as enacted by PL 1973, c. 790, § 2, is repealed and the following enacted in its place:

The department is authorized to administer programs of aid, medical or remedial care and services for medically indigent persons. It is empowered to employ such assistants as may be necessary to carry out this program and to coordinate their work with that of the other work of the department. These assistants shall be subject to the Personnel Law, except for the Director of the Bureau of Social Welfare.

Sec. 371. Effective date. Section 370 of this Act shall take effect 91 days after adjournment of the Legislature.

Sec. 372. 24-A, MRSA § 2607, sub-§ 1, ¶ B, as amended by PL 1977, c. 655, § 1, is further amended to read:

B. The participating employers, meaning such employer members whose employees are to be insured, constitute at date of issue at least ~~20%~~ 40% of the total employers eligible to participate, omitting from consideration any employer whose employees are already covered for group life insurance.

Sec. 373. 26 MRSA § 1082, sub-§ 1, as amended, is repealed and the following enacted in its place:

1. **Duties and powers.** Except as otherwise provided, it shall be the duty of the commissioner to administer this chapter. The commission shall have the power and authority to adopt, amend or rescind rules, make expenditures from the Unemployment Compensation Fund, require reports, make investigations and take other actions as it deems necessary or suitable to that end. The commission shall determine its organization and shall have an official seal which shall be judicially noticed. The procedures of the commissioner and commission shall be governed by the Maine Administrative Procedure Act. Not later than the first day of May of each year, the commission shall submit to the Governor a report covering the administration and operation of this chapter during the preceding calendar year and shall make such recommendations for amendments to this chapter as it deems proper. The report shall include a balance sheet of the moneys in the Unemployment Compensation Fund in which there shall be provided, if possible, a reserve against the liability in future years to pay benefits in excess of the then current contributions, which reserve shall be set up by the commission in accordance with accepted actuarial principles on the basis of statistics of employment, business activity and other relevant factors for the longest possible period. Whenever the commission believes that a change in contribution or benefit rates will become necessary to protect the solvency of the fund, it shall promptly so inform the Governor and the Legislature and make recommendations with respect thereto.

Sec. 374. Effective date. Section 373 of this Act shall take effect 91 days after adjournment of the Legislature.

Sec. 375. 26 MRSA § 1082, sub-§ 2, is repealed and the following enacted in its place:

2. **Regulations.** The commissioner, with the advice and consent of the commission, shall make, amend or rescind rules as required by this chapter.

Sec. 376. Effective date. Section 375 of this Act shall take effect 91 days after adjournment of the Legislature.

Sec. 377. 28 MRSA § 101, 3rd ¶ from the end, first sentence, as repealed and replaced by PL 1977, c. 630, § 2, is amended to read:

Except as otherwise provided therein, the petition process and the voting at ~~meetings~~ elections held in towns and plantations shall be held and conducted in accordance with Title 30, sections 2061, 2062 and 2065, even though the town or plantation has not accepted the provisions of section 2061, and the voting at ~~meetings~~ elections held in cities shall be held and conducted in accordance with Title 21.

Sec. 378. 28 MRSA § 852, first ¶, as repealed and replaced by PL 1971, c. 590, § 55, is amended to read:

No licensee for the sale of liquor to be consumed on licensed premises, except in Class A restaurants, Class A taverns, clubs and hotel dining rooms, shall employ any person under the age of 18 years in the direct handling or selling of liquor on the premises where such liquor is sold. No licensee for the sale of liquor to be consumed on the licensed premises of Class A restaurants, Class A taverns, clubs and hotel dining rooms shall employ any person under the age of 17 years in the direct handling or selling of liquor on the premises where such liquor is sold, provided that an employee who is 18 years of age or older is present in a supervisory capacity.

Sec. 379. 29 MRSA § 583, 3rd ¶, first sentence, as repealed and replaced by PL 1975, c. 770, § 149, is amended to read:

After September 1, 1977, no motorcycle or motor driven cycle learner's permit or permission or restriction to operate a motorcycle or motor driven cycle shall be issued to any person under 17 years of age, unless such person shall present a certificate of successful completion of a motorcycle driver education course and examination given by the public secondary schools and academies receiving tuition students as described in Title 20, section 1291; or certificate of successful completion of a driver education course and examination given by a public secondary school or academy including a demonstration of ability to safely operate a motorcycle; or certificate of successful completion of a driver education course and examination given by some person or persons licensed by the Secretary of State.

Sec. 380. 29 MRSA § 905, as enacted by PL 1967, c. 56, is amended to read:

§ 905. Emergency rule by police officer

Whenever a police officer shall deem it advisable, during a fire or at the time of any accident or special emergency or special event and only for such a period of time as is necessitated thereby for the public safety or convenience, temporarily to close any way or part thereof to vehicular traffic, or to vehicles of a certain description, or to divert the traffic thereof, or to divert or break a course of pedestrian traffic, such official shall have power and authority to do so.

It shall be unlawful for the operator of any motor vehicle to fail or refuse to follow the directions for the movement of such vehicles, upon request or signal of any such officer. Failure to comply with this requirement shall be a Class E crime.

Sec. 381. 32 MRSA § 1100-C, sub-§ 2, ¶ E, as enacted by PL 1977, c. 484, § 2, is repealed.

Sec. 382. 32 MRSA § 1100-E, sub-§ 5, is enacted to read:

5. Suspension or revocation. The Administrative Court may suspend or revoke a license issued under this subchapter whenever it finds a dentist:

A. Has held himself out or permitted himself to be represented as a licensed dentist;

B. Has performed otherwise than at the direction and under the direct supervision of a dentist licensed by the board and practicing in the State. Direct supervision requires the dentist to be on the same premises as the dentist;

- C. Has been delegated and performed a task or tasks beyond his competence;
- D. Is a habitual user of intoxicants or drugs to such an extent that he is unable to perform competently and with safety for the patients in his capacity as a dentist;
- E. Is convicted in any court, state or federal, of any felony or other criminal offense involving moral turpitude;
- F. Has a mental illness interfering with his competent practice as a dentist;
- G. Has failed to comply with the law or any rules or regulations of the board pertaining to the practice of denture technology;
- H. Has administered, dispensed or prescribed any medication or controlled substance; or
- I. Has made a false or fraudulent statement or submitted a forged or false document in applying for licensure.

For the purposes of this subsection, a licensed dentist shall be deemed by the application for and acceptance of the license to have given his consent to a mental or physical examination when directed by the board. The board may direct the examination whenever it determines a dentist may be suffering from a mental illness which may be interfering with his competent practice of denture technology or from the use of intoxicants or drugs to an extent that they may be preventing him from practicing denture technology competently and with safety to his patients. A dentist examined pursuant to an order of the board shall have no privilege to prevent the testimony of the examining individual or to prevent the acceptance into evidence of the report of any examining individual. Failure to comply with an order of the board to submit to a mental or physical exam shall require the Administrative Court to immediately order the license of the dentist suspended until such time as he shall submit to the examination.

Sec. 383. 32 MRSA § 1871, as enacted by PL 1977, c. 381, § 2, as reallocated, is amended by inserting at the end the following new sentence:

The department shall have the authority to establish regulations governing local redemption centers which receive beverage containers from dealers supplied by distributors other than the distributors servicing the area in which the local redemption center is located in order to prevent the distributors servicing the area within which the redemption center is located from being unfairly penalized:

Sec. 384. 32 MRSA § 4682, as enacted by PL 1977, c. 440, § 2, is amended to read:

§ 4682. State license

Every person, including the self-employed ~~who employs~~ or those who employ one or more transient sellers of consumer merchandise, shall apply to the Department of Business Regulation and acquire a state license in the manner set

forth in section 4684 before engaging in sales of consumer merchandise in this State.

Sec. 385. 32 MRSA § 4685, 1st ¶, as enacted by PL 1977, c. 440, § 2, is amended to read:

Every person, including the self-employed ~~who employs~~ or those who employ one or more transient sellers of consumer merchandise, shall pay to the Department of Business Regulation a sum of \$10 as a state license fee at the time an application is made for the license.

Sec. 386. 32 MRSA § 4685, 2nd ¶, 1st sentence, as enacted by PL 1977, c. 440, § 2, is amended to read:

Every person, including the self-employed ~~who employs~~ or those who employ one or more transient sellers of consumer merchandise, shall also make a security deposit of \$10,000 or of a sum equal to the anticipated yearly gross revenues in this State, whichever is less, with the Department of Business Regulation for the protection of consumers as described in section 4687.

Sec. 387. 36 MRSA § 4571, sub-§ 1-A, ¶ C is enacted to read:

C. The financial records and books of account of the Maine Potato Council shall be subject to annual postaudit under Title 5, section 243, subsection 8.

Sec. 388. 37-A MRSA § 72, first ¶, as last amended by PL 1973, c. 728, § 2, is repealed and the following enacted in its place:

All members of the civil emergency preparedness forces shall be deemed to be employees of the State when engaged in training for or on civil emergency preparedness duty, and shall have all the rights given to state employees under the Workers' Compensation Act. All claims shall be filed and prosecuted and determined in accordance with the procedure set forth in the Workers' Compensation Act.

Sec. 389. 38 MRSA § 1208, 2nd ¶, last sentence, as amended by PL 1975, c. 770, § 213, is repealed and the following enacted in its place:

The fee to be charged by the district to the rate payer for that notice and filing shall not exceed the amount authorized by Title 33, section 751, subsection 12, concerning district liens.

Sec. 390. 39 MRSA § 1 is amended to read:

§ 1. Short title

This chapter shall be known, and may be cited and referred to in proceedings and agreements thereunder, as "The ~~Workmen's~~ Workers' Compensation Act;" the phrase "this Act," as used in said chapter, refers thereto.

Sec. 391. 39 MRSA § 2, sub-§ 5, ¶ A, sub-¶ (3), last sentence, as repealed and replaced by PL 1975, c. 770, § 215, is amended to read:

With respect to any such corporation that secures compensation by making a

contract of ~~industrial-accident~~ workers' compensation insurance, specific inclusion of such executive officer in such contract shall cause such officer to be an employee of such corporation under this Act.

Sec. 392. 39 MRSA § 2, sub-§ 5, ¶ A, sub-¶ (4), first ¶, as repealed and replaced by PL 1975, c. 770, § 215, is amended to read:

(4) Any person who states in writing to the commission that he waives all the benefits and privileges provided by the ~~workmen's~~ workers' compensation laws, provided that the commission shall have found such person to be a bona fide owner of at least 20% of the outstanding voting stock of the corporation by which he is employed and that this waiver was not a prerequisite condition to employment.

Sec. 393. 39 MRSA § 2, sub-§ 5, ¶ A, sub-¶ (4), last ¶, last sentence, as repealed and replaced by PL 1975, c. 770, § 215, is amended to read:

The parent, spouse or child of a person who has made a waiver under the previous sentence may state, in writing, that he waives all the benefits and privileges provided by the ~~workmen's~~ workers' compensation laws if the commissioner finds that the waiver is not a prerequisite condition to employment and if the parent, spouse or child is employed by the same corporation which employs the person who has made the first waiver.

Sec. 394. 39 MRSA § 2, sub-§ 5, ¶ A, sub-¶ (5), as repealed and replaced by PL 1975, c. 770, § 215, is amended to read:

(5) The parent, spouse or child of a sole proprietor who is employed by that sole proprietor or the parent, spouse or child of a partner who is employed by the partnership of that partner may state, in writing, that he waives all the benefits and privileges provided by the ~~workmen's~~ workers' compensation laws if the commission finds that the waiver is not a prerequisite condition to employment.

Sec. 395. 39 MRSA § 2, sub-§ 7, as amended by PL 1973, c. 585, § 12, is further amended to read:

7. **Workers' compensation insurance policy.** "~~Industrial-accident~~" "Workers' compensation insurance policy" shall mean a policy in such form as the Insurance Superintendent approves, issued by any stock or mutual casualty insurance company or association that may now or hereafter be authorized to do business in this State, which in substance and effect guarantees the payment of the compensation, medical benefits and expenses of burial provided for, in such installment, at such time or times, and to such person or persons and upon such conditions as in this Act provided. Whenever a copy of a policy is filed, such copy certified by the Insurance Superintendent shall be admissible as evidence in any legal proceeding wherein the original would be admissible.

Sec. 396. 39 MRSA § 2, sub-§ 8, as last amended by PL 1975, c. 89, § 1, is further amended to read:

8. **Insurance company.** "Insurance company" shall mean any casualty insurance company or association authorized to do business in this State which may issue policies conforming to subsection 7. Whenever in this Act relating to procedure the words "insurance company" are used they shall apply only to cases

in which the employer has secured the payment of compensation and other benefits by insuring such payment under an ~~industrial-accident workers' compensation~~ insurance policy, instead of furnishing satisfactory proof of his ability to pay compensation and benefits direct to his employees.

No insurance carrier shall be qualified to issue an ~~industrial-accident workers' compensation~~ insurance policy covering any employees working in this State unless it has and continuously maintains an employee or claims agent within this State empowered to investigate claims arising under this chapter; sign agreements for the payment of compensation as provided by this chapter; and issue drafts or checks in payment of obligations arising under this chapter in amounts of at least \$1,000.

Sec. 397. 39 MRSA § 22, as amended by PL 1973, c. 585, § 12, is further amended to read:

§ 22. Approval of insurance policies and rates by Insurance Superintendent

Every insurance company issuing ~~industrial-accident workers' compensation~~ insurance policies covering the payment of compensation and benefits provided for in this Act shall file with the Insurance Superintendent a copy of the form of such policies and no such policy shall be issued until he has approved said form. It shall file its classification of risks and premium rates relating thereto, and any subsequent proposed classification thereof, none of which shall take effect until the Insurance Superintendent has approved the same as adequate for the risks to which they respectively apply. He may require the filing of specific rates for ~~workmen's workers'~~ workers' compensation insurance including classifications of risks, experience or any other rating information from insurance companies authorized to transact such insurance in Maine, and may make or cause to be made such investigations as may be deemed necessary to satisfy himself that such rates are correct and proper before giving his approval and permitting such rates to be promulgated for the use of said companies. The Insurance Superintendent may at any time withdraw his approval of any classification of risks or premium rates relating thereto and approve a revised classification thereof.

Sec. 398. 39 MRSA § 22-A, as enacted by PL 1973, c. 559, § 1, is amended to read:

§ 22-A. Prepayment of premium

No insurance company issuing ~~industrial-accident workers' compensation~~ insurance policies shall require prepayment of premium more than $\frac{1}{4}$ year in advance.

Sec. 399. 39 MRSA § 23, sub-§ 1, as amended by PL 1973, c. 746, § 6, is further amended to read:

1. Insuring under workers' compensation insurance policy. By insuring and keeping insured the payment of such compensation and other benefits under an ~~industrial-accident workers' compensation~~ insurance policy. The insurance company shall file with the commission notice, in such form as the commission approves, of the issuance of any ~~industrial-accident workers' compensation~~ policy to an employer. Such insurance shall not be cancelled within the time limited in such policy for its expiration until at least 30 days after mailing to the commission and to the employer a notice of the cancellation of such insurance. In the event that the employer has obtained an ~~industrial-accident workers' compensation~~

policy from another insurance company, or has otherwise secured compensation as provided in this section, and such insurance or other security becomes effective prior to the expiration of said 30 days, cancellation shall be effective as of the effective date of such other insurance or receipt of security.

Sec. 400. 39 MRSA § 23, sub-§ 2-A, next to last ¶, first sentence, as amended by PL 1977, c. 612, § 3, is further amended to read:

If, upon examination of the sworn financial statement and other data submitted, the chairman is satisfied as to the ability of the employer or group to make current compensation payments and that the employer's or group's tangible assets make reasonably certain the payment of all obligations that may arise under the ~~Workmen's~~ Workers' Compensation Law, the application shall be granted subject to the terms and conditions setting out the exposure of cash deposits or securities or an acceptable surety bond, all as required by the Chairman of the Workers' Compensation Commission.

Sec. 401. 39 MRSA § 23, sub-§ 4, ¶ D, 3rd sentence, as enacted by PL 1973, c. 559, § 3 is amended to read:

No officer, director, trustee or employee of the group self-insurer may represent or participate directly or indirectly on behalf of an injured worker of his dependents in any ~~workmen's workers'~~ compensation proceeding.

Sec. 402. 39 MRSA § 23, sub-§ 4, ¶ G, 1st sentence, as enacted by PL 1977, c. 437, § 1 is amended to read:

If an employer is a partnership, or a sole proprietorship, and is a member of a self-insurance group associated pursuant to this section, such employer may elect to include as an "employee" any member of such partnership, or owner of such sole proprietorship, for purposes of obtaining ~~workmen's workers'~~ compensation coverage under this Act.

Sec. 403. 39 MRSA § 24, as last amended by PL 1973, c. 746, § 8, is further amended to read:

§ 24. Voluntary election

Any private employer, any of whose employees are exempt, may become subject to this Act with respect to his employees and the act of the employer in securing the payment of compensation to such employee or class of employees in conformity with sections 21 to 27 shall constitute as to such employer his election to become subject to this Act without any further act on his part, but only with respect to that employee or that class of employees with respect to whom the employer has secured compensation as provided in sections 21 to 27, provided that, as to any employer who secures compensation by making a contract of ~~industrial-accident workers' compensation~~ insurance, such election shall be deemed to have been made on the effective date of the insurance policy.

Sec. 404. 39 MRSA § 27 is amended to read:

§ 27. Preservation of existing employer status

An employer with a currently approved ~~industrial-accident workers' compensation~~ policy, or a currently accepted self-insurer, within sections 21 to 27

shall be considered in compliance with this Act until the expiration or cancellation date of the current assent based thereon.

Sec. 405. 39 MRSA § 52, sub-§ 3, is amended to read:

3. **Determination of rights.** The commission shall determine the rights and liabilities of the parties under this section in like manner and with like effect as it does other issues under the ~~Workmen's~~ Workers' Compensation Act.

Sec. 406. 39 MRSA § 93, sub-§ 3, 3rd paragraph, as amended by PL 1977, c. 612, § 12, is further amended to read:

Signed statements by a medical doctor or osteopathic physician relating to medical questions shall be admissible in ~~workmen's workers'~~ workers' compensation hearings before the Workers' Compensation Commission, providing that notice of such testimony to be used is given and service of a copy of the letter or report is made on the opposing counsel 14 days before the scheduled hearing to enable such counsel to depose or subpoena and cross-examine such doctor or physician if he so chooses.

Sec. 407. 39 MRSA § 100-A, 1st sentence, as enacted by PL 1977, c. 349, is amended to read:

The ~~Industrial Accident~~ Workers' Compensation Commission may approve an agreement of the parties to a trial work period at a specified job for a period not to exceed 3 months.

Sec. 408. 39 MRSA § 111-A, as enacted by PL 1977, c. 354 is amended to read:

§ 111-A. Provisional payment of certain disability benefits

1. **No delay of benefits.** If an employee is due benefits from an employer under an insured disability plan or insured medical payments plan because of a personal injury or disease, the employer shall not delay or refuse payment of those benefits because the employee filed a ~~workmen's workers'~~ workers' compensation claim based on the same personal injury or disease.

2. **Repayment.** If an employee has received benefits, as described in subsection 1, because of a personal injury or disease and has later prevailed on a ~~workmen's workers'~~ workers' compensation claim based on the same personal injury or disease, the value of all such benefits may be offset by the employer or respective insurance carriers against the payments of ~~workmen's workers'~~ workers' compensation benefits, and, if not offset, the employee shall repay to the employer, within 30 days of receiving the initial payment of ~~workmen's workers'~~ workers' compensation benefits, the value of all the benefits received under subsection 1.

Sec. 409. 39 MRSA § 112, last ¶, as enacted by PL 1973, c. 554, is amended to read:

This section shall not apply to agreements for the payment of compensation made pursuant to the ~~Workmen's~~ Workers' Compensation Act or to the admissibility of statements to show compliance with the notice requirements of sections 63 and 64.

Sec. 410. 39 MRSA § 182, 1st sentence, as last amended by PL 1973, c. 788, § 237, is further amended to read:

Except as otherwise specifically provided, incapacity to work or death of an employee arising out of and in the course of the employment, and resulting from an occupational disease, shall be treated as the happening of a personal injury arising out of and in the course of the employment, within the meaning of the ~~Workmen's~~ Workers' Compensation Act, and all the provisions of that Act shall apply to such occupational diseases.

Sec. 411. 39 MRSA § 186, 1st sentence, as last amended by PL 1973, c. 788, § 238, is further amended to read:

The date when an employee becomes incapacitated by an occupational disease from performing his work in the last occupation in which he was injuriously exposed to the hazards of such disease shall be taken as the date of the injury equivalent to the date of injury under the ~~Workmen's~~ Workers' Compensation Act.

Sec. 412. 39 MRSA § 187, 1st sentence, as last amended by PL 1973, c. 788, § 239, is further amended to read:

Sections 63 and 95 of the ~~Workmen's~~ Workers' Compensation Act with reference to giving notice, making claims and filing petitions shall apply to cases under this law, except that in cases under this law the date of incapacity as defined in section 186 shall be taken as equivalent to the date of injury in said sections 63 and 95, and the notice under section 63 shall include the employee's name and address, the nature of the occupational disease, the date of incapacity, the name of the employer in whose employment the employee was last injuriously exposed for a period of 60 days to the hazards of the disease and the date when employment with such employer ceased.

Sec. 413. 39 MRSA § 188 is amended to read:

§ 188. Partial incapacity

Compensation shall be payable for partial incapacity due to occupational diseases as provided in section 55 of the ~~Workmen's~~ Workers' Compensation Act.

Sec. 414. 39 MRSA § 191 is amended to read:

§ 191. Waiver

Where an employee or prospective employee, though not actually incapacitated is found to be affected by an occupational disease, he may, subject to the approval of the ~~Industrial Accident~~ Workers' Compensation Commission, be permitted to waive or limit in writing his compensation for any aggravation of his condition that may result from his continuing in his hazardous occupation. A waiver or limitation so permitted shall remain effective for any trade, occupation, process or employment, notwithstanding any change or changes in his employment or employer until the commission otherwise orders. The ~~Industrial Accident~~ Workers' Compensation Commission shall make reasonable rules and regulations relative to the form, execution, filing or registration and public inspection of waivers or records thereof.

Sec. 415. 39 MRSA § 192, 1st paragraph, last sentence, is amended to read:

Section 65 of the ~~Workmen's~~ Workers' Compensation Act shall apply to the filing and subsequent proceedings on their report, and to examinations and treatments by the employer.

Sec. 416. P & SL 1937, c. 22, § 1, 1st sentence, is amended to read:

Fred D. Jordan, Herbert L. Swett, Henry P. Rines, Frank D. Marshall, Charles B. Day, William S. Nutter and Arthur A. Crafts, their associates and successors, are hereby created a body corporate under the name of The State of Maine Publicity Bureau, or such other name as the board of directors shall adopt, with all rights and powers appurtenant to corporations organized under chapter 70 of the revised statutes so far as the same are applicable thereto and not inconsistent with the provisions of this act.

Sec. 417. P & SL 1977, c. 65, § 3 is amended to read:

Sec. 3. Membership. The Maine Food and Farmland Study Commission shall be composed of ~~21~~ 24 members. After consultation with farming interests in the State, the Governor shall appoint 11 public members who shall be broadly representative of Maine's agricultural interests, including, but not limited to, the dairy, the poultry and the potato industries and commercial, small-scale and organic farming interests, as well as those of food consumers. The 11 public members shall be appointed from a list of 22 names, 11 submitted by the Speaker of the House of Representatives and 11 submitted by the President of the Senate. The remaining ~~11~~ 13 members shall include the Commissioner of Agriculture, the Commissioner of Conservation, the State Tax Assessor, the Commissioner of Environmental Protection, the Vice-president for Research and Public Services at the University of Maine, the Dean of the College of Life Sciences and Agriculture at the University of Maine, the Director of the Cooperative Extension Service, the President of the Maine Association of Conservation Districts, 1 member of the Agricultural Stabilization and Conservation Service, or their respective designees, ~~one 2 member~~ members of the House of Representatives and ~~one 2 member~~ members of the Senate.

Sec. 418. Motor vehicle replacement policy. The State Purchasing Agent is directed to require that requisitions for replacement motor vehicles include the age and total mileage of the motor vehicles being replaced. For the purposes of this section, motor vehicles are defined as passenger cars, panel and pickup trucks, excluding those vehicles operated by the State Police and warden service. It is the intent of the Legislature that motor vehicles shall have been in service for at least 5 years or 75,000 miles before they are replaced. This policy shall also be adopted by the State Budget Officer when next preparing a budget document. Exceptions to the established replacement policy shall require the prior approval of the Commissioner of Finance and Administration.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.