

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND THIRTEENTH LEGISLATURE
FIRST REGULAR SESSION

December 3, 1986 to June 30, 1987

Chapters 1-542

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Twin City Printery
Lewiston, Maine
1987

PUBLIC LAWS

OF THE

STATE OF MAINE

AS PASSED AT THE
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1987

(d) Public beaches; and

(2) Private ways and parking areas, physically adjacent to public ways and designed primarily for vehicular traffic.

Effective September 29, 1987.

CHAPTER 60

H.P. 214 — L.D. 266

AN ACT to Amend the State Antitrust Laws.

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

Sec. 1. 10 MRS.A §1104, as amended by PL 1985, c. 349, is repealed and the following enacted in its place:

§1104. Right of action and damages

1. Right of action and damages. Any person, including the State or any political subdivision of the State, injured in its business or property by any other person or corporation by reason of anything forbidden or declared to be unlawful by section 1101, 1102 or 1102-A, may sue for the injury in a civil action. If the court finds for the plaintiff, he shall recover 3 times the amount of the damages sustained and cost of suit, including necessary and reasonable investigative costs, reasonable experts' fees and reasonable attorneys fees.

2. Injunction. The Attorney General may institute proceedings in equity to prevent and restrain violations of sections 1101, 1102 and 1102-A.

A. These proceedings may be by way of petitions setting forth the case and praying that the violation shall be enjoined or otherwise prohibited.

B. When the parties complained of have been duly notified of that petition, the court shall proceed as soon as possible to the hearing and determination of the case.

C. Pending the petition and before final decree, the court may at any time make such temporary restraining order or prohibition as considered just under the circumstances.

3. Civil penalty. Each course of conduct which constitutes a violation of sections 1101 and 1102 is a civil violation for which a civil penalty of not more than \$50,000 for each defendant shall be adjudged.

A. In any action initiated by the Attorney General pursuant to this section to prevent and restrain violations of sections 1101 and 1102, the Attorney General may include an action to recover civil penalties by each defendant for each course of conduct alleged.

B. An action to recover a civil penalty from a defendant under this section shall bar a criminal prosecution pursuant to section 1101 or 1102 against that defendant for the same course of conduct on which the action to recover the civil penalty is based.

C. A criminal prosecution against a defendant pursuant to section 1101 or 1102 shall bar any action to recover a civil penalty under this section from that defendant for the same course of conduct on which the criminal prosecution is based.

4. Recovery of damages, costs and fees for antitrust violations from any political subdivision official or employee of a political subdivision acting in an official capacity. No damages, interest on damages, costs or attorneys fees may be recovered under this chapter from any political subdivision, as defined in Title 14, section 8102, subsection 3, or official or employee of a political subdivision acting in an official capacity.

5. Recovery of damages, costs and fees for antitrust violations on claim against person based on official action directed by political subdivision, or official or employee of a political subdivision acting in an official capacity. No damages, interest on damages, costs or attorneys fees may be recovered under this chapter in any claim against a person based on any official action directed by a political subdivision, as defined in Title 14, section 8102, subsection 3, or official or employee of a political subdivision acting in an official capacity.

Sec. 2. Application. This Act does not apply to any case commenced before the effective date of this Act, except that that part of this Act designated the Maine Revised Statutes, Title 10, section 1104, subsection 4, does not apply to any case commenced before the effective date of this Act unless the defendant establishes and the court determines, in light of all the circumstances, including the stage of litigation and the availability of alternative relief under any other law, that it would be inequitable not to apply that part of this Act to a pending case.

Effective September 29, 1987.

CHAPTER 61

H.P. 231 — L.D. 299

AN ACT Concerning Good Time and Meritorious Good Time Relative to Parole Eligibility.

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

Whereas, unless this bill is enacted as emergency legislation, it will not take effect before many of those sentenced pursuant to precode law, who would benefit from

it, will have served sufficient time as originally calculated and thus be eligible for parole even without benefit of this provision;

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:

17-A MRSA §1254, sub-§4 is enacted to read:

4. Any prisoner convicted of an offense committed prior to the effective date of this code and sentenced under the law then in effect may elect to have his parole eligibility calculated using the good-time and meritorious good-time deductions available to prisoners sentenced under this code. The election shall result in the application in its entirety of the most favorable good-time and meritorious good-time law during the effective dates of each such law to the parole eligibility determination of the electing prisoner. The parole eligibility and good-time and meritorious good-time deductions of a prisoner who does not so elect shall be calculated in accordance with the laws in effect on the date the offense was committed. Nothing in this section may be construed to compel or permit discharge of any prisoner sooner than the discharge would have occurred under the law in effect on the date the offense was committed.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

Effective April 17, 1987.

CHAPTER 62

H.P. 705 — L.D. 947

AN ACT Relating to Absentee Balloting by Residents of Nursing Homes, Boarding Homes and Congregate Housing Units.

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

Sec. 1. 21-A MRSA §753, sub-§3, as amended by PL 1985, c. 357, §§10 and 19, is further amended to read:

3. Application or request received. On receipt of a completed application or a request for an absentee ballot signed by the applicant, the clerk shall immediately send or deliver an absentee ballot and return envelope to the applicant or to a 3rd person designated in the application or request. The clerk shall not deliver to a 3rd person whose name appears on the ballot any absentee ballot requested by a resident of a licensed nursing home, as defined in Title 22, chapter 405; licensed boarding

home, as defined in Title 22, chapter 1665; or certified congregate housing unit, as defined in Title 22, chapter 1457-A. The clerk shall not deliver to a 3rd person any absentee ballot requested under subsection 2-A. If a municipal election is to be held on the same date as a statewide election, absentee ballots for the municipal and statewide election may be issued in response to the same application. The clerk shall issue to any 3rd person designated in an application or request only enough absentee ballots to insure that that person will not have more than 40 absentee ballots for voters in a municipality at any time. Such a 3rd person must, unless good cause is shown, return an absentee ballot to the clerk's office within the time limits provided in section 755. The clerk shall include a ballot application to be completed by the person who signed only a written request, unless the written request is sufficient under subsection 2. The clerk shall type or write in ink the name and the legal address of the person for whom the absentee ballot is intended in the upper left hand section of all return envelopes.

A. If the clerk receives a duplicate application from a person from whom the clerk has received a return envelope apparently containing an absentee ballot, the clerk shall not furnish another absentee ballot for that person.

B. The clerk may issue a 2nd absentee ballot to an applicant, if the applicant requests one, in person or in writing and:

(1) The applicant states good cause, including, but not limited to, loss of, spoiling of or damage to the first absentee ballot; or

(2) An absentee ballot for the applicant which was furnished to a designated 3rd person is not returned to the clerk's office within 5 business days of the date that ballot was sent or delivered to the 3rd person or by 10 a.m. on the day before election day, whichever is earlier. This subparagraph shall not be construed to affect the time for delivery of absentee ballots under section 755.

Sec. 2. 21-A MRSA §753, sub-§3-A is enacted to read:

3-A. Alternate method of balloting by residents of licensed nursing homes, licensed boarding homes or certified congregate housing units. The municipal clerk shall designate one or more times during the 30-day period prior to an election during which the municipal clerk shall be present in any licensed nursing home, as defined in Title 22, chapter 405; licensed boarding home, as defined in Title 22, chapter 1665; or certified congregate housing unit, as defined in Title 22, chapter 1457-A, for the purpose of absentee balloting by the residents of these homes or units.

Effective September 29, 1987.