

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE

FIRST SPECIAL SESSION
November 28, 1995 to December 1, 1995

SECOND REGULAR SESSION
January 3, 1996 to April 4, 1996

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
JULY 4, 1996

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

J.S. McCarthy Company
Augusta, Maine
1995

(e) A trustee shall invest and manage the trust assets solely in the interest of the beneficiaries.

(f) If a trust has 2 or more beneficiaries, the trustee shall act impartially in investing and managing the trust assets, taking into account any differing interests of the beneficiaries.

(g) In investing and managing trust assets, a trustee may only incur costs that are appropriate and reasonable in relation to the assets, the purposes of the trust and the skills of the trustee.

(h) Compliance with the prudent investor rule is determined in light of the facts and circumstances existing at the time of a trustee's decision or action and not by hindsight.

(i) In delegating investment management functions:

(1) A trustee may delegate investment and management functions that a prudent trustee of comparable skills could properly delegate under the circumstances. The trustee shall exercise reasonable care, skill and caution in:

(i) Selecting an agent;

(ii) Establishing the scope and terms of the delegation, consistent with the purposes and terms of the trust; and

(iii) Periodically reviewing the agent's actions in order to monitor the agent's performance and compliance with the terms of the delegation;

(2) In performing a delegated function, an agent owes a duty to the trust to exercise reasonable care to comply with the terms of the delegation;

(3) A trustee who complies with the requirements of paragraph (1) is not liable to the beneficiaries or to the trust for the decisions or actions of the agent to whom the function was delegated; and

(4) By accepting the delegation of a trust function from the trustee of a trust that is subject to the law of this State, an agent submits to the jurisdiction of the courts of this State.

(j) The following terms or comparable language in the provisions of a trust, unless otherwise limited or modified, authorize any investment or strategy permitted under this section: "investments permissible by law for investment of trust funds"; "legal investments"; "authorized investments"; "using the judgment and care under the circumstances then prevailing that persons of prudence, discretion and intelligence exercise in the management of their own affairs, not in

regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital"; "prudent man rule"; "prudent trustee rule"; "prudent person rule"; or "prudent investor rule."

(k) This section must be applied and construed to effectuate its general purposes to make uniform the law with respect to the subject of the Uniform Prudent Investor Act among the states enacting it.

(l) This section may be cited as the "Maine Uniform Prudent Investor Act."

Sec. 3. Application. This Act applies to estates, trusts and other fiduciary relationships existing on and created after its effective date. As applied to relationships existing on its effective date, this Act governs only decisions or actions occurring after that date.

Sec. 4. Effective date. This Act takes effect January 1, 1997.

Effective January 1, 1997.

CHAPTER 526

S.P. 627 - L.D. 1634

An Act to Clarify Professional Liability

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

Sec. 1. 13 MRSA §708-A, sub-§3, ¶B, as enacted by PL 1995, c. 141, §2, is amended to read:

B. ~~Supervised or~~ Directly supervised and controlled that portion of a professional service rendered by another person that was performed negligently or in breach of any other legal duty.

See title page for effective date.

CHAPTER 527

S.P. 634 - L.D. 1642

An Act to Extend Waivers of Certain Provisions of the Education Laws

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

Sec. 1. 20-A MRSA §4502, sub-§5, ¶B, as amended by PL 1991, c. 622, Pt. X, §2, is further amended to read:

B. Staffing, including student-teacher ratios, except that the approval rules in effect for the school years beginning in the fall of 1991, 1992, 1993, 1994 ~~and~~, 1995, 1996 and 1997 must permit maximum student-teacher ratios of 25:1 school-wide for kindergarten to grade 8 and maximum student-teacher ratios of 30:1 school-wide for grades 9 to 12;

Sec. 2. 20-A MRSA §4502, sub-§5, ¶H, as amended by PL 1991, c. 9, Pt. II, §2, is further amended to read:

H. Student personnel services, including guidance and counseling and, notwithstanding any rules adopted by the department, comprehensive guidance plans to be approved by the commissioner for implementation in the ~~1995-96~~ 2000-01 school year;

Sec. 3. 20-A MRSA §4502, sub-§5-A, as enacted by PL 1991, c. 622, Pt. X, §3, is amended to read:

5-A. Application. The provisions of subsection 5, paragraph H do not apply to the school years beginning in the fall of 1991, 1992, 1993, 1994 ~~and~~, 1995, 1996 and 1997.

Sec. 4. 20-A MRSA §4504, sub-§2, as amended by PL 1993, c. 435, §4 and affected by §14, is further amended to read:

2. Comprehensive reviews. The commissioner shall, on a one-year to 5-year cycle, make a comprehensive review of each public school to determine whether the school is in compliance with basic school approval standards. These reviews must, insofar as is practicable, be coordinated with reviews of other schools in the school unit, accreditation visits, special education reviews, federal program reviews and other required reviews or inspections, so as to reduce administrative burdens on school personnel. During the school years beginning in the fall of 1991, 1992, 1993, 1994 ~~and~~, 1995, 1996 and 1997, the comprehensive reviews required by this subsection may include site visits.

Sec. 5. 20-A MRSA §4517, as enacted by PL 1991, c. 622, Pt. X, §5, is amended to read:

§4517. Waiver of requirements

The provisions of this subchapter do not apply to the school years beginning in the fall of 1991, 1992, 1993, 1994 ~~and~~, 1995, 1996 and 1997.

Sec. 6. 20-A MRSA §8104, sub-§1, as amended by PL 1991, c. 622, Pt. X, §6, is further amended to read:

1. Establishment. Each school administrative unit must, commencing with the 1987-88 school year, establish a plan for phasing in gifted and talented educational programs by ~~1995-96~~ 1998-99. ~~No~~ A school administrative unit or part of a school administrative unit is not required to comply with the provisions of its plan during the school years beginning in the fall of 1991, 1992, 1993, 1994 ~~and~~, 1995, 1996 and 1997.

See title page for effective date.

CHAPTER 528

H.P. 1233 - L.D. 1693

An Act to Enhance Fireworks Safety

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

Sec. 1. 8 MRSA §222, as enacted by PL 1985, c. 23, §2, is amended to read:

§222. Possession of fireworks

~~No~~ A person may not possess or have under ~~his~~ that person's control fireworks, except if that person is issued a permit pursuant to section 227.

Sec. 2. 8 MRSA §229, sub-§1, as enacted by PL 1985, c. 23, §2, is amended to read:

1. Criminal penalties. ~~Any~~ A person who violates section 222, ~~where~~ if the value of the fireworks possessed exceeds \$100, or section 224 or 225 ~~is guilty of~~ commits a Class E crime. A person who violates section 227 by failing to obtain a permit for display commits a Class D crime. Any person who violates section 227 by conducting the display in violation of the permit commits a Class E crime.

See title page for effective date.

CHAPTER 529

H.P. 1247 - L.D. 1709

An Act to Describe Property Posting under the Criminal Trespass and Trespass by Motor Vehicle Laws

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

Sec. 1. 17-A MRSA §402, sub-§1, ¶C, as amended by PL 1989, c. 793, is further amended to read: