

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)

REVISED STATUTES
OF THE
STATE OF MAINE
1954

1961 CUMULATIVE SUPPLEMENT

ANNOTATED

IN FIVE VOLUMES

VOLUME 1

Discard Previous Pocket Part Supplement

THE MICHIE COMPANY
CHARLOTTESVILLE, VIRGINIA
1961

General Provisions.

Sec. 70. Exemption from arrest.

No person shall be arrested in a civil action, on mesne process, or execution, or on a warrant for taxes, on the day of annual Thanksgiving, the 19th day of April, the 30th day of May, the 4th day of July, the 1st Monday of September, Veterans Day, November 11th or Christmas. On the day of any military training, inspection, review or election, no officer or soldier required by law to attend the same shall be arrested on any such processes. (R. S. c. 12, § 73. 1957, c. 397, § 7.)

Effect of amendment. — The 1957 amendment made the last paragraph into two sentences and inserted “Veterans Day” for “Armistice Day” in such paragraph. As the first paragraph was changed by the amendment, it is not set out.

Chapter 15.

State Police.

Sections 8-13. Stations for Weighing Vehicles.

State Police.

Sec. 1. Chief; appointment and duties; deputy chief; members of force; rules and regulations.—The governor, with the advice and consent of the council, shall appoint a chief of the state police, as heretofore appointed, to serve for a term of 4 years unless removed for cause. Such appointment may be made from the membership of the state police. He may be removed by the governor and council only after charges have been preferred in writing and, if he so requests, after public hearing. The chief shall be the executive head of the department of the state police, as heretofore established, and shall execute the duties of his office under the direction and subject to the approval of the governor and council. Subject to the approval of the governor and council, the chief may designate a commissioned officer of the state police to act as his deputy. Subject to the personnel law, the chief of the state police may enlist suitable persons as members of the state police to enforce the law and employ such other employees as may be necessary. The chief of the state police shall make rules and regulations, subject to the approval of the personnel board, for the discipline and control of the state police. (R. S. c. 13, § 1. 1945, c. 255, § 1. 1947, c. 24, §§ 1, 2. 1959, c. 363, § 5. 1961, c. 397, § 1.)

Effect of amendments. — The 1959 amendment added the words “department of the” and the words “as heretofore established” in the fourth sentence of this section. The 1961 amendment rewrote the portion of the section which followed the fourth sentence.

Sec. 2. Powers and duties; duty of other officers to cooperate.—The specific powers and duties of the state police shall be to patrol the state highways and other important ways, especially outside the compact portion of cities and towns, for the purpose of enforcing the provisions of law and all laws relating to motor driven and horse drawn vehicles and all rules and regulations in regard thereto, and of arresting all violators thereof and prosecuting all offenders against the same. The state police shall also aid the state highway commission in the enforcement of its rules and orders and permit regulations. In addition to such duties and powers, the chief and members of the state police are vested with the same powers and duties throughout the several counties of the state as sheriffs have in their respective counties to serve criminal processes, to investigate and prosecute violators of any law of this state and to arrest the offenders thereof, and also the

same power and duty as sheriffs have to arrest without warrant and detain persons found violating or attempting to violate any other penal law of the state until a legal warrant can be obtained. As arresting officers, or aids, or witnesses in any criminal case, they shall be entitled to the same fees as any sheriff or deputy. Such fees shall be taxed on a bill of costs and shall be paid promptly each month to the treasurer of state and credited to the general highway fund. They shall have the same rights as sheriffs to require aid in executing the duties of their office. They may serve any subpoenas, notices and processes issued by the secretary of state or the state highway commission under authority of law. They shall also at all times be subject to the call of the governor for emergency purposes at his discretion.

The state police sheriffs and deputy sheriffs; constables, city marshals, deputy marshals and police officers of cities and towns shall, so far as possible, cooperate in the detection of crime, the arrest and prosecution of criminals and the preservation of law and order throughout the state. (R. S. c. 13, § 2. 1949. c. 323, § 1. 1955, c. 118, § 2.)

Effect of amendment.—The 1955 amendment inserted the second sentence.

Sec. 3. Uniform and equipment; to hold no other office.—Members of the state police shall be provided at the expense of the state with a distinctive uniform and badge and with suitable equipment, all of which shall remain the property of the state. When on duty to enforce the laws of the road and at such other times as the chief may require, state policemen shall be in uniform. They shall hold no other office during their term of service. It shall be unlawful for any person to wear the prescribed uniform or badge of the state police or any distinctive part thereof except on order of the chief of said state police. (R. S. c. 13, § 3 1955, c. 405, § 6.)

Effect of amendment.—The 1955 amendment deleted the words “including motorcycles for use when requisite to the performance of their official duties” following the word “equipment” in the first sentence.

Sec. 4. Repealed by Public Laws 1955, c. 118, § 1.

Sec. 5. Salaries and compensations; to be sworn; not to receive fees.

No inspector or member of the state police shall receive any fee as a complainant or witness, or for making an arrest or for attendance at court, but shall be reimbursed by the state for his actual costs of arrest and actual expenses of travel and attendance. Whenever any fines or penalties are imposed by any court other than trial justice or municipal courts in any proceeding in which a member of the state police is a complainant or a witness, said court may tax costs for such complainant or witness in the usual manner. (R. S. c. 13, § 5. 1947, c. 385. 1949, c. 310. 1951, c. 408. 1953, c. 372, § 1. 1957, c. 334, § 1.)

Effect of amendment.—The 1957 amendment inserted “other than trial justice or municipal courts” in the last sentence of the last paragraph. As the first and second paragraphs were not changed by the amendment, they are not set out.

Sec. 5-A. Records confidential.—All criminal and administrative records of the state police and the bureau of identification are declared to be confidential, except:

- I. Operational reports by the department;
- II. Activity reports by the department;
- III. Names of state police applicants;
- IV. Promotions;
- V. Resignations;
- VI. Discharges;

- VII. Retirements;
- VIII. Statistical reports by bureau of identification;
- IX. Accident reports.
- X. Statistical reports by division of traffic records;
- XI. Accident information on pending cases which would not jeopardize the investigation or prosecution of such cases;
- XII. Statistical reports by division of criminal investigation;
- XIII. Information made available in open court;
- XIV. Information on pending cases which would not jeopardize the investigation or prosecution;
- XV. Statistical reports by division of special services on truck weights, public utility enforcement and beano;
- XVI. Annual audits.

Such records other than the exceptions listed may be subpoenaed by a court of record. (1959, c. 223, § 1.)

Accident Reports.

Sec. 7. Driver of any vehicle involved in accident to report.—The chief of the state police shall prepare and shall supply to police and sheriffs' offices and other suitable agencies, forms of accident reports calling for sufficiently detailed information to disclose, with reference to a highway accident the cause, conditions then existing and the persons and vehicles involved. Every accident report required to be made in writing shall be made on the appropriate form furnished by the chief of the state police and shall contain all available information.

The chief of the state police shall receive accident reports required by law and shall tabulate and analyze such reports and may publish annually or at more frequent intervals, statistical information based thereon as to the number, cause and location of highway accidents.

The driver of any vehicle involved in an accident resulting in injuries to or death of any person or property damage to the estimated amount of \$100 or more, or some person acting for him, or the owner of said vehicle having knowledge of the accident should the operator of same be unknown, shall, immediately by the quickest means of communication, give notice of the accident either to a state police officer, sheriff or other police official, or to the police department of the municipality wherein the accident occurred. Any person failing to comply with the requirements of this paragraph shall be guilty of a misdemeanor and shall be punished by a fine of not more than \$100, or by imprisonment for not more than 90 days, or by both such fine and imprisonment. Every such notice received by any such official or department shall be promptly investigated.

Every law enforcement officer who investigates a motor vehicle accident of which report is required, shall, either at the time and scene of the accident or elsewhere, interview participants and witnesses and shall, within 48 hours after completing the investigation, transmit his written report to the chief of the state police on accident form No. 1320 furnished by said chief of the state police.

All accident reports made by investigating officers shall be for the purpose of a statistical analysis and for accident prevention purposes and shall not be admissible in evidence in any trial, civil or criminal, arising out of such accident, but the chief of the state police may disclose, upon request of any person, the date, time, location of the accident and the names and addresses of drivers, owners, injured persons, witnesses and the investigating officer. The chief may also upon written request, furnish a photocopy of any report at the expense of the person making the request.

The driver of any vehicle involved in an accident resulting in injury to or death of any person or property damage to the estimated amount of \$100 or more, or some person acting for him, shall, within 48 hours after the accident, make a written report of it to the chief of the state police. The chief may require drivers of ve-

hicles involved in any such accident to file supplemental reports whenever the original report is insufficient in the opinion of the chief.

Such report shall be without prejudice and the fact that it was made shall be admissible in evidence solely to prove a compliance with this section. No report, or any part thereof or statement contained therein, or statement made, or testimony taken at any hearing before the secretary of state or any of his deputies held under the provisions of section 4 of chapter 22, or decision made as a result thereof, shall be admissible in evidence for any purpose in any trial, civil or criminal, arising out of such accident.

Whoever is required to make a report as herein provided and fails to do so, or willfully fails to give correct information required of him by the chief of the state police pertinent to any requisite report shall be deemed answerable to the secretary of state, and the secretary for either of said causes may suspend or revoke the operator's license of such person or the certificate of registration, or both, of any or all motor vehicles owned by him; and on like failure by a nonresident the secretary may suspend or revoke the privileges of such nonresident to operate a motor vehicle in this state and the operation within this state of any motor vehicle owned by him. (R. S. c. 13, § 6, 1945, c. 306, 1947, c. 85, 1953, c. 112, 1955, c. 306, §§ 1, 2, 1957, c. 73, §§ 1, 2.)

Effect of amendments. — The 1955 amendment inserted in the first sentence of the third paragraph the words "or the owner of said vehicle having knowledge of the accident should the operator of same be unknown." The amendment also substituted "Such" for "Every" at the beginning of the seventh paragraph and divided that paragraph into two sentences.

The 1957 amendment deleted the words "on request", formerly appearing preceding the word "supply" in the first sentence of the first paragraph, and added the words "on accident form No. 1320 furnished by said chief of the state police" at the end of the fourth paragraph of this section.

First requirement is notice of accident; notice usually oral.—It will be noted that the first requirement of this section is that of notice of the accident, that is, the imparting of information that such an accident has occurred. Such notice may be, and usually would be, oral. *State v. Libby*, 153 Me. 1, 133 A. (2d) 877.

Notification followed by investigation, assembling of details and subsequent written report. — It is contemplated by this section that notification that an accident has occurred will be followed by investigation, the assembling of details, and subsequent written reports. *State v. Libby*, 153 Me. 1, 133 A. (2d) 877.

Written accident reports as well as oral statements made in the course of and as a part of the preparation of such reports are inadmissible under this section, although police officers and others may give testimony concerning observations and conversations which are otherwise admis-

sible under well established rules of law. *State v. Libby*, 153 Me. 1, 133 A. (2d) 877.

The driver of a vehicle involved in an accident should be protected as to oral statements made in the course of and as a part of the preparation of the written report required of him by this section. *State v. Libby*, 153 Me. 1, 133 A. (2d) 877.

One cannot be permitted to do by indirection what he is forbidden to do directly. *State v. Libby*, 153 Me. 1, 133 A. (2d) 877.

Admissibility of written reports to prove compliance with section.—The written reports required by this section are by its terms rendered inadmissible in any proceeding except to prove compliance with the section itself. *State v. Libby*, 153 Me. 1, 133 A. (2d) 877.

Testimony of officer, etc.

In accord with original, see *State v. Libby*, 153 Me. 1, 133 A. (2d) 877.

It was never intended that the statute should preclude the giving of testimony by police officers or others covering observations and conversations which would otherwise be admissible under well established rules of law. *State v. Libby*, 153 Me. 1, 133 A. (2d) 877.

The theory that this section precludes officers from giving oral testimony as to facts observed and voluntary statements made during the ordinary process of investigation would, if adopted, render it nearly impossible to obtain convictions in cases which involved violations of highway safety statutes. The legislature has merely sought to insure the making of the desired written reports by providing for the exclusion of such reports from

evidence. State v. Libby, 153 Me. 1, 133 A. (2d) 877.

Cited in McCafferty v. Goddard, 152 Me. 415, 131 A. (2d) 674.

Stations for Weighing Vehicles.

Sec. 8. Weighing points; designation of inspecting officers.—From time to time the chief of state police shall designate, of his own motion or by order of the governor and council, along the main highways of this state, weighing points, stations or barracks at which a suitable set of platform or portable scales for the weighing of motor vehicles shall be available for use.

The chief of state police shall also designate, of his own motion or by order of the governor and council, certain state police officers who will be empowered to examine loads and replace seals as provided by section 9. (R. S. c. 13, § 7. 1957, c. 259, § 1.)

Effect of amendment. — The 1957 amendment added the second paragraph.

Sec. 9. Operators of vehicles.—The operator of any vehicle entering or leaving the state or operating within the state upon request or direction of any state police officer shall drive such vehicle upon said scales and permit the weighing thereof together with its load, and shall permit examination of the registration certificate covering such vehicle and examination of any load carried thereon, by a state police officer designated by the chief of state police in accordance with the provisions of section 8. Whenever such examination of load carried requires the breaking of a seal previously placed on the vehicle, a new seal shall be placed thereon, and complete records made and forwarded to the chief of state police concerning the seals so broken and replaced, except that seals on trucks having exposed refrigeration units shall not be so broken. (R. S. c. 13, § 8. 1955, c. 88, § 1. 1957, c. 259, § 2.)

Effect of amendments. — The 1955 amendment substituted "vehicle" for "truck" in the first sentence and deleted "or deputy sheriff" after the word "officer" in line three.

The 1957 amendment added the provision as to examination of loads at the end of the first sentence and added the second sentence.

Sec. 10. Fees.—The driver or owner of such vehicle shall pay to the officer in charge of such weighing point, station or barracks, or to the officer weighing such vehicle any deficiency, if any there may be, in the legal registration fee of such vehicle before it may be permitted to proceed. All deficiency fees so collected shall be reported to the secretary of state, in such manner as he may require, and said fees shall be sent to him and special record kept thereof. (R. S. c. 13, § 9. 1955, c. 88, § 2.)

Effect of amendment.—The 1955 amendment substituted "vehicle" for "truck" and

deleted the words "sheriff or deputy sheriff" after the word "officer" in line two

Sec. 11. Issuance of certificate.—Upon the payment of any deficiency as hereinbefore provided, the officer in charge of such weighing point, station or barracks, or the officer weighing such vehicle shall give to the operator of the vehicle a clearance certificate in such form as may be prescribed by the chief of the state police. (R. S. c. 13, § 10. 1955, c. 88, § 3.)

Effect of amendment.—The 1955 amendment substituted "vehicle" for "truck" and

deleted the words "sheriff or deputy sheriff" after the word "officer" in line three.

Sec. 12. Penalty for violation of §§ 8-13.—The operator or owner of any vehicle entering or leaving the state, or operating within the state, who refuses to permit the weighing of such vehicle, as aforesaid, shall be punished by a fine of not more than \$100, or by imprisonment for not more than 90 days, or by both such fine and imprisonment; and all fines and forfeitures collected shall ac-

crue to the general highway fund. (R. S. c. 13, § 11; c. 19, § 135. 1951, c. 176. 1955, c. 88, § 4.)

Effect of amendment.—The 1955 amendment substituted “vehicle” for “truck” in two places in this section.

Sec. 13. Enforcement of §§ 8-13; records.—Every state police officer is authorized and directed to enforce the provisions of sections 8 to 13, inclusive, and to keep a complete record of each vehicle weighed by him, such records of each vehicle weighed by him as may be required by the chief of state police, but in all instances such records must include information as to the general type of load carried, and he shall send a copy of each such record, prior to the close of the month following that during which the weighing took place, to the chief of the state police who shall file the same as a public record. Forms for making such records shall be prepared by the chief of the state police and by him furnished, together with a copy of sections 8 to 13, inclusive, to all state police officers. (R. S. c. 13, § 12. 1955, c. 88, § 5. 1957, c. 259, § 3.)

Effect of amendments. — The 1955 amendment substituted “vehicle” for “truck” in the first sentence and deleted references to sheriffs and deputy sheriffs in the first and second sentences.

“such records of each vehicle weighed by him as may be required by the chief of state police, but in all instances such records must include information as to the general type of load carried”.

The 1957 amendment inserted the words

State Bureau of Identification.

Sec. 19-A. Courts to submit criminal records.—Every court and trial justice in every case wherein a person is convicted of the violation of any criminal statute shall forthwith transmit to the state bureau of identification an abstract, duly certified, setting forth therein the names of the parties, the nature of the offense, the date of hearing, the plea, the judgment and the result. For this purpose the state bureau of identification shall furnish to said courts proper abstract forms. (1955, c. 120.)

State Police Retirement System.

Sec. 22-A. Military leave credits.—No credits toward retirement under the provisions of section 22 shall be allowed to any member of the state police in military service beyond the period of first enlistment or induction into the armed forces of the United States unless the individual involved is compelled to continue service under some mandatory provision. (1957, c. 86.)

Sec. 22-B. Repealed by Public Laws 1957, c. 429, § 7.

Editor’s note. — The 1957 act repealing identical to those of the repealed section, this section became effective on its approval, October 31, 1957. For provisions see § 23-A.

Sec. 23-A. Occupational disability.—Upon the filing with the chief of the state police of an application by a member of the state police in service and upon the determination by the chief that he has incurred permanent disability as a result of injuries received in the line of duty, such member may be retired on a disability retirement allowance equal to $\frac{1}{2}$ of the pay per year that is paid to a member of his grade at the time of his disability. A medical board of 3 physicians, designated by the chief of the state police, after a medical examination of such member of the state police, shall first certify that such member is mentally or physically incapacitated for further performance of duty, that such incapacity is likely to be permanent and that he should be retired.

The provisions of this section shall apply only to persons who were members of the state police on July 9, 1943. (1957, c. 429, § 8.)

Effective date. — The 1957 act adding this section became effective on its approval, October 31, 1957.