

MAINE STATE LEGISLATURE

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REVISED STATUTES
OF THE
STATE OF MAINE

1954

1959 CUMULATIVE SUPPLEMENT

ANNOTATED

IN FIVE VOLUMES

VOLUME 3

**Place in Pocket of Corresponding
Volume of Main Set**

THE MICHIE COMPANY
CHARLOTTESVILLE, VIRGINIA
1959

317, Public Laws 1959, provides as follows: "This act shall become effective December 1, 1959. It shall apply to all actions brought after December 1, 1959 and also to all further proceedings in actions at law or suits in equity then pending, except to the ex-

tent that in the opinion of the court the application of this act in a particular action pending on December 1, 1959 would not be feasible or would work injustice, in which event the laws in effect prior to December 1, 1959 would prevail."

Chapter 97.

Fire Departments and Fire Prevention.

Investigation of Fire Hazards and Causes of Fire.

Sec. 22. Insurance commissioner upon complaint may inspect buildings; combustible or other dangerous matter removed; exitways.

Every hospital, sanatorium, convalescent home, nursing home, rest home or other institution for the hospitalization or nursing care of human beings shall between sundown and sunrise maintain lighted exitways and all main exit doors shall be hung to swing outward. (R. S. c. 85, § 22. 1957, c. 37.)

Effect of amendment. — The 1957 amendment added the paragraph set out above as the second and last paragraph. As the first paragraph was not changed by the amendment, it is not set out.

Sec. 23. Buildings repaired or demolished; petition to enforce order.—If any person fails to comply with the order of any officer under the provisions of section 22 or with the decision of the insurance commissioner on review and within the time fixed, then such officer or the insurance commissioner may petition the supreme judicial court or the superior court in equity, in term time or vacation, in the county where the building or premises is located to enforce the order of said officer or the insurance commissioner. After notice and hearing the court shall make such order, judgment or decree as law and justice may require, or the court may authorize the town to cause such building or premises to be forthwith repaired, torn down or demolished and such materials removed and all dangerous conditions remedied, as the case may be, at the expense of the town in which such property is situated; and if the owner thereof, within 30 days after notice in writing of the amount of such expense, fails, neglects or refuses to repay said town the expense thereby incurred, a special tax may be assessed by the assessors against the land on which said building was located for the amount of such expenses, and such amount shall be included in the next annual warrant to the tax collector of said town for collection, and shall be collected in the same manner as other state, county and municipal taxes are collected. (R. S. c. 85, § 23. 1957, c. 7.)

Effect of amendment.—Prior to the 1957 amendment the officer or insurance commissioner, on review, caused the repair, demolition, etc. The petition relative to the enforcement of the order is new with the amendment, as is also the court order, judgment, etc.

Sec. 29. Insurance commissioner may incur expense for administration of fire preventive laws; director of state fire prevention; state fire inspectors.—The insurance commissioner may incur such expense and appoint a director of state fire prevention, an assistant director of state fire prevention and such supervising state fire inspectors, subject to the provisions of the personnel law, as may be necessary to carry out the provisions of all fire preventive and investigative laws, rules and regulations which he is by law empowered to administer. He may also incur reasonable expenses in educating the public in fire prevention and protection. The director of state fire prevention, the assistant director of state fire prevention and supervising state fire inspectors appointed

under the provisions of this section shall carry out those functions which the commissioner may direct. Supervising state fire inspectors shall have the same powers and duties throughout the several counties of the state as sheriffs have in their respective counties relating to fire prevention, arson and other burnings. Their power and duties shall include the duty to inquire into and arrest for violations of any of the provisions of this chapter, and to arrest for impersonation of or interference with fire inspectors. Every fire insurance company or association which does business or collects premiums or assessments in the state shall pay to the state tax assessor on the 1st day of May, annually, in addition to the taxes now imposed by law to be paid by such companies or associations, $\frac{1}{2}$ of 1% of the gross direct premiums for fire risks written in the state during the preceding calendar year, less the amount of all direct return premiums thereon and all dividends paid to policyholders on direct fire premiums during said calendar year. The state tax assessor shall pay over all receipts from such tax to the treasurer of state daily. Said funds shall be used solely to defray the expenses incurred by the insurance commissioner in administering all fire preventive and investigative laws, rules and regulations and in educating the public in fire safety and are appropriated for such purposes.

(1955, c. 166, 1957, c. 16, § 1; c. 429, § 81.)

Effect of amendments.—The 1955 amendment inserted the fourth and fifth sentences in the first paragraph.

The first 1957 amendment made this section applicable to an assistant director of state fire prevention and added the word "supervising" preceding the words "state fire inspectors." The second 1957 amend-

ment, effective October 31, 1957, substituted "Supervising state" for "State supervising" at the beginning of the fourth sentence of the first paragraph.

As the second paragraph was not changed by the amendments, it is not set out.

Fire Prevention.

Sec. 36. Repealed by Public Laws 1955, c. 406, § 3.

Cross reference.—See c. 36, § 94-A, for present provisions re kindling fires on land of another.

Sec. 43-A. Repealed by Public Laws 1957, c. 397, § 47.

Cross reference.—See now § 45-A of transportation of explosives, which provisions are verbatim with former § 43-A.

Sec. 43-B. Repealed by Public Laws 1957, c. 429, § 82.

Cross reference.—See now § 45-B of this chapter for provisions identical to those of former § 43-B.

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

Sec. 45-A. Transportation of explosives.—As a condition to the granting of a permit or license to transport explosives, the insurance commissioner may require that the vehicle used in transportation of explosives may be accompanied by a representative of the commissioner, who shall be paid mileage by the person to whom the license is issued at the rate allowed to fire inspectors by the state for the use of his car. This condition is not applicable to loads of 4,000 pounds or less. Explosives referred to herein shall not include petroleum products. (1957, c. 397, § 48.)

Sec. 45-B. Installation of certain gas burning appliances to conform to standards.—No artificial, liquefied petroleum, manufactured or natural gas burning appliances of whatever type shall hereafter be installed unless such installation complies with regulations issued by the insurance commissioner. Such regulations shall be the applicable standards of National Fire Protection Association as amended from time to time and shall be issued in accordance with

the procedure set forth in section 43. Such regulations may be amended or rescinded in accordance with said procedure and any person aggrieved thereby shall have all the rights granted to such a person by section 43.

This section shall not apply to those types of heating units such as bunsen burners, torches, flares, urn burners, etc., which are not an integral part of the appliance.

Any violation of the regulations issued by the insurance commissioner hereunder shall be punished by a fine of not more than \$100 or by imprisonment for not more than 90 days, or by both. (1957, c. 429, § 83.)

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

Sec. 47-A. Construction permit, when required.—No person, firm or corporation shall construct a public building, schoolhouse, hospital, convalescent home, nursing home, theater or other place of public assembly to which admission is to be charged or any building to be state owned or operated, without first obtaining from the insurance commissioner a permit therefor. If any such building be damaged by fire or otherwise to the extent of 50% or more, no person, firm or corporation shall repair or reconstruct such building without first obtaining from the insurance commissioner a permit therefor. A request for a permit shall be accompanied by a true copy of the plans and specifications for such construction or reconstruction. The commissioner shall issue a permit only if the plans comply with statutes and lawful regulations promulgated to reduce fire hazards. (1957, c. 397, § 50.)

Sec. 47-B. Penalty.—Whoever shall construct or reconstruct a public building, schoolhouse, hospital, convalescent home, nursing home, theater or other place of public assembly to which admission is to be charged or any building to be owned or operated by the state, without first obtaining the permit required by section 47-A, shall be guilty of a misdemeanor, and on conviction thereof, shall be punished by a fine of not more than \$100. (1957, c. 397, § 50.)

Sec. 47-C. Examinations by division of state fire prevention.—The fee for examination by the insurance commissioner through the division of state fire prevention of each set of plans for construction, reconstruction or repairs of public buildings, hospitals, convalescent homes, nursing homes, theaters or other place of public assembly shall be \$15. Such fee shall be credited to the division of state fire prevention to defray the expenses of the division. Any balance of said fees shall not lapse but shall be carried forward as a continuing account to be expended for the same purposes in the following fiscal years. (1959, c. 182, § 1.)

Sec. 48. Doors of public buildings to open outwards.—Every building intended temporarily or permanently for public use, and every schoolhouse and every schoolroom therein, shall have all doors, intended for egress, open outwards. (R. S. c. 85, § 45. 1959, c. 66.)

Effect of amendment.—The 1959 amendment deleted the words “of more than one story in height”, formerly appearing after the word “schoolhouse” in this section.

Sec. 48-A. Exits in buildings and other structures.—The insurance commissioner shall adopt and may amend, after notice and public hearing, reasonable regulations governing exits in all buildings or other structures within his jurisdiction.

I. Building exits code followed. The regulations shall conform as nearly as practicable with the building exits code as adopted and amended by the National Fire Protection Association.

II. Effective date. The regulations become effective when a certified copy

of them have been approved in writing by the governor and council and filed with the secretary of state.

III. Rights declared. Any person aggrieved by a regulation or by an act of the commissioner in enforcing it may have his rights declared by bringing a petition for declaratory judgment under chapter 107, sections 38 to 50, naming the commissioner as defendant.

IV. Violation. Any person who violates a regulation issued by the commissioner under this section shall be punished by a fine of not more than \$100 or by imprisonment for not more than 90 days, or by both. (1959, c. 163.)

Editor's note.—P. L. 1959, c. 163, added this section to this chapter relative to exits in buildings and other structures, designating it "Sec. 48-A". Since former section 48-A had already been repealed by Public

Laws 1957, c. 397, § 49, the number assigned to the new section by the legislature was retained, thus obviating the necessity of treating it as a pre-empted number.

Sec. 48-B. Repealed by Public Laws 1957, c. 397, § 49.

Cross reference.—See now §§ 47-A and 47-B of this chapter for provisions relative to permits for construction of public

buildings, which sections are similar to former §§ 48-A and 48-B.

Sec. 49. Fire escapes for certain buildings; appeal.

Failure to perform duty as evidence of actionable negligence.—The failure of a defendant to perform a duty imposed by this section, for the benefit of tenants, which proximately results in harm or is the natural and probable result thereof, is, at least, evidence of actionable negligence

to be submitted to the jury. *Kimball v. Breton*, 153 Me. 476, 138 A. (2d) 637.

Violation prima facie evidence of negligence.—The violation of this section is prima facie evidence of negligence. *Kimball v. Breton*, 153 Me. 476, 138 A. (2d) 637.

Sec. 51. Notice as to sufficiency of safeguards.—The insurance commissioner, municipal officers or chief of the fire department shall give written notice to the occupant of such building, also to the owner thereof if known, of their determination as to the sufficiency of said precautions and safeguards, specifying in said notice any alteration, addition or repair which they require. Sixty days are allowed for compliance with such notice and order. (R. S. c. 85, § 48. 1957, c. 16, § 2.)

Effect of amendment.—The 1957 amendment made this section applicable to the insurance commissioner.

Chapter 98.

Harbor Masters. Wharves and Fish Weirs.

Wharves and Fish Weirs.

Sec. 7. Application for license to build or extend wharves and fish weirs.—Any person intending to build or extend any wharf, fish weir or trap in tidewaters, within the limits of any city or town, may apply in writing to the municipal officers thereof, stating the location, limits and boundaries, as nearly as may be, of such intended erection or extension, and asking license therefor. Upon receiving such application, said officers shall give at least 3 days' public notice thereof in a newspaper, published in the town, or, if there be no newspaper published in the town, in a newspaper published within the county, and shall therein designate a day and time on which they will meet on or near the premises described, to examine the same and hear all parties interested. If, upon such examination and hearing of all parties interested, said officers decide that such erection