

MAINE STATE LEGISLATURE

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ONE HUNDRED AND THIRD LEGISLATURE

Legislative Document

No. 1444

S. P. 543

In Senate, March 8, 1967

Referred to Committee on Judiciary. Sent down for concurrence and ordered printed.

JERROLD B. SPEERS, Secretary

Presented by Senator Mills of Franklin.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-SEVEN

AN ACT to Correct Errors and Inconsistencies in the Public Laws.

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

Sec. 1. R. S., T. 4, § 5, amended. The 2nd sentence of section 5 of Title 4 of the Revised Statutes is amended to read as follows:

Such justice shall terminate his service before his 71st birthday ~~unless he be a justice who has attained or hereafter shall attain the age of 70 years during his continuance in office as such justice under an appointment made prior to August 6, 1949, in which case to be entitled to compensation as provided, he shall terminate his service before his 72nd birthday.~~

Sec. 2. R. S., T. 4, § 103, amended. The 2nd sentence of section 103 of Title 4 of the Revised Statutes is amended to read as follows:

Such justice shall terminate his service before his 71st birthday ~~unless he be a justice who has attained or hereafter shall attain the age of 70 years during his continuance in office as such justice under an appointment made prior to August 6, 1949, in which case to be entitled to compensation as provided, he shall terminate his service before his 72nd birthday.~~

Sec. 3. R. S., T. 4, § 103, amended. The 3rd sentence of section 103 of Title 4 of the Revised Statutes is repealed, as follows:

~~An Active Retired Justice shall receive annually, beginning January 1, 1951, an amount equal to $\frac{3}{4}$ of the salary now paid to justices of said court.~~

Sec. 4. R. S., T. 5, § 243, sub-§ 5, amended. Subsection 5 of section 243 of Title 5 of the Revised Statutes is amended to read as follows:

5. Post-audit for state colleges, etc. To perform a post-audit of all accounts and other financial records of the state ~~teachers'~~ colleges, the Maine Port Authority and the Maine Forestry District;

Sec. 5. R. S., T. 7, § 14, amended. Section 14 of Title 7 of the Revised Statutes is amended to read as follows:

§ 14. Hearings on violations

When the commissioner becomes cognizant of the violation of any provision of this Title, Title 10, chapter 309, Title 22, sections 2151 to 2162 and Title 32, ~~chapter~~ **chapters 27 and 61**, he shall cause notice of such fact, stating the date, hour and place of hearing, with a copy of the finding or, in case of a packer of food, a copy of the charge to be preferred, to be given to the person concerned and the person from whom the sample was obtained, and the person whose name appears upon the label, if a resident of the State, who shall be given an opportunity to be heard under such rules and regulations as may be prescribed by the said commissioner. When the hearing relates to the packing of apples, it shall be held in the county where the inspection was made.

Sec. 6. R. S., T. 7, § 3451, amended. The last paragraph of section 3451 of Title 7 of the Revised Statutes, as enacted by section 4 of chapter 193 of the public laws of 1965, is amended to read as follows:

Any person, firm or corporation maintaining a kennel ~~or corporation main-
taining a kennel~~ without having obtained a license for same or after any license has been revoked or suspended shall be punished by a fine of not more than \$50.

Sec. 7. R. S., T. 7, § 3703, amended. The first paragraph of section 3703 of Title 7 of the Revised Statutes, as amended by section 8 of chapter 193 and by section 16 of chapter 513, both of the public laws of 1965, is repealed and the following enacted in place thereof:

Each police officer or constable to whom the warrants named in section 3702 are issued shall return the same at the time specified. Such officers shall receive from the municipality the sum of \$2 for each dog killed or otherwise disposed of, and for other services rendered under this chapter and chapters 701, 703 and 711 and sections 3603 to 3605, they shall receive such compensation as the municipal officers may determine.

Sec. 8. R. S., T. 9, § 3722, sub-§ 5, amended. Subsection 5 of section 3722 of Title 9 of the Revised Statutes, as enacted by section 1 of chapter 501 of the public laws of 1965, is amended to read as follows:

5. Goods. "Goods" means all chattels personal which are furnished or used in the modernization, rehabilitation, repair, alteration or improvement of real property except those furnished or used for a commercial or business purpose or for resale, and except stoves, freezers, refrigerators, air conditioners other than those connected with a central heating system, hot water heaters and other appliances furnished for use in a home and ~~designated~~ **designed** to be removable therefrom without material injury to the structure;

Sec. 9. R. S., T. 9, § 3738, amended. The 2nd sentence of section 3738 of Title 9 of the Revised Statutes, as enacted by section 1 of chapter 501 of the public laws of 1965, is amended to read as follows:

No financial institution as defined in section 222, credit union, national bank or federal savings and loan association authorized to do business in this State shall be required to obtain a license or pay a license fee hereunder; however, nothing contained in this chapter shall be deemed to have any effect whatever upon any existing law regulating the power of or the conditions and limitations under which such institutions may engage in the business of a home repair financing agency.

Sec. 10. R. S., T. 12, § 51, amended. The 2nd sentence of section 51 of Title 12 of the Revised Statutes is amended to read as follows:

It shall consist of the following 7 members: The Dean of the College of Agriculture, the State Commissioner of Agriculture and the State Forest Commissioner, who shall serve ex officio; and 4 soil **and water** conservation district supervisors, one of which shall represent each of the following 4 areas: Area 1, composed of the soil **and water** conservation districts of St. John Valley, Central Aroostook, Southern Aroostook and Washington County; Area 2, composed of the districts of Piscataquis County, Somerset County, Franklin County and Kennebec County; Area 3, composed of the districts of Oxford County, Androscoggin Valley, Cumberland County and York County; Area 4, composed of Penobscot County, Waldo County, Knox-Lincoln and Hancock County.

Sec. 11. R. S., T. 12, § 54, sub-§ 8, amended. Subsection 8 of section 54 of Title 12 of the Revised Statutes is amended to read as follows:

8. Options, purchases. To obtain options upon and to acquire by purchase, exchange, lease, gift, grant, bequest, devise or otherwise any property or rights or interests therein; to maintain, administer and improve any properties acquired; to receive income from such properties and to expend such income in carrying out the purposes and provisions of this chapter; and to sell, lease, or otherwise dispose of any of its real or personal property or interests therein, in furtherance of the purpose and provisions of this chapter, including the conveyance, with or without consideration, of lands or interests therein to soil **and water** conservation districts for use in carrying out their authorized purposes;

Sec. 12. R. S., T. 12, § 201, sub-§ 2, amended. The first sentence of subsection 2 of section 201 of Title 12 of the Revised Statutes is amended to read as follows:

Allocation to soil **and water** conservation districts shall be made on the basis of a budget submitted by each district to the state committee by February 1st of each year.

Sec. 13. R. S., T. 12, § 2557, amended. The last sentence of section 2557 of Title 12 of the Revised Statutes, as repealed and replaced by section 23 of chapter 448 of the public laws of 1965, is amended to read as follows:

Any violation of this section shall be ~~punished~~ **punishable** by a fine of not less than \$200 nor more than \$300 for each offense.

Sec. 14. R. S., T. 13, § 932, amended. The 2nd paragraph of section 932 of Title 13 of the Revised Statutes is repealed as follows:

~~The limitations of this section as to the holding of real and personal property shall not apply to a corporation formed under this chapter for the purpose of fostering, encouraging and assisting the physical location, settlement and resettlement of industrial and manufacturing enterprises within the State.~~

Sec. 15. R. S., T. 13, § 3169, amended. The first sentence of section 3169 of Title 13 of the Revised Statutes is amended to read as follows:

The ministerial and school funds now held in trust by any town or by a corporation existing under section 3162 may be turned over to the Treasurer of State to be administered in accordance with the terms and provisions of such trust and which shall be invested by him in the same manner as provided for investments in securities enumerated in Title 9, sections ~~592~~ 591 to 600 and section 603, subsection 1.

Sec. 16. R. S., T. 20, § 859, amended. The 2nd paragraph of section 859 of Title 20 of the Revised Statutes, as amended by chapter 338 of the public laws of 1965, is further amended to read as follows:

In schools which offer a one-year childhood education program prior to grade one, only those children who will be 5 years of age on or before October 15th of the school year shall be admitted ~~except that not more than 5 pilot programs related to school entrance age may be administered locally with approval of the State Board of Education during the 1965-66, 1966-67 school years only. Grade one age limitations shall not apply to children participating in these pilot programs.~~

Sec. 17. R. S., T. 22, § 2484, amended. The last sentence of section 2484 of Title 22 of the Revised Statutes, as enacted by chapter 221 of the public laws of 1965, is amended to read as follows:

~~Renewal licenses Licenses issued to be effective July 1, 1965 may be issued for $\frac{1}{2}$ the annual license fee, and then shall be renewed as of each January 1st thereafter, on payment of the annual license fee.~~

Sec. 18. R. S., T. 23, § 152, amended. The first sentence of the last paragraph of section 152 of Title 23 of the Revised Statutes is amended to read as follows:

The ~~3rd~~ 5th member of the board shall be appointed for each hearing or series of hearings within the county where the land taken lies.

Sec. 19. R. S., T. 24, § 2301, repealed and replaced. Section 2301 of Title 24 of the Revised Statutes, as repealed and replaced by section 1 of chapter 458 and amended by section 44 of chapter 513, both of the public laws of 1965, is repealed and the following enacted in place thereof:

§ 2301. Purposes

Any corporation organized under special Act of the Legislature or under Title 13, chapters 81 and 91, for the following purposes may be licensed by the commissioner on the terms and conditions provided for in this chapter:

1. **Nonprofit hospital service plans.** To establish, maintain and operate nonprofit hospital service plans, whereby hospital care may be provided by hospitals or groups of hospitals with which such corporation has a contract for such purpose, to such persons or groups of persons as become subscribers to said plan under a contract which entitles each subscriber to certain hospital care, and the hospital or hospitals so contracting with such corporation shall be governed by this section and shall be exempt from all other provisions of the insurance laws of this State, unless otherwise specifically provided in this chapter. In order to maintain and operate such plans, such corporation may act either in the capacity of principal or agent of other nonprofit hospital service corporations, or insurance companies authorized to do business in the State of Maine.

2. **Nonprofit medical service plans.** To establish, maintain and operate nonprofit medical service plans, whereby medical or surgical service or expense indemnity is provided to such persons or groups of persons as shall become subscribers to such plan under contracts with such corporation, either in the capacity of principal or agent of other nonprofit medical service corporations, or insurance companies authorized to do business in the State of Maine, and the physician or physicians so contracting with such corporation shall be governed by this section and shall be exempt from all other provisions of the insurance laws of this State, unless otherwise specifically provided in this chapter.

3. **Contracts and agreements.** To contract with any similar corporations in other states for the joint administration of their business and may enter into reciprocal arrangements for the mutual benefit of their subscribers.

4. **Services for governmental units.** With the prior approval of the Insurance Commissioner of the State of Maine, such corporation shall have the right to utilize its organization and facilities to perform services for the United States or the State of Maine Governments or the units or agencies of either. Such utilization shall be on a cost basis resulting in no profit to the corporation.

Sec. 20. R. S., T. 24, § 3304, sub-§ 2, amended. Subsection 2 of section 3304 of Title 24 of the Revised Statutes, as enacted by chapter 124 of the public laws of 1965, is amended to read as follows:

2. **Acting officers and duties.** To elect such acting ~~directors~~ **officers** as it may deem necessary, without regard to the number of officers which would otherwise be required, to serve in any offices which are vacant or in place of any officers or acting officers who fail to appear and assume their duties, to fix the compensation and determine the powers and duties of acting officers and to remove acting officers but not to remove any officer or to fill any vacancy on a permanent basis or to cause the insurance organization to enter into any contract of employment for a term in excess of one year.

Sec. 21. R. S., T 26, § 45, amended. The first sentence of section 45 of Title 26 of the Revised Statutes, as repealed and replaced by section 1 of chapter 200 of the public laws of 1965, is amended to read as follows

The ~~work places~~ **workshops**, equipment, tools and working conditions provided by an employer shall be reasonably safe and not in such condition as to be hazardous to the employee engaged therein.

Sec. 22. R. S., T. 29, § 331, amended. The 7th sentence from the end of section 331 of Title 29 of the Revised Statutes is amended to read as follows:

To qualify as a dealer in used motor vehicles for the purposes of this Title, an applicant must have proper facilities for the display of used motor vehicles, a suitable office in which to conduct business, and a suitable sign identifying the place of business; must maintain a repair department capable of taking care of at least 2 motor vehicles simultaneously exclusive of grease pit or rack, and sufficient tools and equipment for proper servicing; and must keep employed at least one mechanic having a thorough knowledge of the product handled; all in accordance with the rules, regulations and standards promulgated and established by the board; provided, however, that the requirements as to dealers in used motor vehicles pertaining to repair and servicing facilities and mechanics shall not apply to ~~present~~ holders of motor vehicle dealer registration plates **on January 1, 1964**, or to holders of transporter registration plates who have filed evidence as required by law of at least 12 bona fide sales of motor vehicles during the 12 months preceding ~~September 27, 1963~~ **January 1, 1964**.

Sec. 23. R. S., T. 29, § 584, amended. The first sentence of section 584 of Title 29 of the Revised Statutes is amended to read as follows:

No person required by law to pay a ~~toll~~ **poll** tax in this State shall be granted a license to operate a motor vehicle until he shall present a receipt or certificate that he has paid his poll tax in the town where he resided or written evidence from the taxing authority of that town that he was legally exempted therefrom or that the tax has been abated.

Sec. 24. R. S., T. 30, § 4602, amended. The last sentence of the first paragraph of section 4602 of Title 30 of the Revised Statutes is repealed and the following enacted in place thereof:

The commissioners who are first appointed pursuant to this section shall be designated to serve for terms of one, 2, 3, 4 and 5 years, respectively, from the date of their appointment, and thereafter said commissioners shall be appointed for a term of 5 years, except that all vacancies shall be filled for the unexpired term. All such appointments shall be made in the same manner as the original appointment. Those commissioners who were not appointed to terms of one, 2, 3, 4 and 5 years, but were instead all appointed to terms of 5 years under then existing law shall serve out their terms, and succeeding appointments shall be for terms of one, 2, 3, 4 and 5 years, respectively, and thereafter said commissioners shall be appointed for a term of office of 5 years, except that all vacancies shall be filled for the unexpired term, all such appointments to be made in the same manner as the original appointment.

Sec. 25. R. S., T. 32, § 579, sub-§ 2, amended. Subsection 2 of section 579 of Title 32 of the Revised Statutes, as enacted by section 1 of chapter 430 of the public laws of 1965, is amended to read as follows:

2. Filing of appeal. The filing of an appeal from an order of the commissioner rejecting an application for a license by a collection agency engaged in business as of ~~the effective date of this Act~~ **January 1, 1966**, or rejecting an application for the renewal of a license, or suspension or revoking a license within 60 days after the date of such order, shall operate as a ~~supersedeas~~ **stay of such order** which shall continue pending final determination of such appeal.

Sec. 26. R. S., T. 34, § 3002, amended. The first paragraph of section 3002 of Title 34 of the Revised Statutes is amended to read as follows:

Patients may be admitted to these sanatoriums upon application to the Department of Health and Welfare, if found to be suffering from tuberculosis or if suspected of having tuberculosis. All patients in said sanatoriums, the parents of minor children or the spouse, shall pay to the State for treatment, including board, supplies and incidentals necessary to the prescribed medical and surgical treatment both for inpatient and outpatient services, the amount determined by the said department. ~~The department~~ **Department of Health and Welfare** may, if it finds that such patient or relatives liable by law are unable to pay the amount determined, in whole or in part, waive payment or so much thereof as the circumstances appear to warrant.

Sec. 27. R. S., T. 35, § 2301, amended. The last paragraph of section 2301 of Title 35 of the Revised Statutes, as enacted by section 1 of chapter 348 of the public laws of 1965, is repealed.

Sec. 28. R. S., T. 35, § 2809, repealed and replaced. Section 2809 of Title 35 of the Revised Statutes, as repealed and replaced by section 2 of chapter 348 of the public laws of 1965, is repealed and the following enacted in place thereof:

§ 2809. Cooperatives not public utilities

Cooperatives shall not be deemed to be public utilities. Except with the consent of the Public Utilities Commission, no premises shall receive service from any cooperative, if such premises were, on the date of the organization of such cooperative, receiving or prior thereto had been receiving electric service from a public utility, or which are situated on those portions of roads or ways along which the distribution lines of an existing utility are located, nor if such service from the cooperative is to be rendered in the territory in which an existing utility is authorized to render such service, unless and until such service has been requested of the existing utility by various persons whose premises are so located as to be fairly representative of the route or routes of the proposed distribution line or lines of the cooperative to be built in such territory and the utility has either refused or neglected for an unreasonable length of time to furnish such service. Any existing utility may give its consent to a cooperative to serve any portion of the territory which said utility is authorized to serve. Any person who has been refused membership in or service by a cooperative may complain of such refusal to the Public Utilities Commission which may, after hearing, upon finding that such services may reasonably be rendered, order such person to be served.

Sec. 29. R. S., T. 35, § 2881, sub-§ 7, amended. Subsection 7 of section 2881 of Title 35 of the Revised Statutes, as amended by section 3 of chapter 348 of the public laws of 1965, is further amended to read as follows:

7. Acquire certain plants and equipment. To construct, purchase, lease as lessee or otherwise acquire, and to equip, maintain and operate, and to sell, assign, convey, lease as lessor, mortgage, pledge or otherwise dispose of or encumber electric transmission and distribution lines or systems, electric generating plants, electric cold storage or processing plants, lands, buildings, structures, dams, plants and equipment, and any other real or personal property, tangible or intangible, which shall be deemed necessary, convenient or appropriate to accomplish the purpose for which the cooperative is organized; **a cooperative shall not have the power of eminent domain;** and in the construction and opera-

tion of their facilities, cooperatives shall comply with all safety laws and regulations applicable to electric companies ;

Sec. 30. R. S., T. 36, § 2903, amended. The last 2 sentences of section 2903 of Title 36 of the Revised Statutes are repealed, as follows :

~~Six cents of the tax so paid, and no more, upon such internal combustion engine fuel used in commercial motor boats, in 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, shall be refunded as provided. Three cents of the tax so paid, and no more, upon such internal combustion engine fuel used in vehicles used in common carrier passenger service shall be refunded as provided in section 2909.~~

Sec. 31. R. S., T. 36, § 2908, amended. Section 2908 of Title 36 of the Revised Statutes, as amended by section 3 of chapter 395 of the public laws of 1965, is further emended to read as follows :

§ 2908. Refund of 6/7 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~~ sections 2910 and 2911, in the operation of aircraft, and who shall have paid any tax on internal combustion fuel levied or directed to be paid as provided by this chapter, either directly by the collection of such tax by the vendor from such consumer, or indirectly by adding the amount of such tax to the price of such fuel and paid by such consumer, shall be reimbursed and repaid to the extent of 6/7 of the amount of such tax paid by him upon presenting to the State Tax Assessor a sworn statement accompanied by the original invoices showing such purchases, which statement shall show the total amount of such fuel so purchased and used by such 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 must be filed with the State Tax Assessor within 12 months from the date of purchase.

Sec. 32. R. S., T. 4, § 5, amended. The first sentence of section 5 of Title 4 of the Revised Statutes, as amended by section 1 of chapter 442 of the public laws of 1965, is further amended to read as follows :

Any Justice of the Supreme Judicial Court who resigns his office or ceases to serve at the expiration of any term thereof, after attaining the age of 70 years and after having served as a justice on either the Supreme Judicial Court or the Superior Court, or both, for at least 7 consecutive years, shall receive annually during the remainder of his life, whether or not he is appointed an Active Retired Justice as provided in section 6, an amount equal to $\frac{3}{4}$ of the currently effective annual salary of a Justice **or Chief Justice** of the Supreme Judicial Court, ~~as the case may be~~, to be paid in the same manner as the salaries of the justices of said court are paid.