

# MAINE STATE LEGISLATURE

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(EMERGENCY)  
FIRST SPECIAL SESSION

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ONE HUNDRED AND SEVENTH LEGISLATURE

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**Legislative Document**

**No. 2305**

S. P. 751

In Senate, March 12, 1976

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

HARRY N. STARBRANCH, Secretary

Presented by Senator Collins of Knox.

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-SIX

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**AN ACT to Correct Errors and Inconsistencies in Laws of Maine.**

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

Whereas, Acts of this and previous Legislatures have resulted in certain technical errors and inconsistencies in the laws of Maine; and

Whereas, these errors and inconsistencies have created uncertainties and confusion in interpreting legislative intent; and

Whereas, it is vitally necessary to resolve such uncertainties and confusion to prevent any injustice or hardship on the people of Maine; and

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:

Sec. 1. 2 MRSA § 6, sub-§ 3, last line, as amended by P & SL 1975, c. 78, § 21, is repealed as follows:

~~State Tax Assessor~~

Sec. 2. 5 MRSA § 13, as enacted by PL 1975, c. 623, § 3-I, is repealed.

Sec. 3. 5 MRSA § 16 is enacted to read:

**§ 16. Payroll deduction for Maine Warden Service Relief Association**

The Commissioner of Finance and Administration is authorized to permit payroll deductions from the salaries of state employees for membership dues for the Maine Warden Service Relief Association and to transmit the funds so collected to the Maine Warden Service Relief Association under the appropriate departmental regulations concerning payroll deductions.

**Sec. 4.** 5 MRSA § 191, 4th ¶ from the end, as last amended by PL 1971, c. 439, § 7, is further amended to read:

For approval of certificate of organization of corporations under Title 9, ~~sections section 996 2341 and 3206~~, \$10 in advance.

**Sec. 5.** 5 MRSA § 1121, sub-§ 1, ¶ C, first ¶, as last amended by PL 1975, c. 210 and c. 622, § 41, is repealed and the following enacted in place thereof:

Any member of the State Police who became a member of that department subsequent to July 9, 1943, may retire upon completion of 20 years of creditable service as a state police officer, but must retire upon attainment of age 55, except that any member who is a state police officer on January 1, 1967 and who will not have 20 years of creditable service at the time age 55 is attained may continue in that service until 20 years is attained and forthwith shall be retired. Military service credits as allowed under section 1094 shall not be considered as part of the creditable service necessary for the 20 years' service as a state police officer, but military service creditable under section 1091 shall be considered to be part of the creditable service necessary for the 20 years as a state police officer provided that the member was a state police officer at the time of entrance into such military service and upon separation from military service again became a state police officer. Notwithstanding anything to the contrary, a state police officer appointed as the chief, deputy chief or as Commissioner of Public Safety shall be permitted to continue in such position beyond attained age 55 or after completion of 20 years of creditable service until the end of the term for which he was appointed, and the Commissioner of Public Safety may be appointed or reappointed regardless of attained age or length of creditable service. The total amount of the service retirement allowance of a member retired in accordance with this paragraph shall be equal to  $\frac{1}{2}$  of his average final compensation, and an additional 2% of his average final compensation for each year of membership service not included in determining eligibility for retirement under this paragraph.

**Sec. 6.** 5 MRSA § 1125, sub-§ 3, first sentence, as last amended by PL 1975, c. 622, § 58, is further amended to read:

Each annual sum provided for in ~~subsections subsection 1 and 2~~ shall be paid to the surviving spouse until he or she dies or becomes the dependent of another person and to a child or children until they die or reach the age of 18 years.

**Sec. 7.** 5 MRSA c. 157, first line, as enacted by PL 1975, c. 211, is amended to read:

**Sec. 8.** 5 MRSA § 4552, as last amended by PL 1975, c. 355, § 1 and by c. 358, § 1, is repealed and the following enacted in place thereof:

**§ 4552. Policy**

To protect the public health, safety and welfare, it is declared to be the policy of this State to keep continually in review all practices infringing on the basic human right to a life with dignity, and the causes of such practices, so that corrective measures may, where possible, be promptly recommended and implemented, and to prevent discrimination in employment, housing or access to public accommodations on account of race, color, sex, physical or mental handicap, religion, ancestry or national origin and in employment, discrimination on account of age; and to prevent discrimination in the extension of credit on account of age, race, color, sex, marital status, religion, ancestry or national origin.

**Sec. 9.** 5 MRSA § 4566, sub-§ 6, 2nd sentence, as last amended by PL 1975, c. 355, § 2 and by c. 358, § 3, is repealed and the following enacted in place thereof:

The commission may itself or it may empower these agencies and councils to study the problems of discrimination in all or specific fields of human relationships when based on race or color, sex, physical or mental handicap, religion, age, ancestry or national origin, and foster, through community effort or otherwise, good will among the groups and elements of the population of the State.

**Sec. 10.** 5 MRSA § 4566, sub-§ 10, as last amended by PL 1975, c. 355, § 3 and by c. 358, § 4, is repealed and the following enacted in place thereof:

10. **Publications.** To issue such publication and such results of investigations and research as in its judgment will tend to promote good will, and minimize or eliminate discrimination based on race or color, sex, physical or mental handicap, religion, age, ancestry or national origin;

**Sec. 11.** 5 MRSA § 4566, sub-§ 11, as last amended by PL 1975, c. 355, § 4 and by c. 358, § 5, is repealed and the following enacted in place thereof:

11. **Reports.** From time to time, but not less than once a year, to report to the Legislature and the Governor, describing the investigations, proceedings and hearings the commission has conducted and their outcome and the other work performed by it, and make recommendations for such further legislation or executive action concerning abuses and discrimination based on race or color, sex, physical or mental handicap, religion, age, ancestry or national origin, or other infringements on human rights or personal dignity, as may be desirable;

**Sec. 12.** 5 MRSA § 4571, as last amended by PL 1975, c. 355, § 5 and by c. 358, § 6, is repealed and the following enacted in place thereof:

**§ 4571. Right to freedom from discrimination in employment**

The opportunity for an individual to secure employment without discrimination because of race, color, sex, physical or mental handicap, religion, age, ancestry or national origin is recognized as and declared to be a civil right.

Sec. 13. 5 MRSA § 4572, as repealed and replaced by PL 1975, c. 355, § 6 and amended by 1975, c. 358, §§ 7 to 10, is repealed and the following enacted in place thereof:

**§ 4572. Unlawful employment discrimination**

1. Unlawful employment. It shall be unlawful employment discrimination, in violation of this Act, except where based on a bona fide occupational qualification:

A. For any employer to fail or refuse to hire or otherwise discriminate against any applicant for employment because of race or color, sex, physical or mental handicap, religion, ancestry or national origin or age, or because of any such reason to discharge an employee or discriminate with respect to hire, tenure, promotion, transfer, compensation, terms, conditions or privileges of employment, or any other matter directly or indirectly related to employment, or in recruiting of individuals for employment or in hiring them, to utilize any employment agency which such employer knows, or has reasonable cause to know, discriminates against individuals because of their race or color, sex, physical or mental handicap, religion, age, ancestry or national origin;

B. For any employment agency to fail or refuse to classify properly or refer for employment or otherwise discriminate against any individual because of race or color, sex, physical or mental handicap, religion, age, ancestry or national origin or to comply with an employer's request for the referral of job applicants, if such request indicates either directly or indirectly that such employer will not afford full and equal employment opportunities to individuals regardless of their race or color, sex, physical or mental handicap, religion, age, ancestry or national origin;

C. For any labor organization to exclude from apprenticeship or membership, or to deny full and equal membership rights, to any applicant for membership, because of race or color, sex, physical or mental handicap, religion, age, ancestry or national origin, or because of any such reason to deny a member full and equal membership rights, expel from membership, penalize or otherwise discriminate in any manner with respect to hire, tenure, promotion, transfer, compensation, terms, conditions or privileges of employment, representation, grievances or any other matter directly or indirectly related to membership or employment, whether or not authorized or required by the constitution or bylaws of such labor organization or by a collective labor agreement or other contract, or to fail or refuse to classify properly or refer for employment, or otherwise to discriminate against any member because of race or color, sex, physical or mental handicap, religion, age, ancestry or national origin or to cause or attempt to cause an employer to discriminate against an individual in violation of this section;

D. For any employer or employment agency or labor organization, prior to employment or admission to membership of any individual, to

(1) Elicit or attempt to elicit any information directly or indirectly pertaining to race or color, sex, physical or mental handicap, religion, age,

ancestry or national origin, except where a physical or mental handicap is determined by the employer, employment agency or labor organization to be job related; or where some privileged information is necessary for an employment agency or labor organization to make a suitable job referral;

(2) Make or keep a record of race or color, sex, physical or mental handicap, religion, age, ancestry or national origin, except under physical or mental handicap, when an employer requires a physical or mental examination prior to employment, a privileged record of such an examination is permissible;

(3) Use any form of application for employment, or personnel or membership blank containing questions or entries directly or indirectly pertaining to race or color, sex, physical or mental handicap, religion, age, ancestry or national origin, except under physical or mental handicap, where it can be determined by the employer that the job or jobs to be filled require such information for the well-being and safety of the individual; nor will this section prohibit any officially recognized agency from keeping necessary records in order to provide free services to individuals requiring rehabilitation or employment assistance;

(4) Print or publish or cause to be printed or published any notice or advertisement relating to employment or membership indicating any preference, limitation, specification or discrimination based upon race or color, sex, physical or mental handicap, age, ancestry or national origin, except under physical or mental handicap when the text of such printed or published material strictly adheres to this Act;

(5) Establish, announce or follow a policy of denying or limiting, through a quota system or otherwise, employment or membership opportunities of any group because of the race or color, sex, physical or mental handicap, religion, age, ancestry or national origin of such group;

E. For any employer or employment agency or labor organization to discriminate in any manner against any individual because they have opposed any practice which would be a violation of this Act, or because they have made a charge, testified or assisted in any manner in any investigation, proceeding or hearing under this Act.

Sec. 14. 5 MRSA § 4573, sub-§ 4, as enacted by PL 1975, c. 355, § 7, is amended to read:

4. Refuse to hire or discharge physically or mentally handicapped. Nothing in this Act shall prohibit an employer from refusing to hire or discharging a physically or mentally handicapped employee, or subject an employer to any legal liability resulting from the refusing to employ or the discharge of a physically or mentally handicapped employee, where the employee, because of the physical or mental handicap, is unable to perform his or her duties or perform those duties in a manner which would not endanger the health or safety of the employee or the health or safety of others or to be at, remain or go to or from the place where the duties of employment are to be performed.

**Sec. 15.** 5 MRSA § 4581, as last amended by PL 1975, c. 355, § 8 and by c. 358, § 11, is repealed and the following enacted in place thereof:

**§ 4581. Decent housing**

The opportunity for an individual to secure decent housing in accordance with his ability to pay, and without discrimination because of race, color, sex, physical or mental handicap, religion, ancestry or national origin is hereby recognized as and declared to be a civil right.

**Sec. 16.** 5 MRSA § 4582, as last amended by PL 1975, c. 151, § 1 and by c. 358, § 12 and as repealed and replaced by PL 1975, c. 355, § 9, is repealed and the following enacted in place thereof:

**§ 4582. Unlawful housing discrimination**

It shall be unlawful discrimination, in violation of this Act:

For any owner, lessee, sublessee, managing agent or other person having the right to sell, rent, lease or manage a housing accommodation, or any agent of these to make or cause to be made any written or oral inquiry concerning the race or color, sex, physical or mental handicap, religion, ancestry or national origin of any prospective purchaser, occupant or tenant of such housing accommodation; or to refuse to show or refuse to sell, rent, lease, let or otherwise deny to or withhold from any individual such housing accommodation because of the race or color, sex, physical or mental handicap, religion, ancestry or national origin of such individual; or to issue any advertisement relating to the sale, rental or lease of such housing accommodation which indicates any preference, limitation, specification or discrimination based upon race or color, sex, physical or mental handicap, religion, ancestry or national origin; or to discriminate against any individual because of race or color, sex, physical or mental handicap, religion, ancestry or national origin in the price, terms, conditions or privileges of the sale, rental or lease of any such housing accommodations or in the furnishing of facilities or services in connection therewith, or to evict or attempt to evict any tenant of any housing accommodation because of the race or color, sex, physical or mental handicap, religion, ancestry or national origin of such tenant;

For any real estate broker or real estate sales person, or agent of one of them, to fail or refuse to show any applicant for a housing accommodation any such accommodation listed for sale, lease or rental, because of the race or color, sex, physical or mental handicap, religion, ancestry or national origin of such applicant or of any intended occupant of such accommodation, or to misrepresent, for the purpose of discriminating on account of the race or color, sex, physical or mental handicap, religion, ancestry or national origin of such applicant or intended occupant, the availability or asking price of a housing accommodation listed for sale, lease or rental; or for such a reason to fail to communicate to the person having the right to sell or lease such housing accommodation any offer for the same made by any applicant thereof; or in any other manner to discriminate against any applicant for housing because of race or color, sex, physical or mental handicap, religion, ancestry or national origin of such applicant or of any intended occupant of the housing accommo-

dation, or to make or cause to be made any written or oral inquiry or record concerning the race or color, sex, physical or mental handicap, religion, ancestry or national origin of any such applicant or intended occupant, or to accept for listing any housing accommodation when the person having the right to sell or lease the same has directly or indirectly indicated an intention of discriminating among prospective tenants or purchasers on the ground of their race or color, sex, physical or mental handicap, religion, ancestry or national origin, or when he knows or has reason to know that the person having the right to sell or lease such housing accommodation has made a practice of such discrimination since July 1, 1972;

For any person to whom application is made for a loan or other form of financial assistance for the acquisition, construction, rehabilitation, repair or maintenance of any housing accommodation, whether secured or unsecured, or agent of such person, to make or cause to be made any oral or written inquiry concerning the race or color, sex, physical or mental handicap, religion, ancestry or national origin of any individual seeking such financial assistance, or of existing or prospective occupants or tenants of such housing accommodations; or to discriminate in the granting of such financial assistance, or in the terms, conditions or privileges relating to the obtaining or use of any such financial assistance, against any applicant because of the race or color, sex, physical or mental handicap, religion, ancestry or national origin of such applicant or of the existing or prospective occupants or tenants.

For any person furnishing rental premises to refuse to rent or impose different terms of tenancy to any individual who is a recipient of federal, state or local public assistance, including medical assistance and housing subsidies solely because of such individual's status as such recipient.

Sec. 17. 5 MRSA § 4583, as last amended by PL 1975, c. 151, § 2 and by c. 358, § 13, is repealed and the following enacted in place thereof:

**§ 4583. Application**

Nothing in this Act shall be construed in any manner to prohibit or limit the exercise of the privilege of every person and the agent of any person having the right to sell, rent, lease or manage a housing accommodation to set up and enforce specifications in the selling, renting, leasing or letting thereof or in the furnishings of facilities or services in connection therewith which are not based on the race, color, sex, physical or mental handicap, religion or country of ancestral origin, the receipt of public assistance payments of any prospective or actual purchaser, lessee, tenant or occupant thereof. Nothing in this Act contained shall be construed in any manner to prohibit or limit the exercise of the privilege of every person and the agent of any person making loans for or offering financial assistance in the acquisition, construction, rehabilitation, repair or maintenance of housing accommodations, to set standards and preferences, terms, conditions, limitations or specifications for the granting of such loans or financial assistance which are not based on the race, color, sex, physical or mental handicap, religion or country of ancestry origin, the receipt of public assistance payments of the applicant for such loan or financial assistance or, of any existing or prospective owner, lessee, tenant or occupant of such housing accommodation.



**Sec. 18. 5 MRSA § 4591**, as last amended by PL 1975, c. 355, § 10 and by c. 358, § 13-A, is repealed and the following enacted in place thereof:

**§ 4591. Equal access to public accommodations**

The opportunity for every individual to have equal access to places of public accommodation without discrimination because of race, color, sex, physical or mental handicap, religion, ancestry or national origin is recognized as and declared to be a civil right.

**Sec. 19. 5 MRSA § 4592**, as last amended by PL 1975, c. 358, § 14 and as repealed and replaced by PL 1975, c. 355, § 11, is repealed and the following enacted in place thereof:

**§ 4592. Unlawful public accommodations**

It shall be unlawful public accommodations discrimination, in violation of this Act:

For any person, being the owner, lessee, proprietor, manager, superintendent, agent or employee of any place of public accommodation, to directly or indirectly refuse, withhold from or deny to any person, on account of race or color, sex, physical or mental handicap, religion, ancestry or national origin, any of the accommodations, advantages, facilities or privileges of such place of public accommodation, or for such reason in any manner to discriminate against any person in the price, terms, or conditions upon which access to such accommodation, advantages, facilities and privileges may depend;

For any person to directly or indirectly publish, circulate, issue, display, post or mail any written, printed, painted or broadcast communication, notice or advertisement, to the effect that any of the accommodations, advantages, facilities and privileges of any place of public accommodation shall be refused, withheld from or denied to any person on account of race or color, sex, physical or mental handicap, religion, ancestry or national origin, or that the patronage or custom thereof of any person belonging to or purporting to be of any particular race or color, sex, physical or mental handicap, religion, ancestry or national origin is unwelcome, objectionable or not acceptable, desired or solicited, or that the clientele thereof is restricted to members of particular races or colors, sexes, physical or mental handicap, religions, ancestries or national origin. The production of any such written, printed, painted or broadcast communication, notice or advertisement, purporting to relate to any such place, shall be presumptive evidence in any action that the same was authorized by its owner, manager or proprietor.

**Sec. 20. 5 MRSA § 4595**, as last amended by PL 1975, c. 355, § 15 and by c. 370, § 1, is repealed and the following enacted in place thereof:

**§ 4595. Right to freedom from discrimination solely on the basis of age, race, color, sex, marital status, ancestry, religion or national origin in any credit transaction**

The opportunity for every individual to be extended credit without discrimination solely because of any one or more of the following factors: Age,

race, color, sex, marital status, ancestry, religion or national origin is recognized as and declared to be a civil right.

Sec. 21. 5 MRSA § 4596, first sentence, as last amended by PL 1975, c. 355, § 16 and by c. 370, § 2, is repealed and the following enacted in place thereof:

It shall be unlawful credit discrimination for any creditor to refuse the extension of credit to any person solely on the basis of any one or more of the following factors: Age, race, color, sex, marital status, ancestry, religion or national origin in any credit transaction.

Sec. 22. 5 MRSA § 4611, as last amended by PL 1975, c. 355, § 18, and by c. 357, § 1, is repealed and the following enacted in place thereof:

#### § 4611. Complaint

Any person who believes he has been subject to unlawful discrimination, or any employee of the commission, may file a complaint under oath with the commission stating the facts concerning the alleged discrimination provided that such complaint shall be filed with the commission not more than 6 months after the alleged act of unlawful discrimination.

Sec. 23. 7 MRSA 3704, as last amended by PL 1969, c. 91, § 3, is amended to read:

#### § 3704. Official refusal or neglect of duty

Any mayor, selectman, clerk, constable, police officer or sheriff who refuses or willfully neglects to perform the duties imposed by sections ~~3401 to 3402~~, 3403, 3451, 3452, 3651 to 3653 and 3701 to 3703 shall be punished by a fine of not less than \$10 nor more than \$50, and costs.

Sec. 24. 9-A MRSA § 1-301, sub-§ 19, ¶ B, sub-¶ (iii), as enacted by PL 1975, c. 324, § 2, is repealed.

Sec. 25. 9-A MRSA § 1-301, sub-§ 19, ¶ B, sub-¶ (iv) is enacted to read:

(iv) "closing costs" as defined in subsection 8.

Sec. 26. 9-A MRSA § 1-301, sub-§ 41, as enacted by PL 1973, c. 762, § 1, is repealed and the following enacted in place thereof:

41. "Provisions on disclosure" includes Article 7, regulations issued pursuant to said Article, and the Federal Truth in Lending Act, as applicable.

Sec. 27. 10 MRSA c. 215, as enacted by PL 1975, c. 546, § 1, is repealed.

Sec. 28. 10 MRSA c. 217 is enacted to read:

### CHAPTER 217

### USED CAR INFORMATION

#### § 1471. Definitions

As used in this chapter, unless the context otherwise indicates, the following words shall have the following meanings.

1. **Conspicuous.** "Conspicuous or conspicuously" means that a term or clause is written or printed in a manner that so differentiates it from any accompanying matter that an ordinary person against whom it is to operate could be fairly presumed to have been made fully aware of the term or clause.

2. **Dealer.** "Dealer" means and includes a natural person, firm, corporation, partnership and any other legal entity that is engaged in the business of selling, offering for sale, or negotiating the sale of used motor vehicles, except auctioneers licensed by the Secretary of State and includes the officers, agents and employees thereof.

3. **Mechanical defect.** "Mechanical defect" means any defect, failure or malfunction of the mechanical system of a motor vehicle, including but not limited to the motor and transmission, electrical, hydraulic or suspension systems, and any defect, damage, failure or malfunction that affects the safety or normal use of a motor vehicle.

4. **Motor vehicle.** "Motor vehicle" means any self-propelled vehicle designed primarily to transport not more than 14 individuals, except motorcycles as defined in Title 29, section 1, subsection 4, and any vehicles operated exclusively on a rail or rails. This definition is intended to include motor trucks that have a gross vehicle weight of not more than 10,000 pounds as certified by the vehicle manufacturer or its franchised representative pursuant to Title 29, section 1652.

5. **Person.** "Person" means and includes natural persons, corporations, trusts, partnerships, incorporated or unincorporated associations and any other legal entities.

6. **Purchaser.** "Purchaser" means any person who has obtained ownership of a used motor vehicle from a dealer by transfer, gift or purchase.

7. **Used motor vehicle.** "Used motor vehicle" means a motor vehicle that either has been once registered or is not covered by a manufacturer's new car warranty.

8. **Warranty.** "Warranty" shall have the same meaning in this chapter as in Title 11, Article 2, and shall include any expression or affirmation of dealer's willingness or ability to repair the vehicle, or make it conform to other affirmations or expression of its qualities, communicated in any manner to a purchaser at or before the agreement to sell.

#### § 1472. Exclusions

Nothing in this chapter shall apply to motor vehicles sold, offered for sale or transferred for a purpose other than transportation if that purpose is conspicuously written in the contract, but evidence outside the contract will be admissible to contradict such a contract provision.

#### § 1473. Construction

The provisions of this chapter shall not be construed to limit or restrict in any way the rights or warranties provided to persons under any other

Maine law, except that Title 11, section 2-316, subsection 5 shall not apply to transactions under this chapter.

§ 1474. Warranty

1. **Warranty content.** A dealer warrants that the motor vehicle he sells, negotiates the sale of, offers for sale or transfers to a person has been inspected in accordance with Title 29, section 2122 and with the rules and regulations promulgated thereunder and that the motor vehicle is in the condition and meets the standards required by that statute and the rules and regulations.

2. **Exclusion limitation, modification or waiver prohibited.** The warranty referred to in subsection 1 herein, and any person's remedies for breach thereof, may not be excluded, limited, modified or waived by words or conduct of either the dealer or any other person.

3. **Dealer to furnish certain written statements concerning warranty.** No dealer shall sell, offer for sale or transfer a used motor vehicle to a person unless he furnishes to such person a written statement containing the warranty required by subsection 1. Any other warranty, in addition to that required by subsection 1, that may be extended or agreed to by the dealer must be set forth in this written statement in accordance with further requirements of this section. Every written statement shall contain, fully and conspicuously disclosed, the following information:

A. The name and address of the dealer's place of business, where repairs, replacement of parts and other service under the warranty are to be performed or, if such repairs, replacement of parts and other service under the warranty are not to be performed at such place of business, the name, address and other identifying information of each facility within a radius of 50 miles of the dealer's place of business to which the vehicle may be brought for repairs, replacement of parts and other service under the warranty; and

B. The following notice: "If a dealer fails to perform his obligation under the warranty, the purchaser shall give the dealer written notice of such failure before the purchaser initiates a civil action in accordance with section 1456. The notice must be sent by registered mail to the dealer's last known business address."

In addition, said written statement shall contain, fully and conspicuously disclosed, the following information concerning any additional warranty not required by subsection 1;

C. The date or number of days or mileage at which the warranty shall terminate;

D. The parts or systems of the vehicle that are warranted against mechanical defects, or the parts or systems of the vehicle excluded from the warranty; and

E. A statement of what the dealer will do in the event of a mechanical defect and at whose expense.

**§ 1475. Disclosure of information**

1. **Written disclosure statement.** No dealer shall sell or transfer any used motor vehicle to any person, unless he furnishes to such person a written statement containing the information required by subsection 2 before transferring title, accepting any part of the purchase price or making an agreement to sell, if any, whichever of these events occurs earliest.

2. **Required contents of disclosure statement.** The statement required by subsection 1 shall contain a complete description of the motor vehicle to be sold, including, but not limited to:

A. The make, model, model year and any identification or serial numbers of the motor vehicle;

B. The name and address of the previous owner of the motor vehicle, or dealer, the principal use to which the motor vehicle was put by that owner such as personal transportation, police car, daily rental car, taxi or other descriptive term, and the type of sale or other means by which the person acquired the motor vehicle, such as trade-in, sheriff's sale, repossession, auction or other descriptive term, to the extent that such information is reasonably available to the person;

C. A statement identifying any and all mechanical defects known to the dealer at the time of sale; and

D. A statement identifying the type of damage, if any, that the vehicle has sustained, such as fire, water or substantial collision damage, if such information is known to the dealer.

3. A dealer shall obtain from the seller of a used motor vehicle a written statement containing the following information:

A. The make, model, model year and any identification or serial numbers of the motor vehicle;

B. The name and address of the seller, the principal use to which the motor vehicle was put by the seller, such as personal transportation, police car, daily rental car, taxi or other descriptive term;

C. A statement identifying any and all mechanical defects known to the seller at the time of sale; and

D. A statement identifying the type of damage, if any, that the vehicle has sustained, such as fire, water or substantial collision damage, if such information is known to the seller.

**§ 1476. Performance under warranty**

1. **Failure to perform warranty obligations prohibited.** No dealer shall fail to perform his obligation under a warranty made in accordance with this chapter. It shall not constitute a failure to perform such obligations if a dealer refuses to act in accordance with the provisions of that warranty with respect to any mechanical defect that resulted from unreasonable use or maltreatment of that motor vehicle by the purchaser.

2. Conditions deemed failure to perform warranty. A dealer shall be considered to have failed to perform his obligations under warranty made in accordance with this chapter if:

A. He fails to perform repair or replacement of parts required under the warranty within:

(1) Five calendar days, excluding Saturday, Sunday and legal holidays, after the date on which the purchaser delivers the motor vehicle to him for such repair or replacement; or

(2) Thirty-five calendar days after the date on which the purchaser delivers the motor vehicle to him if necessary parts are not available to the dealer during the period set forth in subparagraph (1); or

(3) A reasonable period after the period set forth in subparagraph (2) if necessary parts are not available to the dealer because of a strike, natural disaster or other disaster affecting the manufacture, distribution or shipment of parts; or

B. He fails to provide the purchaser with the use of an operating motor vehicle at no cost, except gasoline and oil, beginning at the conclusion of the time stated in paragraph A, subparagraphs (1) and (2), and continuing until repairs have been completed; or

C. He transfers ownership of a used motor vehicle which does not conform to the warranty imposed by section 1454, subsection 1; or

D. He fails in any other material respect to perform an obligation arising out of the warranty within a reasonable time.

3. Purchaser's rights upon failure of dealer to perform warranty obligations. If the dealer fails to perform his obligations under the warranty, the purchaser, in addition to any other rights he or she may have, shall have the right to:

A. Rescind the contract of sale and recover the full consideration paid for the motor vehicle, including the fair market value of any property forming part of that consideration, reduced only by:

(1) The amount of damage caused to the motor vehicle by the purchaser, other than damage resulting primarily from a mechanical defect repairable under the warranty; and

(2) With respect to vehicles that have been in possession of the purchaser for more than 30 days, diminution, if any in the retail fair market value of the motor vehicle attributable to the period during which the consumer has had possession of said motor vehicle in useable condition. Fair market value for the purposes of this subparagraph shall be measured by the average retail price listed in an authorized used car guide, such as the National Automobile Dealer's Association Official Used Car Guide New England Edition, issued next before the sale and next before the rescission.

**B. Recover damages in an amount equal to the difference between the fair market value of the motor vehicle in its actual condition at the time the dealer fails to perform his obligations under the warranty and the fair market value of the motor vehicle had it been as warranted. Such damages may be deducted from any balance due on the contract or recovered by the purchaser in a civil action.**

Before initiating a civil action pursuant to this paragraph, the purchaser must give the dealer written notice that the dealer has failed to perform his obligations under the warranty. The written notice shall be given to the dealer by registered or certified mail addressed to his usual place of business or to his last known business address.

**4. Attorney's fees.** If the court finds, in any action commenced under this section, that the dealer failed to perform his obligations under the warranty, the petitioner shall, in addition to other relief provided for by this section and irrespective of the amount in controversy, be awarded reasonable attorney's fees and costs incurred in connection with said action.

#### **§ 1477. Violations**

**1. Violations of this chapter to be violations of the Unfair Trade Practices Act.** Any violation of this chapter shall constitute a violation of Title 5, chapter 10, Unfair Trade Practices Act.

**Sec. 29.** 12 MRSA § 51, State of Maine map by counties, as enacted by PL 1975, c. 172, is repealed.

**Sec. 30.** 12 MRSA § 552, sub-§ 2, ¶ B, as enacted by PL 1975, c. 339, § 6, is repealed.

**Sec. 31.** 12 MRSA § 684, 2nd sentence, as enacted by PL 1973, c. 460, § 14, is repealed as follows:

~~The Commissioner of the Department of Conservation shall be chairman of the commission~~

**Sec. 32.** 12 MRSA § 689, first sentence, as last amended by PL 1973, c. 569, § 16, is further amended to read:

Except where otherwise specified by statute, any person aggrieved by any order or decision of the commission in regard to any matter upon which there was a hearing before the commission and of which a transcript of ~~said~~ that hearing is available, may, within 30 days after notice of the filing of such order or decision, appeal therefrom to the Superior Court of Kennebec County by filing a notice of appeal stating the points of appeal with the clerk of the court and the ~~executive~~ director of the commission.

**Sec. 33.** 12 MRSA § 2001, 3rd paragraph, as last amended by PL 1973, c. 460, § 19, is further amended to read:

It shall be the duty of the inland fish and game wardens to enforce all laws relating to inland fisheries and ~~game~~ wildlife and all rules and regulations pertaining thereto, Title 7, chapter 707 and section 3602, Title 17, section

2794, Title 32, chapter 65; all regulations of the Federal Migratory Bird Treaty Act, Act of Congress approved July 3, 1918, as amended; all rules and regulations promulgated by the State Bureau of Parks and Recreation relating to hunting, fishing and trapping; all rules and regulations promulgated in accordance with ~~Title 32, section 323~~ section 2067 and all rules and regulations promulgated by authority of chapter 206; to arrest all violators thereof, and to prosecute all offenses against the same.

**Sec. 34.** ~~12 MRSA § 2355-A, 4th paragraph, 2nd sentence, as amended by PL 1971, c. 622, § 39, is further amended to read:~~

The cable trap shall be exempt from the ~~4th~~ 5th paragraph of this section relating to bear.

**Sec. 35.** ~~12 MRSA § 2403, as enacted by PL 1975, c. 81, is repealed.~~

**Sec. 36.** ~~12 MRSA § 2405 is enacted to read:~~

**§ 2405. Trap restrictions**

It shall be unlawful for any person to use auxiliary teeth on any leg hold trap set on land.

**Sec. 37.** ~~12 MRSA § 3502-B, sub-§ 1, as enacted by PL 1973, c. 513, § 8, is amended to read:~~

1. May enforce ~~section 4709~~ Title 38, § 475 relating to the Wet Lands Control Law;

**Sec. 38.** ~~12 MRSA § 4752, as enacted by PL 1971, c. 541, is amended to read:~~

**§ 4752. Definition**

For the purposes of this subchapter, "coastal wetlands" are as defined in ~~section 4701~~ Title 38, section 472.

**Sec. 39.** ~~12 MRSA § 4757, 2nd ¶, 2nd sentence, as enacted by PL 1971, c. 541, is amended to read:~~

After a decree has been entered providing that any such order of the board shall not apply to the wetland involved in the appeal, the board may, after causing an appraisal to be made, negotiate for the purchase of such wetland, if it deems that acquisition of the same is necessary for the purposes of ~~section 4702 or~~ 4751 and Title 38, sections 471 to 478.

**Sec. 40.** ~~13 MRSA § 932, first sentence, as last amended by PL 1965, c. 282, is further amended to read:~~

Every corporation organized under sections 901 and 903 to 931 may take and hold by purchase, gift, devise or bequest, tangible or intangible personal property or real estate, and may use and dispose thereof only for the purposes for which the corporation was organized.

**Sec. 41.** ~~13 MRSA § 1071, as amended by PL 1965, c. 66, is further amended to read:~~



### § 1071. Incorporation

Persons of lawful age may organize themselves into a nonprofit-sharing corporation for the purpose of purchasing land for a burying ground and for the purpose of owning, maintaining and operating a cemetery or cemeteries, as provided in sections 901 ~~902~~ and 903 and may proceed in the manner and, except as restricted, with the powers provided in section 931.

**Sec. 42.** 13 MRSA § 1301, first sentence is amended to read:

Any 7 or more persons may be incorporated, not for profit, in the manner provided in ~~sections~~ section 901 and ~~902~~ for the purpose of owning, managing and protecting lands and their appurtenances appropriated for public cemeteries.

**Sec. 43.** 19 MRSA § 500, sub-§ 2, as enacted by PL 1975, c. 532, § 3, is amended to read:

2. **Commencement of action.** Actions to collect any debt accrued or accruing under section ~~493~~ 495 may commence after 20 days from the date of service of the notice of debt described in this section.

**Sec. 44.** 22 MRSA § 1471-J, as enacted by PL 1975, c. 397, § 2 and as amended by PL 1975, c. 623, § 26-A, is repealed and the following enacted in place thereof:

### § 1471-J. Penalties

Any person who violates any provision of this chapter or any order, regulation, decision, certificate or license issued by the board or does any act constituting a ground for revocation except in section 1471-D, subsection 8, paragraphs A and H shall be punished by a fine of not more than \$500 for the first offense, and not less than \$500 for each subsequent offense. Each day that any person so operates shall be considered a separate offense.

**Sec. 45.** **Effective date.** Section 44 of this Act shall become effective on October 2, 1976.

**Sec. 46.** 22 MRSA § 4459-A, as enacted by PL 1973, c. 473, § 1 and as amended by PL 1975, c. 293, § 4, is repealed.

**Sec. 47.** 23 MRSA § 1201, sub-§ 26, as enacted by PL 1975, c. 6, is repealed.

**Sec. 48.** 23 MRSA § 1201, sub-§ 28, is enacted to read:

28. **Pleasant Mountain Recreational Area:** Such sign shall be constructed and maintained on the Maine Turnpike no less than 7 miles southerly from exit 7 and shall be worded as follows: **PLEASANT MOUNTAIN RECREATIONAL AREA — EXITS 8 and 11**

**Sec. 49.** 24 MRSA § 2318, as enacted by PL 1975, c. 428, § 1, is repealed.

**Sec. 50.** 24 MRSA § 2319 is enacted to read:

### § 2319. Newborn children coverage

All individual and group nonprofit hospital and medical service organization contracts which provide coverage for a family member of the subscriber

shall, as to such family members' coverage, also provide that the benefits applicable to children shall be applicable with respect to a newly born child from the moment of birth.

The coverage for newly born children shall consist of coverage of injury or sickness, including the necessary care and treatment of medically diagnosed congenital defects and birth abnormalities.

If payment of a specific subscription fee is required to provide coverage for a child, the contract may require that notification of birth of a newly born child and payment of the required fees must be furnished to the nonprofit hospital or medical service organization within 31 days after the date of birth in order to have the coverage continue beyond such 31-day period.

The requirements of this section shall apply to all subscriber contracts delivered or issued for delivery in this State more than 120 days after the effective date of this Act.

Sec. 51. 24-A MRSA § 2741, as enacted by PL 1975, c. 428, § 2, is repealed.

Sec. 52. 24-A MRSA § 2741, as enacted by PL 1975, c. 561, is repealed.

Sec. 53. 24-A MRSA §§ 2743 and 2744 are enacted to read:

#### § 2743. Newborn children coverage

All individual health insurance policies providing coverage on an expense incurred basis which provide coverage for a family member of the insured or subscriber shall, as to such family members' coverage, also provide that the health insurance benefits applicable for children shall be payable with respect to a newly born child of the insured or subscriber from the moment of birth.

The coverage for newly born children shall consist of coverage of injury or sickness, including the necessary care and treatment of medically diagnosed congenital defects and birth abnormalities.

If payment of a specific premium or subscription fee is required to provide coverage for a child, the policy or contract may require that notification of birth of a newly born child and payment of the required premium or fees must be furnished to the insurer or nonprofit service or indemnity corporation within 31 days after the date of birth in order to have the coverage continue beyond such 31 day period.

The requirements of this section shall apply to all policies delivered or issued for delivery in this State more than 120 days after the effective date of this Act.

#### § 2744. Mental health services

1. Notwithstanding any provision of a health insurance policy subject to this chapter, whenever the policy provides for payment or reimbursement for services which are within the lawful scope of practice of a psychologist licensed to practice in this State, any person covered by the policy shall be entitled to reimbursement for these services if the services are performed by a physician or psychologist licensed to practice in this State. This section shall

apply to all health insurance policies, contracts or certificates issued, renewed, modified, altered, amended or reissued on or after July 1, 1975.

2. Nothing in subsection 1 shall be construed to require a health insurance policy subject to this chapter to provide for reimbursement of services which are within the lawful scope of practice of a psychologist licensed to practice in this State.

Sec. 54. 24-A MRSA § 2832, as enacted by PL 1975, c. 428, § 3, is repealed.

Sec. 55. 24-A MRSA § 2832, as enacted by PL 1975, c. 562, is repealed.

Sec. 56. 24-A MRSA § 2832, as enacted by PL 1975, c. 471, § 2, is repealed.

Sec. 57. 24-A MRSA §§ 2834 - 2836 are enacted to read:

§ 2834. Newborn children coverage

All group and blanket health insurance policies providing coverage on an expense incurred basis which provide coverage for a family member of the insured or subscriber shall, as to such family members' coverage, also provide that the health insurance benefits applicable for children shall be payable with respect to a newly born child of the insured or subscriber from the moment of birth.

The coverage for newly born children shall consist of coverage of injury or sickness, including the necessary care and treatment of medically diagnosed congenital defects and birth abnormalities.

If payment of a specific premium or subscription fee is required to provide coverage for a child, the policy or contract may require that notification of birth of a newly born child and payment of the required premium or fees must be furnished to the insurer or nonprofit service or indemnity corporation within 31 days after the date of birth in order to have the coverage continue beyond such 31-day period.

The requirements of this section shall apply to all policies delivered or issued for delivery in this State more than 120 days after the effective date of this Act.

§ 2835. Mental health services

1. Notwithstanding any provision of a health insurance policy subject to this chapter, whenever the policy provides for payment or reimbursement for services which are within the lawful scope of practice of a psychologist licensed to practice in this State, any person covered by the policy shall be entitled to reimbursement for these services if the services are performed by a physician or psychologist licensed to practice in this State. This section shall apply to all health insurance policies, contracts or certificates issued, renewed, modified, altered, amended or reissued on or after the effective date of this Act.

2. Nothing in subsection 1 shall be construed to require a health insurance policy subject to this chapter to provide for reimbursement of services which

are within the lawful scope of practice of a psychologist licensed to practice in this State.

§ 2836. Limits on priority liens

No group or blanket policy shall provide for priority over the insured member of payment for any hospital, nursing, medical or surgical services, or of any expenses paid or reimbursed under the policy, in the event the insured member is entitled to receive payment reimbursement from any other person as a result of legal action or claim, except as provided in this section.

A policy may contain a provision that allows such payments, if that provision is approved by the superintendent, and if that provision requires the prior written approval of the insured member and allows such payments only on a just and equitable basis, and not on the basis of a priority lien. A just and equitable basis shall mean that any factors that diminish the potential value of the insured member's claim shall likewise reduce the share in the claim for those claiming payment for services or reimbursement. Such factors shall include, but are not limited to:

1. Legal defenses. Questions of liability and comparative negligence or other legal defenses;
2. Exigencies of trial. Exigencies of trial that reduce a settlement or award in order to resolve the claim; and
3. Limits of coverage. Limits on the amount of applicable insurance coverage that reduce the claim to an amount recoverable by the insured member.

In the event of a dispute as to the application of any such provision or the amount available for payment to those claiming payment for services or reimbursement, the dispute shall be determined if the action is pending, before the court in which it is pending; or if no action is pending, by filing an action in any court for determination of the dispute.

Sec. 58. 25 MRSA § 2440, as last amended by PL 1975, c. 43, § 2 and by c. 533, is repealed and the following enacted in place thereof:

§ 2440. Penalties; recovery and appropriation

Penalties provided in sections 2431 to 2436-A and section 2439 may be recovered by complaint, indictment or civil action,  $\frac{1}{2}$  to the municipality where the offense is committed and  $\frac{1}{2}$  to the State.

Sec. 59. 26 MRSA § 1043, sub-§ 11, ¶ F, sub-¶ (30), as enacted by PL 1975, c. 217, is repealed.

Sec. 60. 26 MRSA § 1043, sub-§ 11, ¶ F, sub-¶ (31) is enacted to read:

(31) Services performed by a contract interviewer engaged in marketing research or public opinion interviewing, when such interviewing is conducted in the field or over the telephone on premises not used or controlled by the person for whom such contract services are being provided.

**Sec. 61.** 26 MRSA § 1192, sub-§ 3, as repealed and replaced by PL 1975, c. 26 and as amended by PL 1975, c. 344, § 2, is repealed and the following enacted in place thereof:

3. Is able and available for work. He is able to work and is available for work at his usual or customary trade, occupation, profession or business or in such other trade, occupation, profession or business for which his prior training or experience shows him to be fitted or qualified; and in addition to having complied with subsection 2 is himself actively seeking work in accordance with the regulations of the commission; provided that an unemployed individual who is neither able nor available for work due to good cause as determined by the commissioner shall be eligible to receive prorated benefits for that portion of the week during which he was able and available.

**Sec. 62.** 26 MRSA § 1193, sub-§ 4, ¶ D, as enacted by PL 1975, c. 537, is amended to read:

D. He became unemployed because of a strike or lockout caused by an employer's willful failure to observe the terms of the safety and health section of a union contract; an employer's willful failure to comply in a timely fashion with an official citation for a violation of federal and state laws involving ~~occupational~~ occupational safety and health; or the quitting of labor by an employee or employees in good faith because of an abnormally dangerous condition for work at the place of employment of such employee or employees; provided that such strike or lockout shall not extend past the time of the employer's compliance with the safety and health section of the union contract, the employer's compliance with the official citation, or the finding that an abnormally dangerous condition does not exist by a federal or state official empowered to issue official citations for violation of federal and state laws involving occupational safety and health.

**Sec. 63.** 28 MRSA § 55, sub-§ 15, 5th sentence, as last amended by PL 1971, c. 351, is further amended to read:

Their power and duties shall include the duty to inquire into and arrest for violations of any of the provisions of this Title, to arrest for violations of Title 17, chapter 69 and ~~Title 17, section 3953~~, to arrest for violations of Title 29, section 2182, to arrest for impersonation of or interference with liquor inspectors, and to arrest for disturbances of the peace in the pursuance of their duties relating to liquor under this Title and to serve all processes necessary for and pertaining to enforcement of any of the provisions of this Title.

**Sec. 64.** 28 MRSA § 103, first paragraph, next to last sentence, as repealed and replaced by PL 1971, c. 622, § 89-A, is repealed as follows:

~~Voting age residents in an unincorporated place shall be as shown by returns to the State Tax Assessor dated April 1, 1971, which returns shall be deposited by the Tax Assessor in the Secretary of State's office~~

**Sec. 65.** 29 MRSA § 354, sub-§ 5, as last amended by PL 1975, c. 252, § 9 and by c. 319, § 1, is repealed and the following enacted in place thereof:

5. Certificate for mobile homes. No mobile home, as defined in Title 36, section 1481, shall be moved over the highways of this State unless the oper-

ator of the vehicle hauling such mobile home has in his possession a written certificate from the tax collector of the municipality from which the mobile home is being moved, identifying the mobile home and stating that all property taxes applicable to the mobile home, including those for the current tax year, have been paid or that the mobile home is exempt from such taxes. The tax year shall be the period from April 1st through March 31st.

**Sec. 66.** 30 MRSA § 3001, first sentence is amended to read:

The licensing board shall prosecute for any violation of sections 2751, 2752, ~~to~~ 2754 and 2851 to 2854 that comes to its knowledge, by complaint, indictment or civil action.

**Sec. 67.** 30 MRSA § 5062 reenacted, as enacted by PL 1973, c. 665, and as repealed and replaced by PL 1973, c. 788, § 146 and as repealed and replaced by PL 1975, c. 367, § 2 and repealed by PL 1975, c. 623, § 48, is reenacted to read:

**§ 5062. Exclusion**

The limitations on municipal debt in section 5061 shall not be construed as applying to any funds received in trust by any municipality, any loan which has been funded or refunded, notes issued in anticipation of federal or state aid or revenue sharing money, tax anticipation loans, notes maturing in the current municipal year, indebtedness of entities other than municipalities, indebtedness of any municipality to the Maine School Building Authority, debt issued under chapter 235 and chapter 242, obligations payable from revenues of the current municipal year or from other revenues previously appropriated by or committed to the municipality, and the state reimbursable portion of school debt.

For the purpose of this section, the state reimbursable portion of school debt with respect to any municipality shall be the sum of the amounts determined by multiplying: The outstanding amount of each issue of debt incurred for school purposes by the municipality in connection with a project which qualifies for state school construction aid; and the percentage of the capital outlay costs of such project which was applicable to determine the amount of state school construction aid therefor pursuant to Title 20, at the time such project was approved for such state school construction aid. The certificate of the Commissioner of Educational and Cultural Services that a project qualifies for state school construction aid and as to the percentage of such aid to which a municipality was so entitled shall be conclusive evidence of the facts stated therein.

**Sec. 68.** 32 MRSA § 2592, sub-§ 2, last sentence, as enacted by PL 1973, c. 374, § 1, is amended to read:

Failure of the accused osteopathic physician to appear at the hearing or be represented by legal counsel shall be grounds for a finding of admission by the accused of any and all complaints or allegations against him and shall empower the board to take a disciplinary action, after the hearing, as provided in section 2596 ~~subsection 2.~~

**Sec. 69.** 32 MRSA § 3280, 3rd sentence, as enacted by PL 1971, c. 591, § 1, is amended to read:

This section shall not apply to interns or residents registered under section 3279 nor shall it apply to those holding temporary certificates for practice in hospitals or camps as provided in ~~sections section 3276 and~~ 3277.

Sec. 70. 34 MRSA § 529, as enacted by PL 1975, c. 193, is repealed.

Sec. 71. 34 MRSA § 529, as enacted by PL 1975, c. 553, § 3, is repealed.

Sec. 72. 34 MRSA §§ 530 and 531 are enacted to read:

§ 530. Reallocation of institutional appropriations

In administering the policy and purposes of this chapter, the Bureau of Corrections is authorized to expend correctional institutional appropriations on persons within that portion of its sentenced or committed population participating in halfway house, prerelease, vocational training, educational, drug treatment or other correctional programs being administered physically apart from the institutions to which such persons were originally sentenced or committed, for the purpose of defraying the direct and related costs of such persons' participation in such programs.

§ 531. Disciplinary action; conditions of solitary confinement and segregation

Punishments for violations of the rules of the institutions under the general administrative supervision of the Bureau of Corrections may be imposed in accordance with the procedures set forth in the rules and regulations governing such institutions. As to the Men's Correctional Center, Women's Correctional Center and the Maine State Prison, punishment may consist of warnings, loss of privileges, confinement to a cell and segregation or solitary confinement or a combination thereof and at the Maine State Prison may include loss of earned good conduct time. In no event shall corporal punishment be imposed. As to the juvenile institutions, punishment may consist of warnings and loss of privileges. All punishments involving solitary confinement, segregation or loss of earned good time shall be first approved by the head of the institution.

The bureau shall develop and describe in writing a fair and orderly procedure for processing disciplinary complaints against persons in any of the institutions under its general administrative supervision and shall establish rules, regulations and procedures to insure the maintenance of a high standard of fairness and equity. The rules shall describe offenses and the punishments for them that may be imposed. Any punishment that may affect the term of commitment, sentence and parole eligibility and any complaint, the disposition of which may include the imposition of segregation or solitary confinement of a person in such an institution, shall not be imposed without an impartial hearing at which the resident shall have a right to be present, to present evidence on his own behalf, to call one or more witnesses, which right shall not be unreasonably withheld or restricted, to question any witness who testifies at the hearing, which right shall not be unreasonably withheld or restricted and to be represented by counsel substitute as prescribed in the regulations. The person shall be informed in writing of the specific nature of his alleged misconduct and a record shall be maintained of all disciplinary

complaints, hearings, proceedings and the disposition thereof. In all cases, the person charged shall have the right to appeal final disposition prior to imposition to the head of the institution and if at any stage of the proceedings the resident is cleared of the charges within a complaint or the complaint is withdrawn, all documentation to the complaint shall be expunged.

The imposition of segregation and solitary confinement shall be subject to the following conditions:

1. **Diet.** The person shall be provided with a sufficient quantity of wholesome and nutritious food.

2. **Sanitary and other conditions.** Adequate sanitary and other conditions required for the health of the person shall be maintained.

3. **Confinement exceeding 24 hours.** When solitary confinement or segregation exceeds 24 hours, the head of the institution shall cause the institution physician or a member of the institution's medical staff to visit the person forthwith, and at least once in each succeeding 24-hour period in such confinement thereafter, to examine into the state of health of the person. The head of the institution shall give full consideration to recommendations of the physician or medical staff member as to the person's dietary needs and the conditions of his confinement required to maintain the health of the person. Such confinement shall be discontinued if the physician states that it is harmful to the mental or physical health of the person.

4. **Reports.** In the event that any person shall be held in such confinement for a period in excess of 5 days, the head of the institution shall forward a report thereof to the Director of Corrections giving the reasons therefor. A written report shall be forwarded by the head of the institution to the Director of Corrections when the recommendations of the physician or medical staff member regarding any person's dietary or other health needs while in such confinement are not carried out.

Sec. 73. 34 MRSA § 2290, 3rd sentence, as last amended by PL 1973, c. 716, § 5, is further amended to read:

Any such patient shall be free to leave such hospital at any time after admission; this ~~however~~ shall not preclude the admission of any such person to a hospital under section 2333 ~~or 2333-A~~ when at any time such admission is considered necessary in the interest of the patient and of the community.

Sec. 74. 36 MRSA § 654, sub-§ 1, ¶ F, first sentence, is amended to read:

No property conveyed to any person for the purpose of obtaining exemption from taxation under ~~paragraphs D~~ paragraph ~~and~~ E shall be so exempt, and the obtaining of such exemption by means of fraudulent conveyance shall be punished by a fine of not less than \$100 and not more than 2 times the amount of the taxes evaded by such fraudulent conveyance, whichever amount is greater.

Sec. 75. 36 MRSA c. 107, sub-c. V, 2nd line is amended to read as follows:

~~ABATEMENT~~



### SUPPLEMENTAL ASSESSMENTS

**Sec. 76.** 38 MRSA § 361-C, 2nd ¶, last sentence, as enacted by PL 1975, c. 390, is amended to read:

Such petition shall set forth in detail the findings, conclusions or conditions to which ~~the applicant~~ such person objects, the basis of the objections, the nature of the relief requested and the nature of the new or additional evidence.

**Sec. 77.** 38 MRSA § 413, sub-§ 7, first sentence, as last amended by PL 1973, c. 788, § 209, is further amended to read:

In connection with a license under this ~~subchapter~~ section, whenever issued, the board may grant to a licensee a permit to construct, maintain and operate any facilities necessary to comply with the terms of such license in, on, above or under tidal waters or subtidal lands of the State.

**Sec. 78.** 38 MRSA § 423, first and 2nd ¶¶, as enacted by PL 1973, c. 625, § 274, are amended to read:

No person, firm, corporation or other legal entity shall discharge, spill or permit to be discharged sewage, garbage or other waste material from watercraft, as defined in ~~section 201, subsection 14~~ Title 12, section 2061, subsection 17, and including houseboats, into inland waters of this State, or on the ice thereof, or on the banks thereof in such a manner that the same may fall or be washed into such waters, or in such manner that the drainage therefrom may flow into such waters.

Any watercraft, as defined in ~~section 201, subsection 14~~ Title 12, section 2061, subsection 17, including houseboats, operated upon the inland waters of this State and having a permanently installed sanitary waste disposal system, shall have securely affixed to the interior discharge opening of ~~said~~ such sanitary waste disposal system a holding tank or suitable container for holding sanitary waste material so as to prevent its discharge or drainage into the inland waters of the State.

**Sec. 79.** 38 MRSA § 606, as enacted by PL 1975, c. 570, is repealed.

**Sec. 80.** 38 MRSA § 607 is enacted to read:

#### § 607. Municipal alternative

1. Cone burners. The provisions of this chapter shall not apply to cone burners constructed or operated by any municipality, group of municipalities, quasi-municipal corporations or district, providing a system of solid waste management for public purposes and for the health, welfare, comfort and convenience of the inhabitants of the district; provided that the population served does not exceed 25,000 people and that proper leachate control, ash sifting and ash disposal is accomplished in a legal manner and provided that the public health, safety and welfare are not adversely affected by the emissions of this type of unit. In determining the effect on public health, safety and welfare and before ordering the closing of any cone burner operation, the Department of Environmental Protection shall show that the operation of the burner violates the standards set forth in section 584-A.

2. **Notification.** Any municipality, group of municipalities, quasi-municipal corporations or district shall notify the Department of Environmental Protection of its intent to construct and operate a cone burner and may request technical assistance be provided by the department.

**Sec. 81.** 38 MRSA § 1208, 2nd ¶, last sentence, as enacted by PL 1965, c. 310, is amended to read:

The fee to be charged by the district to the rate payer for such notice and filing shall not exceed \$1.50 and the fee to be charged to the district by the register of deeds for filing and recording shall not exceed \$1.

**Sec. 82.** P & SL 1975, c. 114, first sentence is amended to read:

There is appropriated from the General Fund to the Legislature the sum of ~~\$700,000~~ \$675,000 to carry out the purposes of this Act.

**Emergency clause.** In view of the emergency cited in the preamble and except as otherwise provided in this Act, this Act shall take effect when approved.

#### STATEMENT OF FACT

The purpose of this bill is reflected in the emergency preamble.