

MAINE STATE LEGISLATURE

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1 (EMERGENCY)

2 SECOND REGULAR SESSION
3

4 ONE HUNDRED AND ELEVENTH LEGISLATURE
5

6 Legislative Document

No. 2382

7
8 S.P. 877

In Senate, March 27, 1984

9 Approved for introduction by the Legislative Council pursuant to Joint
10 Rule 26.

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

Presented by Senator Trafton of Androscoggin.

12 Cosponsor: Representative Hobbins of Saco.

13 STATE OF MAINE
14

15 IN THE YEAR OF OUR LORD
16 NINETEEN HUNDRED AND EIGHTY-FOUR
17

18 AN ACT to Make Corrections of Errors and
19 Inconsistencies in the Laws of Maine.
20

21 **Emergency preamble.** Whereas, Acts of the Legis-
22 lature do not become effective until 90 days after
23 adjournment unless enacted as emergencies; and

24 Whereas, Acts of this and previous Legislature
25 have resulted in certain technical errors and
26 inconsistencies in the laws of Maine; and

27 Whereas, it is vitally necessary that these un-
28 certainties and this confusion be resolved in order
29 to prevent any injustice or hardship to the citizens
30 of Maine; and

31 Whereas, in the judgment of the Legislature,
32 these facts create an emergency within the meaning of
33 the Constitution of Maine and require the following
34 legislation as immediately necessary for the preser-

1 vation of the public peace, health and safety; now,
2 therefore,

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

5 Sec. 1. 4 MRSA §807, first ¶, as amended by PL
6 1983, cc. 126 and 420, is repealed and the following
7 enacted in its place:

8 Unless duly admitted to the bar of this State, no
9 person may practice law or any branch thereof, or
10 hold himself out to practice law or any branch there-
11 of, within the State or before any court therein, or
12 demand or receive any remuneration for those services
13 rendered in this State. Whoever, not being duly ad-
14 mitted to the bar of this State, shall practice law
15 or any branch thereof, or hold himself out to prac-
16 tice law or any branch thereof, within the State or
17 before any court therein, or demand or receive any
18 remuneration for those services rendered in this
19 State, shall be guilty of a Class E crime. This sec-
20 tion shall not be construed to apply to practice be-
21 fore any Federal Court by any person duly admitted to
22 practice therein; nor to a person pleading or manag-
23 ing his own cause in court; nor to the officer or em-
24 ployee of a corporation, partnership, sole
25 proprietorship or governmental entity, who is not an
26 attorney, but is appearing for that organization in
27 an action cognizable as a small claim under Title 14,
28 chapter 738. In all proceedings, the fact, as shown
29 by the records of the Board of Overseers of the Bar,
30 that that person is not recorded as a member of the
31 bar shall be prima facie evidence that he is not a
32 member of the bar licensed to practice law in the
33 State.

34 Sec. 2. 7 MRSA §3155, first ¶, as enacted by PL
35 1983, c. 573, §4, is amended to read:

36 Any person who fails to furnish reports required
37 by the commissioner pursuant to section ~~3155~~ 3154
38 in a timely fashion shall be subject to the following
39 civil penalties, to be collected by the commissioner
40 in a civil action:

1 Sec. 3. 9 MRSA §4052, sub-§2, as enacted by PL
2 1975, c. 429, §1, is amended to read:

3 2. Finance charge. "~~Credit~~ Finance charge" means
4 that amount by which the balance payable by the in-
5 sured exceeds the principal balance.

6 Sec. 4. 9 MRSA §4064, sub-§1, ¶C, as amended by
7 PL 1981, c. 470, §14, is further amended to read:

8 C. Set forth the following items where applica-
9 ble;

10 (1) The total amount of the premiums;

11 (2) The amount of the down payment;

12 (3) The principal balance, the difference
13 between subparagraphs (1) and (2);

14 (4) The amount of the ~~credit~~ finance
15 charge;

16 (5) The balance payable by the insured, the
17 sum of subparagraphs (3) and (4); and

18 (6) The number of installments required,
19 the amount of each installment expressed in
20 dollars and the due date or period thereof.

21 Sec. 5. 9 MRSA §4066, as enacted by PL 1975, c.
22 429, §1, is amended to read:

23 §4066. Finance charge

24 The ~~credit~~ finance charge, calculated according
25 to the actuarial method, may not exceed the equiva-
26 lent of 18% per year on the unpaid balances of the
27 amount financed or a charge of \$15 per insured premi-
28 um finance agreement, whichever is greater.

29 This section does not limit or restrict the man-
30 ner of calculating the ~~credit~~ finance charge whether
31 by way of add-on, discount or otherwise, so long as
32 the rate of the ~~credit~~ finance charge does not exceed
33 that permitted by this section.

1 Sec. 6. 12 MRSA §6571, sub-§2, as amended by PL
2 1979, c. 262, is further amended to read:

3 2. Purse seines prohibited. From April 10th to
4 October 15th, both days inclusive, it shall be unlaw-
5 ful to use a purse seine. This subsection shall not
6 prohibit the seining of ~~mackerel~~ mackerel or the use
7 of a purse seine to remove the fish caught in a weir
8 or stop seine. The commissioner may by regulation
9 allow the use of purse seines during this period in
10 specific areas and with specific conditions or limi-
11 tations, if he finds that the use is necessary to
12 provide fish to processors, that it will not create
13 undue hardships to fixed gear fishermen in the area
14 and that it will not unduly deplete the recruitment
15 capacity of the stocks. These regulations may be
16 adopted or amended as emergencies under section 6192.

17 Sec. 7. 14 MRSA §7552, as amended by PL 1983,
18 cc. 362, §2 and 507, §7, is repealed and the follow-
19 ing enacted in its place:

20 §7552. Injury to lands or property

21 Whoever cuts down, destroys, injures or carries
22 away any ornamental or fruit tree, Christmas tree,
23 evergreen boughs, agricultural product, timber, wood,
24 underwood, stones, gravel, ore, goods or property of
25 any kind from land not his own, without license of
26 the owner, or injures or throws down any fences, bars
27 or gates, or leaves such gates open, or breaks glass
28 in any building is liable in damages to the owner in
29 a civil action. If such an act or such acts are com-
30 mitted willfully or knowingly, the defendant is lia-
31 ble to the owner in treble damages and, in addition,
32 for the cost of any professional services necessary
33 for the determination of damages, for attorney's
34 fees, and for court costs. For purposes of this sec-
35 tion, Christmas trees and evergreen boughs are de-
36 fined in Title 12, section 8841, and agricultural
37 product is defined in section 7551-A.

38 Sec. 8. 17-A MRSA §1252, sub-§3, as amended by
39 PL 1977, c. 510, §77, is further amended to read:

40 3. The court may add to the sentence of impris-
41 onment a restitution order as is provided for in

1 chapter 49, section 1204, subsection 2-A, paragraph
2 B. In such cases, it shall be the responsibility of
3 the Department of Mental Health and Corrections to
4 determine whether the order has been complied with
5 and consideration shall be given in the department's
6 administrative decisions concerning the imprisoned
7 person as to whether the order has been complied
8 with.

9 Sec. 9. 18-A MRSA §2-514, sub-§(a), Maine Statu-
10 tory Will, Article 2, 2.4, ¶B, as enacted by PL 1983,
11 c. 376, is amended to read:

12 B. I leave the following stated amount to my
13 spouse _____ and the remainder in equal
14 shares to my children and the descendants of any de-
15 ceased child. If my wife spouse is not living, her
16 that share shall be distributed in equal shares to my
17 children and the descendants of any deceased child.

18 _____
19 (signature)

20 Sec. 10. 18-A MRSA §5-303, sub-§(b), as amended
21 by PL 1983, cc. 176, Pt. A, §7 and 241, §1, is re-
22 pealed and the following enacted in its place:

23 (b) Upon the filing of a petition, the court
24 shall set a date for hearing on the issues of inca-
25 capacity and unless the allegedly incapacitated person
26 has counsel of his own choice, it may appoint an ap-
27 propriate official or attorney to represent him in
28 the proceeding, who shall have the powers and duties
29 of a guardian ad litem. The person alleged to be in-
30 capacitated shall be examined by a physician or by a
31 licensed psychologist acceptable to the court who
32 shall submit his report in writing to the court. The
33 court may appoint a visitor who shall interview the
34 allegedly incapacitated person and the person who is
35 seeking appointment as guardian, and visit the
36 present place of abode of the person alleged to be
37 incapacitated and the place it is proposed that he
38 will be detained or reside if the requested appoint-
39 ment is made, and submit his report in writing to the
40 court. The person alleged to be incapacitated is en-
41 titled to be present at the hearing in person, and to
42 see and hear all evidence bearing upon his condition.
43 He is entitled to be represented by counsel, to

1 present evidence, to cross-examine witnesses, includ-
2 ing the physician and the visitor. The issue may be
3 determined at a closed hearing if the person alleged
4 to be incapacitated or his counsel so requests.

5 Sec. 11. 20 MRSA §2273, sub-§§1-B and 1-C, as
6 enacted by PL 1981, c. 705, Pt. D, §1, are repealed.

7 Sec. 12. 20-A MRSA §1051, sub-§1, as amended by
8 PL 1983, cc. 39, §1 and 485, §5, is repealed and the
9 following enacted in its place:

10 1. Eligibility requirements. Only those persons
11 who hold a state certificate of superintendence
12 grade, issued in accordance with chapter 501, may be
13 eligible to become superintendents. Members of the
14 school board may not be eligible to become superin-
15 tendent in the school administrative unit which they
16 represent. Superintendents' certificates may be re-
17 voked in accordance with section 13001. Grounds for
18 revocation shall include, but not be limited to, the
19 employment or retention of uncertified personnel in a
20 school administrative unit in violation of this Title
21 or of any rules adopted pursuant to this Title.

22 Sec. 13. 20-A MRSA §1405, as repealed and re-
23 placed by PL 1983, c. 422, §11, is repealed.

24 Sec. 14. 20-A MRSA §2301, as amended by PL 1983,
25 c. 422, §13, is repealed.

26 Sec. 15. 20-A MRSA §11804, as enacted by PL
27 1981, c. 693, §§5 and 8, is repealed and the follow-
28 ing enacted in its place:

29 §11804. Agreement for contract students after July
30 1, 1981

31 1. Agreement. Any state contract student commenc-
32 ing professional education on or after July 1, 1981,
33 shall, as a condition precedent to the commencement
34 of the education, enter into an agreement with the
35 State under which the student shall agree:

36 A. To pay tuition to the institution; and

1 B. Upon the conclusion of professional educa-
2 tion, including internship, residency and obli-
3 gated public health service, to pay the State an
4 amount of money equal to the state capitation
5 payment expended by the State in purchasing the
6 state contracted position which the student occu-
7 pied.

8 (1) This amount shall be payable at 9% sim-
9 ple annual interest in not more than 10 an-
10 annual equal installments.

11 (2) These installment payments shall com-
12 mence upon conclusion of the state contract
13 student's professional education under rules
14 promulgated by the commissioner.

15 3. Forgiveness. Any student who, upon the con-
16 clusion of his professional education, including, if
17 applicable, internship, residency and obligated pub-
18 lic health service, elects to serve as a general,
19 family, pediatric or veterinary practitioner in an
20 underserved rural geographic area in the State shall
21 be forgiven 20% of the indebtedness, as determined in
22 subsection 4, for each of the first 5 years of that
23 service.

24 4. Determination. The Commissioner of Human
25 Services shall determine underserved rural areas for
26 general, family or pediatric services. The Commis-
27 sioner of Agriculture, Food and Rural Resources shall
28 determine underserved rural areas for veterinary ser-
29 vices.

30 Sec. 16. 21 MRSA §103-A, as amended by PL 1983,
31 cc. 169, §4, and 425, §3, is repealed and the follow-
32 ing enacted in its place:

33 §103-A. Overseas registration

34 1. Application. A person qualified to register
35 as provided in section 241, subsections 1 to 3, who
36 is outside the United States may register and enroll
37 in a political party by filing a federal postcard ap-
38 plication or an application designed by the Secretary
39 of State and provided by the registrar, containing
40 the following information:

- 1 A. First name, middle name or initial and last
2 name, or first name or initial, middle name and
3 last name;
- 4 B. Legal address, including street, street num-
5 ber, apartment number, town, county and zip code;
- 6 C. Mailing address;
- 7 D. Date of birth;
- 8 E. Last domicile immediately prior to departure
9 from the United States;
- 10 F. Voting precinct or election district of last
11 domicile within the United States;
- 12 G. Whether a citizen by birth or naturalization;
13 if by naturalization, the date, place and court
14 of naturalization;
- 15 H. Notification that failure to complete the en-
16 tire application may prevent registration;
- 17 I. Passport or card of identity registration
18 number;
- 19 J. Signature;
- 20 K. Certification that all information is cor-
21 rect, sworn before a diplomatic or consular offi-
22 cial of the United States or before the master of
23 a United States vessel of 1,000 tons or more;
- 24 L. Date of application;
- 25 M. Date of registration; and
- 26 N. Choice of political party.

27 Sec. 17. 22 MRSA §1579, as enacted by PL 1983,
28 c. 226, is reallocated to be 22 MRSA §1580.

29 Sec. 18. 22 MRSA c. 405-B, as enacted by PL
30 1983, c. 459, §3, is reallocated to be 22 MRSA c.
31 405-C.

1 Sec. 19. 22 MRSA §3759, as enacted by PL 1983,
2 c. 525, §1, is reallocated to be 22 MRSA §3760.

3 Sec. 20. 22 MRSA §5111, 2nd ¶, as repealed and
4 replaced by PL 1973, c. 793, §11, is amended to read:

5 The committee is authorized to employ, subject to
6 the Personnel Law, such staff as is necessary to carry
7 out its objectives. The committee is authorized to
8 employ consultants and contract for such projects as
9 it deems necessary. ~~The commissioner and the director,~~
10 ~~to the extent feasible and reasonable,~~ shall
11 ~~make available to the committee such staff, facilities,~~
12 ~~equipment, supplies, information and other assistance~~
13 ~~as it may reasonably require to carry out~~
14 ~~its activities.~~

15 Sec. 21. 26 MRSA §834, as reallocated by PL
16 1983, c. 583, §15, is amended to read:

17 §834. Civil actions for injunctive relief or other
18 remedies

19 An employee who alleges a violation of his rights
20 under section ~~823~~ 833 and who has first made a reasonable
21 effort to maintain or restore his rights through any grievance
22 procedure or similar process which may be available at his place
23 of employment may bring a civil action for appropriate injunctive
24 relief and other remedies provided in section ~~825~~ 835
25 within 90 days after the occurrence of that alleged
26 violation or, if a grievance procedure or similar
27 process is used, within 60 days after the grievance
28 procedure or similar process terminates without resolution.
29 The action may be brought in the Superior Court for the county
30 where the alleged violation occurred, the county where the complainant
31 resides or the county where the person against whom the civil
32 complaint is filed resides or has his principal place
33 of business.

36 An employee shall establish each and every element
37 of his case, as set out in section ~~823~~ 833, by a preponderance
38 of the evidence.

39 Sec. 22. 26 MRSA §836, as reallocated by PL
40 1983, c. 583, §15, is amended to read:

1 §836. Penalties for violations

2 A person who violates section 829 839 is liable
3 for a civil fine of \$10 for each day of willful vio-
4 lation which shall not be suspended. Any civil fine
5 imposed under this section shall be submitted to the
6 Treasurer of State for deposit to the General Fund.

7 Sec. 23. 26 MRSA §838, as reallocated by PL
8 1983, c. 583, §15, is amended to read:

9 §838. Compensation for employee participation in in-
10 vestigation, hearing or inquiry

11 This subchapter shall not be construed to require
12 an employer to compensate an employee for participa-
13 tion in an investigation, hearing or inquiry held by
14 a public body in accordance with section 823 833.

15 Sec. 24. 26 MRSA §1082, sub-§1, as amended by PL
16 1983, cc. 351, §8 and 489 §14, is repealed and the
17 following enacted in its place:

18 1. Powers and duties of the commissioner. Ex-
19 cept as otherwise provided, it shall be the duty of
20 the Commissioner of Labor to administer this chapter,
21 through an organization to be known as the Bureau of
22 Employment Security. The commissioner shall appoint
23 a Director of Employment Security to serve at his
24 pleasure. The commissioner may employ such persons,
25 make such expenditures, require such reports, make
26 such investigations and take such other actions as he
27 deems necessary or suitable to that end. The commis-
28 sioner shall be responsible and shall possess the
29 necessary authority for the operation and management
30 of the Bureau of Employment Security. The commis-
31 sioner shall determine methods of operational proce-
32 dures in accordance with the provisions of this chap-
33 ter. The commissioner may adopt rules in accordance
34 with the Maine Administrative Procedure Act, Title 5,
35 chapter 375, to achieve this purpose, except rules
36 pertaining to unemployment insurance as provided in
37 subsection 2. The commissioner shall determine meth-
38 ods of operational procedures in accordance with the
39 provisions of this chapter and by the Maine Adminis-
40 trative Procedure Act, Title 5, chapter 375. The
41 commissioner shall make such recommendations for

1 amendments to this chapter as he deems proper. When-
2 ever the commissioner believes that a change in con-
3 tribution or benefit rates will become necessary to
4 protect the solvency of the fund, he shall promptly
5 so inform the Governor and the Legislature and make
6 recommendations with respect thereto.

7 Sec. 25. 26 MRSA §1192, sub-§3, as amended by PL
8 1983, cc. 257, §1 and 351, §16, is repealed and the
9 following enacted in its place:

10 3. Is able and available for work. He is able to
11 work and is available for full-time work at his usual
12 or customary trade, occupation, profession or busi-
13 ness or in such other trade, occupation, profession
14 or business for which his prior training or experi-
15 ence shows him to be fitted or qualified; and in ad-
16 dition to having complied with subsection 2 is him-
17 self actively seeking work in accordance with the
18 regulations of the commission; provided that no inel-
19 igibility may be found solely because the claimant is
20 unable to accept employment on a shift, the greater
21 part of which falls between the hours of midnight to
22 5 a.m., and is unavailable for that employment be-
23 cause of parental obligation, the need to care for an
24 immediate family member, or the unavailability of a
25 personal care attendant required to assist the unem-
26 ployed individual who is a handicapped person; and
27 provided that an unemployed individual who is neither
28 able nor available for work due to good cause as de-
29 termined by the deputy shall be eligible to receive
30 prorated benefits for that portion of the week during
31 which he was able and available;

32 Sec. 26. 26 MRSA §1194, sub-§2, as amended by PL
33 1983, cc. 246 and 351, §19, is repealed and the fol-
34 lowing enacted in its place:

35 2. Determination. A representative designated by
36 the commissioner, and in this chapter referred to as
37 a deputy, shall promptly examine the first claim
38 filed by a claimant in each benefit year and shall
39 determine the weekly benefit amount and maximum bene-
40 fit amount potentially payable to the claimant during
41 that benefit year in accordance with section 1192,
42 subsection 5.

1 The deputy shall promptly examine all subsequent
2 claims filed and, on the basis of the facts found by
3 him, shall determine whether or not that claim is
4 valid with respect to sections 1192 and 1193, other
5 than section 1192, subsection 5, or shall refer that
6 claim or any question involved therein to an appeal
7 tribunal or to the commission, which shall make a de-
8 termination with respect thereto in accordance with
9 the procedure described in subsection 3, except that
10 in any case in which the payment or denial of bene-
11 fits will be subject to section 1193, subsection 4,
12 the deputy shall promptly transmit a report with re-
13 spect to that subsection to the Director of Unemploy-
14 ment Compensation upon the basis of which the direc-
15 tor shall notify its appropriate deputies as to the
16 applicability of that subsection.

17 The deputy shall determine in accordance with section
18 1221, subsection 3, paragraph A, the proper employ-
19 er's experience rating record, if any, against which
20 benefits of an eligible individual shall be charged,
21 if and when paid.

22 The deputy shall promptly notify the claimant and any
23 other interested party of the determinations and rea-
24 sons therefor. Subject to subsection 11, unless the
25 claimant or any such interested party, within 15 cal-
26 endar days after that notification was mailed to his
27 last known address, files an appeal from that deter-
28 mination, that determination shall be final, provided
29 that the period within which an appeal may be filed
30 may be extended, for a period not to exceed an addi-
31 tional 15 calendar days, for good cause shown. If
32 new evidence or pertinent facts that would alter that
33 determination become known to the deputy prior to the
34 date that determination becomes final, a redetermina-
35 tion is authorized, but that redetermination must be
36 mailed before the original determination becomes fi-
37 nal.

38 If an employer's separation report for an employee is
39 not received by the office specified thereon within
40 10 days after that report was requested, the claim
41 shall be adjudicated on the basis of information at
42 hand. If the employer's separation report containing
43 possible disqualifying information is received after
44 the 10-day period and the claimant is denied benefits

1 by a revised deputy's decision, benefits paid prior
2 to the date of the revised decision shall not consti-
3 tute an overpayment of benefits. Any benefits paid
4 after the date of the revised decision shall consti-
5 tute an overpayment.

6 If an employer files an amended separation report or
7 otherwise raises a new issue as to the employee's el-
8 igibility or changes the wages or weeks used in de-
9 termining benefits which results in a denial of bene-
10 fits or a reduction of the weekly benefit amount, the
11 benefits paid prior to the date the determination is
12 mailed shall not constitute an overpayment. Any ben-
13 efits received after that date to which the claimant
14 is not entitled pursuant to a new determination based
15 on that new employer information shall constitute an
16 overpayment.

17 If, during the period a claimant is receiving bene-
18 fits, new information or a new issue arises concern-
19 ing the claimant's eligibility for benefits or which
20 affects the claimant's weekly benefit amount, no ben-
21 efits may be withheld until a determination is made
22 on the issue, unless authorized by the claimant. Be-
23 fore a determination is made, written notice shall be
24 mailed to the claimant and other interested parties,
25 which shall include the issue to be decided, the law
26 upon which it is based, any factual allegations known
27 to the bureau, the right to a fact-finding interview,
28 the date and location of the scheduled interview, and
29 the claimant's rights regarding the continuation of
30 benefits, conduct of the interview and appeal. The
31 fact-finding interview shall be scheduled not less
32 than 5 days nor more than 14 days after the notice is
33 mailed. The bureau shall include with the notice a
34 preprinted form, which the claimant may sign and re-
35 turn to the bureau after indicating thereon whether
36 he wishes to continue to receive benefits until a de-
37 termination is made, acknowledging an understanding
38 that any benefits paid prior to the determination may
39 be an overpayment under applicable law and recover-
40 able by the bureau if it is later determined that the
41 claimant was not entitled to the benefits. If the
42 claimant does not appear for the scheduled interview,
43 the deputy shall make a determination on the basis of
44 available evidence. The deputy shall make a prompt
45 determination of the issue based solely on any writ-

1 ten statements of interested parties filed with the
2 bureau before the interview, together with the evi-
3 dence presented by interested parties who personally
4 appeared at the interview. Upon request and notice
5 to all parties at the interview, the deputy may ac-
6 cept corroborative documentary evidence after the in-
7 terview. In no other case may the deputy base his
8 decision on evidence received after the interview has
9 been held.

10 Sec. 27. 26 MRSA §1401, as amended by PL 1983,
11 c. 305, §8; c. 351, §37; c. 469, §2; and 489, §15, is
12 repealed and the following enacted in its place:

13 §1401. Department; commissioner

14 The Commissioner of Labor shall receive a fixed
15 weekly salary in accordance with Title 2, section 6,
16 and shall be paid from the administrative funds of
17 the Bureau of Employment Security, the Bureau of La-
18 bor Standards and from other program administrative
19 funds which he is authorized by statute or Executive
20 Order to administer. The commissioner may establish
21 an Office of the Commissioner, consisting of such
22 personnel as deemed necessary to carry out the duties
23 and responsibilities of the commissioner, and paid
24 from administrative funds from programs which the
25 commissioner is authorized to administer.

26 Sec. 28. 29 MRSA §1, sub-§3-F, as enacted by PL
27 1983, c. 361, §1, is reallocated to be 29 MRSA §1,
28 sub-§3-H.

29 Sec. 29. 29 MRSA §1, sub-§3-F, as enacted by PL
30 1983, c. 455, §1, is reallocated to be 29 MRSA §1,
31 sub-§3-G.

32 Sec. 30. 29 MRSA §1, §7, as amended by PL 1983,
33 c.455, §2 and c. 480, Pt. A, §32, is repealed and the
34 following enacted in its place:

35 7. Motor vehicle. "Motor vehicle" means any
36 self-propelled vehicle not operated exclusively on
37 tracks, but not including snowmobiles as defined in
38 Title 12, section 7821.

1 Sec. 31. 29 MRSA §244, 5th ¶, as amended by PL
2 1983, c. 94, Pt. B, §4 and c. 282, §1, is repealed
3 and the following enacted in its place:

4 Only one trailer or semitrailer shall be drawn by
5 a motor vehicle; except that combinations of truck
6 tractor, semitrailer and full trailer may be operated
7 on the Interstate Highway System and those qualifying
8 federal aid primary system highways designated by the
9 Secretary of the United States Department of Trans-
10 portation, pursuant to the United States Surface
11 Transportation Assistance Act of 1982, Public Law
12 97-424, Section 411; provided that driveaway, towaway
13 operations, as defined by the Bureau of State Police,
14 may include a combination of saddlemount vehicles not
15 to exceed 3 units in contact with surface of the
16 highway.

17 Sec. 32. 29 MRSA §531-B, as amended by PL 1975,
18 c. 731, §34, is further amended to read:

19 §531-B. License or permit to be carried and exhib-
20 ited on demand

21 Every licensee, including persons to whom a tem-
22 porary driver's license has been issued, and every
23 person to whom an instruction permit has been issued
24 shall have his operator's license or instruction per-
25 mit in his immediate possession at all times when op-
26 erating a motor vehicle and shall hand over for in-
27 spection the same upon demand of a police officer. No
28 person charged with violating this section shall be
29 adjudicated to have committed a traffic infraction if
30 he produces in court an operator's license or in-
31 struction permit theretofore issued to him and valid
32 at the time of the issuance of a the Uniform Traffic
33 Ticket and Complaint. If the person charged shall ex-
34 hibit to a law enforcement officer designated by the
35 issuing officer such an operator's license or in-
36 struction permit, not later than 24 hours before the
37 time set for the court appearance, then the traffic
38 infraction proceeding shall be dismissed.

39 Sec. 33. 29 MRSA §1655, 2nd ¶, as enacted by PL
40 1983, c. 94, Pt. B, §16, is amended to read:

1 Notwithstanding the first paragraph, the tandem
2 axle unit limit for 5 or more axle combination vehi-
3 cles shall not exceed 44,000 pounds and a 6-axle com-
4 bination vehicle, as defined in section 1652, subsec-
5 tion 1, paragraph E, may be operated, or caused to be
6 operated, with a maximum gross weight of 100,000
7 pounds, provided that the maximum gross weight per-
8 mitted on a tandem axle unit shall be 44,000 pounds
9 and the maximum gross weight permitted on a tri-axle
10 unit shall be 54,000 pounds, and provided that the
11 distance between the extreme axles, excluding the
12 steering ~~sxie~~ axle, is at least 32 feet.

13 Sec. 34. 29 MRSA §2243, sub-§2, as amended by PL
14 1983, c. 94, Pt. C, §9, is further amended to read:

15 2. Formal agreements. The Secretary of State,
16 after determining that like privileges are granted by
17 a state or province, shall enter into a written
18 agreement with that state or province setting forth
19 the conditions under which residents of that jurisdic-
20 tion engaged in interstate commerce operations in
21 and through this State shall be exempt from the reg-
22 istration and licensing laws of this State.

23 Notwithstanding any other provisions of the law, the
24 Secretary of State, with the advice and assistance of
25 the Commissioner of Finance and Administration and
26 the Commissioner of ~~the~~ Transportation, may levy and
27 enforce like or similar taxes or fees against similar
28 vehicles registered in jurisdictions that levy and
29 enforce taxes or fees other than fuel taxes, fuel tax
30 license fees and public utility fees against vehicles
31 registered in the State.

32 Sec. 35. 29 MRSA §2362, sub-§13, as enacted by
33 PL 1981, c. 456, Pt. A, §99, is reallocated to be 29
34 MRSA §2362, sub-§14.

35 Sec. 36. 29 MRSA §2518, sub-§1, as amended by PL
36 1981, c. 370, §13 and c. 445, is repealed and the
37 following enacted in its place:

38 1. Disposition of stickers. All inspection
39 stickers and materials issued to inspection stations
40 by the Chief of the State Police shall remain the
41 property of the State. These shall be furnished by

1 the Chief of the State Police at 50¢ each. The
2 stickers shall be made of such material and quality
3 of adhesive as prescribed by the Chief of the State
4 Police. At the end of the calendar year, or if the
5 station license is suspended, any unused or expired
6 stickers shall, within 20 working days, be returned
7 to the Chief of the State Police and the purchase
8 price refunded or exchanged for current year stick-
9 ers, except that refunds or exchanges shall not be
10 made for other than full sheets of unused stickers.

11 Sec. 37. 30 MRSA §5607, as amended by PL 1983,
12 c. 601, §2 and c. 615, is repealed and the following
13 enacted in its place:

14 §5607. Annual meeting

15 Organized plantations shall hold an annual meet-
16 ing and choose a clerk, 3 assessors, treasurer, col-
17 lector of taxes, school committee, one or more sur-
18 veyors of lumber and 2 or more fence-viewers. The
19 provisions of section 2060, subsection 5, relating to
20 the terms of office and election of assessors shall
21 apply to the terms of office and election of asses-
22 sors of organized plantations. When money is raised
23 for repair of ways and bridges, the assessors of such
24 plantation shall choose one or more road commission-
25 ers as selectmen of towns do.

26 Sec. 38. 32 MRSA §1501, first ¶, as amended by
27 PL 1983, c. 413, §61 and c. 468, §5, is repealed and
28 the following enacted in its place:

29 The State Board of Funeral Service may determine
30 the qualifications necessary to enable any person to
31 lawfully engage in the funeral service profession and
32 operate a funeral establishment. The board shall ex-
33 amine all applicants for licenses for the practice of
34 funeral service and shall issue a license to all per-
35 sons who successfully pass that examination. To be
36 licensed for the practice of funeral service under
37 this chapter, a person must be at least 18 years of
38 age, a resident of this State, have successfully com-
39 pleted a prescribed course at a school or schools ap-
40 proved by the State Board of Funeral Service and must
41 have served as a practitioner trainee for not less
42 than 12 months under the personal supervision of a

1 person licensed for the practice of funeral service
2 and approved by the board. Each applicant shall dem-
3 onstrate that he is trustworthy and competent to en-
4 gage in the profession of funeral service in such a
5 manner as to safeguard the interests of the public.

6 Sec. 39. 32 MRSA §1504, 2nd ¶, as amended by PL
7 1983, c. 553, §34, is further amended to read:

8 All licenses and certificates of registration
9 which have been issued by the board shall expire on
10 December 31st, annually. Any person holding a li-
11 cense or registration under this law may have the li-
12 cense renewed by making and filing with the board an
13 application therefor within 30 days preceding the ex-
14 piration of his license or certificate of registra-
15 tion, upon blanks prescribed by the board and upon
16 payment of the established renewal fee. The board
17 shall establish the initial and renewal fees, which
18 shall not exceed \$40 for an embalmer's license, fu-
19 neral director's license and funeral home registra-
20 tion. The license for the practitioner of funeral
21 services shall not exceed \$50 and the fee for a resi-
22 dent trainee shall not exceed \$10. A license may be
23 renewed up to 90 days after the date of its expira-
24 tion upon payment of a late fee of \$10 in addition to
25 the renewal fee. Any person who submits an applica-
26 tion for renewal more than 90 days after the license
27 expiration date shall be be subject to all require-
28 ments governing new applicants under this chapter,
29 except that the board may in its discretion, giving
30 due consideration to the protection of the public,
31 waive examination if the renewal application is made
32 within 2 years from the date of the expiration.

33 Sec. 40. 32 MRSA §3831, as amended by PL 1983,
34 c. 413, §152 and c. 468, §22, is repealed and the
35 following enacted in its place:

36 §3831. Registration; qualifications

37 1. Psychological examiner. Any person wishing to
38 obtain the right to practice as a psychological exam-
39 iner, who has not been licensed to do so, shall, be-
40 fore it shall be lawful for him to practice as a psy-
41 chological examiner, make application to the State
42 Board of Examiners of Psychologists, upon such form

1 and in such manner as prescribed by the board, and
2 obtain from the board a license to do so. Unless such
3 a person has obtained a license, it shall be unlawful
4 for him to practice and, if he shall practice as a
5 psychological examiner without first having obtained
6 such a license, he shall be deemed to have violated
7 this chapter. A candidate for this license shall fur-
8 nish the board with satisfactory evidence that he is
9 trustworthy and competent to practice as a psycholog-
10 ical examiner in such manner as to safeguard the in-
11 terests of the public, has had a master's degree re-
12 flecting comprehensive training in psychology from an
13 accredited educational institution recognized by the
14 board as maintaining satisfactory standards, has had
15 at least one year of full-time supervised experience
16 in psychology of a type considered by the board to be
17 qualifying in nature, is competent as a psychological
18 examiner as shown by passing such examinations, writ-
19 ten or oral, or both, as the board deems necessary,
20 is not considered by the board to be engaged in un-
21 ethical practice, and has not within the preceding 6
22 months failed an examination given by the board.

23 2. Psychologist. Any person wishing to obtain
24 the right to practice as a psychologist, who has not
25 been licensed to do so, shall, before it shall be
26 lawful for him to practice psychology, make applica-
27 tion to the State Board of Examiners of Psycholo-
28 gists, upon such form and in such manner as pre-
29 scribed by the board, and obtain from the board a li-
30 cense to do so. Unless such a person has obtained a
31 license, it shall be unlawful for him to practice
32 and, if he shall practice psychology without first
33 having obtained a license, he shall be deemed to have
34 violated this chapter. A candidate for this license
35 shall furnish the board with satisfactory evidence
36 that he is trustworthy and competent to practice as a
37 psychologist in such manner as to safeguard the in-
38 terest of the public; has received a doctorate degree
39 reflecting comprehensive training in psychology from
40 an accredited institution recognized by the board as
41 maintaining satisfactory standards, at the time the
42 degree was granted; has had at least 2 years of expe-
43 rience in psychology of a type considered by the
44 board to be qualifying in nature; is competent in
45 psychology, as shown by passing such examinations,
46 written or oral, or both, as the board deems neces-

1 sary; is not considered by the board to be engaged in
2 unethical practice; and has not within the preceding
3 6 months failed an examination given by the board.

4 Sec. 41. 32 MRSA §3826, as amended by PL 1983,
5 c. 413, §156 and c. 468, §24, is repealed and the
6 following enacted in its place:

7 §3836. Licensure under special conditions

8 The board may, at any time at its discretion,
9 grant a license without an assembled examination to
10 any person who at the time of application is licensed
11 or certified by a similar board of another state
12 whose standards, in the opinion of the board, are
13 equivalent to those required by this chapter. The
14 board, at its discretion, may issue a temporary li-
15 cence, at the appropriate level, to applicants for a
16 permanent license upon payment of a fee, to be estab-
17 lished by the board, and successful completion of an
18 oral examination, that license to be valid until re-
19 sults are received from the next written examination.
20 Failure to pass the written examination. Failure to
21 pass the written examination will terminate the tem-
22 porary license.

23 Sec. 42. 32 MRSA §4902, sub-§7, as enacted by PL
24 1973, c. 558, §1, is amended to read:

25 7. Practice of geology. "Practice of geology"
26 means the performance of geological work or service
27 for the public, including, but not limited to, con-
28 sultation, investigation, surveys, evaluation, plan-
29 ning, mapping or inspection of geological work,
30 wherein the performance is related to the public wel-
31 fare ~~of~~ or the safeguarding of life, health, property
32 and the environment.

33 Sec. 43. 32 MRSA §6030, as amended by PL 1983,
34 c. 413, §208, is further amended to read:

35 §6030. Continuing professional education

36 The board shall require the applicant for license
37 renewal to present evidence of his ~~the~~ satisfactory
38 completion of continuing professional education in
39 accordance with rules adopted by the board.

1 Sec. 44. 32 MRSA §9608, 2nd ¶, as enacted by PL
2 1983, c. 413, §239, is amended to read:

3 The State may bring an action in Superior Court
4 to enjoin any person ~~form~~ from violating this chap-
5 ter, regardless of whether proceedings have been or
6 may be instituted in the Administrative Court or
7 whether criminal proceedings have been or may be in-
8 stituted.

9 Sec. 45. 32 MRSA §9856, as enacted by PL 1983,
10 c. 524, is repealed and the following enacted in its
11 place:

12 §9856. Application; fees

13 1. Application for license. To apply for a li-
14 cence as a radiographer, nuclear medicine
15 technologist, radiation therapy technologist or for a
16 limited license, an applicant shall:

17 A. Submit a written application with supporting
18 documents to the board on forms provided by the
19 board;

20 B. Pay an application fee which shall not exceed
21 \$70; and

22 C. Pay an examination fee which shall not exceed
23 \$50.

24 2. Denial of application. In case the applica-
25 tion is denied and permission to take the examination
26 is refused, the examination fee only shall be re-
27 turned to the applicant. Any applicant who fails to
28 pass the examination shall be entitled to reexamina-
29 tion within 6 months upon repayment of the examina-
30 tion fee only. Pursuant to section 9858, the board
31 may issue a temporary license to an applicant who has
32 failed an examination and is awaiting reexamination;
33 the temporary license shall expire at such time as
34 the board may by rule direct.

35 Sec. 46. 33 MRSA §1603-116, sub-§(b), as amended
36 by PL 1983, cc. 78, §3 and 480, Pt. A, §38, is re-
37 pealed and the following enacted in its place:

1 (b) A lien under this section is prior to all
2 other liens and encumbrances on a unit except: (1)
3 Liens and encumbrances recorded before the recorda-
4 tion of the declaration; (2) A first mortgage re-
5 corded before or after the date on which the assess-
6 ment sought to be enforced becomes delinquent; and
7 (3) Liens for real estate taxes and other governmen-
8 tal assessments or charges against the unit. This
9 subsection does not affect the priority of mechanics'
10 or materialmen's liens, or the priority of liens for
11 other assessments made by the association. The lien
12 under this section is not subject to the provisions
13 of Title 14, section 4651 and Title 18-A, Part 2, as
14 they or their equivalents may be amended or modified
15 from time to time.

16 Sec. 47. 34-A MRSA §3401, sub-§2, as repealed
17 and replaced by PL 1983, c. 581, §§40 and 59, is
18 amended to read:

19 2. Women. Women who have been duly sentenced and
20 committed to the custody ~~of the custody~~ of the de-
21 partment;

22 Sec. 48. 34-A MRSA §3403, sub-§3, as enacted by
23 PL 1983, c. 581, §41, is reallocated to be 34-A MRSA
24 §3403, sub-§4.

25 Sec. 49. 38 MRSA §1305, sub-§2, as amended by Pl
26 1983, c. 11, and as repealed by PL 1983, c. 380, §2,
27 is repealed.

28 Emergency clause. In view of the emergency cited
29 in the preamble, this Act shall take effect when ap-
30 proved.

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STATEMENT OF FACT

Section 1 incorporates the language of Public Law 1983, chapter 126 and chapter 420, thereby correcting potential conflicts.

Section 2 corrects an internal reference.

Sections 3 to 5 change out-dated terminology to conform to the Consumer Credit Code.

Section 6 corrects a spelling error.

Section 7 corrects a conflict between Public Law 1983, chapter 362, section 2 and chapter 507, section 7.

Section 8 corrects an internal reference to the Department of Corrections.

Section 9 makes a word change to render this subpart consistent with the remainder of the Revised Statutes, Title 18-A, section 2-514.

Section 10 corrects a minor inconsistency between Public Law 1983, chapter 176 and chapter 241.

Section 11 corrects an inconsistency between Public Law 1981, chapter 705, Part D, section 1 and chapter 693, sections 5 and 8.

Section 12 incorporates the language of Public Law 1983, chapter 485, section 5 and chapter 39, section 1, thereby correcting any inconsistencies.

Section 13 repeals Public Law 1983, chapter 422, section 11, to correct any conflict with Public Law 1983, chapter 364, section 3.

Section 14 corrects a possible inconsistency between Public Law 1983, chapter 315 and chapter 422, section 13.

Section 15 corrects an inconsistency between Public Law 1981, chapter 705, Part D, section 1 and chapter 693, sections 5 and 8.

1 Section 16 incorporates the language of Public
2 Law 1983, chapter 169, section 4 and chapter 425,
3 section 3, thereby correcting potential conflicts.

4 Section 17 reallocates provisions to correct a
5 conflict.

6 Section 18 reallocates provisions in Public Law
7 1983, chapter 459, section 3, to correct
8 inconsistencies with Public Law 1983, chapter 473.

9 Section 19 reallocates provisions to correct a
10 conflict.

11 Section 20 - Pursuant to Public Law 1981, chapter
12 703, the Maine Committee on Aging was specifically
13 established as an independent agency outside the De-
14 partment of Human Services. (See Public Law 1981,
15 chapter 703, section 4, and statement of fact to
16 1981 Legislative Document 2098.) This section clari-
17 fies the intent of the 1981 legislation and removes
18 ambiguities in the interpretation of the relevant
19 provisions.

20 Sections 21 to 23 correct internal references in
21 the Revised Statutes, Title 26, chapter 7, subchapter
22 V-B.

23 Section 24 incorporates the language of Public
24 Law 1983, chapter 489, section 14 and chapter 351,
25 section 8, thereby correcting any conflict.

26 Section 25 incorporates the language of Public
27 Law 1983, chapter 257, section 1 and chapter 351,
28 section 16, thereby correcting any conflict.

29 Section 26 incorporates the language of Public
30 Law 1983, chapter 246 and chapter 351, section 19,
31 thereby correcting any potential conflicts.

32 Section 27 incorporates the language of Public
33 Law 1983, chapter 305, section 8, chapter 489, sec-
34 tion 15 and chapter 351, section 37, thereby correct-
35 ing any potential conflicts.

36 Sections 28 and 29 reallocate provisions to cor-
37 rect a conflict.

1 Section 30 incorporates the language of Public
2 Law 1983, chapter 480, Part A, section 32 and chapter
3 455, section 2, thereby correcting any potential con-
4 flicts.

5 Section 31 incorporates the language of Public
6 Law 1983, chapter 94, Part B, section 4 and chapter
7 282, section 1, thereby correcting any potential con-
8 flicts.

9 Section 32 corrects an error in grammar.

10 Section 33 corrects a typographical error.

11 Section 34 corrects an error in grammar.

12 Section 35 reallocates one provision of the Re-
13 vised Statutes, Title 29, section 2355, to rectify a
14 conflict.

15 Section 36 incorporates the language of Public
16 Law 1983, chapter 445 and chapter 370, section 13,
17 thereby correcting any conflicts.

18 Section 37 corrects possible conflicts between
19 Public Law 1983, chapter 601 and chapter 615.

20 Section 38 incorporates language of Public Law
21 1983, chapter 413, section 61 and chapter 468, sec-
22 tion 5, to avoid conflicts.

23 Section 39 corrects an error in grammar.

24 Section 40 incorporates the amendments made by
25 Public Law 1983, chapter 413, section 152 and chapter
26 468, section 22, to corrects conflicts.

27 Section 41 incorporates changes made by Public
28 Law 1983, chapter 413, section 156 and chapter 468,
29 section 24, to avoid conflicts.

30 Section 42 corrects 2 typographical errors.

31 Section 43 corrects an error in grammar.

32 Section 44 corrects a typographical error.

