

MAINE STATE LEGISLATURE

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(EMERGENCY)
SECOND REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 2638

H.P. 1939 House of Representatives, April 19, 1988
Reported by Representative PARADIS from the Committee on
Judiciary pursuant to H.P. 1926 and printed under Joint Rule 2.
EDWIN H. PERT, Clerk

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-EIGHT

1 **AN ACT to Correct Additional Errors and**
2 **Inconsistencies in the Laws of Maine.**
3

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

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

1 Whereas, these errors and inconsistencies create
2 uncertainties and confusion in interpreting
3 legislative intent; and

4 Whereas, it is vitally necessary that these
5 uncertainties and this confusion be resolved in order
6 to prevent any injustice or hardship to the citizens
7 of Maine; and

8 Whereas, in the judgment of the Legislature, these
9 facts create an emergency within the meaning of the
10 Constitution of Maine and require the following
11 legislation as immediately necessary for the
12 preservation of the public peace, health and safety;
13 now, therefore,

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

16 **Sec. 1.** 1 MRSAs §71, sub-§7-A, ¶B, as enacted by
17 PL 1987, c. 705, §2, is amended to read:

18 B. In preparing any legislation which amends a
19 section or larger division of the **Maine Revised**
20 **Statutes statutes**, the Revisor of Statutes shall
21 be authorized to change any masculine or feminine
22 gender word to a gender-neutral word when it is
23 clear that the statute is not exclusively
24 applicable to members of one sex. The Revisor of
25 Statutes shall not otherwise alter the sense,
26 meaning or effect of any statute.

27 **Sec. 2.** 1 MRSAs §71, sub-§7-A, ¶C is enacted to
28 read:

29 C. The rule of construction concerning gender on
30 the effective date of an Act or resolve shall
31 apply to that Act or resolve.

32 **Sec. 3. Effective date.** That section of this
33 Act which amends the Maine Revised Statutes, Title 1,
34 section 71, subsection 7-A, paragraph B, shall take

1 effect 91 days after adjournment. That section of
2 this Act which enacts the Maine Revised Statutes,
3 Title 1, section 71, subsection 7-A, paragraph C,
4 shall take effect 91 days after adjournment.

5 **Sec. 4.** PL 1987, c. 705 is amended by adding at
6 the end the following:

7 **Sec. 3. Application.** This Act shall take
8 effect 91 days after adjournment and shall only apply
9 to Acts and resolves approved after that date.

10 **Sec. 5.** 4 MRSA §1057, sub-§2, as enacted by PL
11 1987, c. 339, §3, is amended to read:

12 2. Surcharge imposed. A surcharge of 10% shall
13 be added to every fine, forfeiture or penalty imposed
14 by any court in this State, which, for the purposes of
15 collection and collection procedures, shall be
16 considered a part of the fine, forfeiture or penalty.
17 All funds collected as a result of this surcharge
18 shall be deposited monthly in the Jail Operations
19 Surcharge Fund.

20 **Sec. 6.** 5 MRSA §19202, first ¶, as amended by
21 PL 1987, c. 651, is further amended to read:

22 The Committee to Advise the Department of Human
23 Services on AIDS, as established by section 12004,
24 subsection 10, shall consist of not less than 26 27
25 members nor more than 30 31 members to include
26 representation of: One allopathic physician from
27 nominees submitted by the Maine Medical Association;
28 one osteopathic physician from nominees submitted by
29 the Maine Osteopathic Association; one nursing home
30 administrator from nominees submitted by the Maine
31 Health Care Association; one funeral director from
32 nominees submitted by the Maine Funeral Directors
33 Association; one social worker from nominees submitted
34 by the Maine Chapter of the National Association of
35 Social Workers; one public school administrator from a
36 local school district from nominees submitted by the
37 Maine Superintendents Association; one nurse from
38 nominees submitted by the Maine State Nurses
39 Association; one representative from nominees

1 submitted by the Maine Hospice Council; one teacher
2 from nominees submitted by the Maine Teachers
3 Association; 3 members of the high risk community one
4 of whom must be a person afflicted with hemophilia;
5 one insurance industry representative; one employee of
6 a community mental health center; one dentist from
7 nominees submitted by the Maine Dental Association;
8 one state employee from nominees submitted by the
9 Maine State Employees Association; 2 members of the
10 public, including one parent of a school-age child;
11 the Commissioner of Human Services or his designee who
12 shall serve during the commissioner's term of office;
13 one psychologist from nominees submitted by the Maine
14 Psychological Association; one state employee from
15 nominees submitted by the American Federation of
16 State, County and Municipal Employees; one member
17 representing hospitals from nominees submitted by the
18 Maine Hospital Association; one member representing
19 public health professionals from nominees submitted by
20 the Maine Public Health Association; one
21 representative of a nonprofit hospital or medical
22 service organization; one substance abuse counselor;
23 one member of the clergy; and 2 Legislators, one
24 member of the House of Representatives appointed by
25 the Speaker of the House and one Senator appointed by
26 the President of the Senate. The members, except for
27 those specifically designated in this paragraph, shall
28 be appointed by the Governor for their competence and
29 experience in connection with these fields.

30 **Sec. 7. Effective date.** That section of this
31 Act which amends the Maine Revised Statutes, Title 5,
32 section 19202, first paragraph, shall take effect 90
33 days after adjournment.

34 **Sec. 8.** 7 MRSA §44, first ¶, as enacted by PL
35 1987, c. 650, is amended to read:

36 An abutting landowner or the municipality may
37 institute any of the following proceedings with the
38 zoning municipal board of appeals, or, if none, with
39 the municipal body which hears zoning appeals:
40 officers.

41 **Sec. 9.** 7 MRSA §44, sub-§3, as enacted by PL

1 1987, c. 650, is amended to read:

2 3. Appeals. A decision made by a municipal body
3 under this section may be appealed by any aggrieved
4 party as allowed by law for appeals of decisions made
5 by a zoning municipal board of appeals.

6 Sec. 10. 12 MRSA §8603, as amended by PL 1987,
7 c. 402, Pt. A, §98, is further amended to read:

8 §8603. Annual timber-cut report

9 Owners or operators of all primary wood-using
10 sawmills and primary processors of veneer wood,
11 cordwood, boltwood, pulpwood, posts, poles, piling,
12 fence rails and commercial processors of fuel wood who
13 annually process more than 20 cords, except for
14 domestic use and not for sale or conversion into
15 products for sale, shall render an annual report to
16 the director during the month of January of each year
17 of the amount of softwoods and hardwoods processed by
18 species within the State by them during the preceding
19 calendar year and showing the county or counties from
20 which the wood was taken. Persons transporting
21 roundwood out of State for the same purposes shall
22 render the same report. Forms for this report shall
23 be provided by the director. Information contained in
24 the reports shall not be made public by reference to
25 individuals.

26 Sec. 11. 14 MRSA §3143, 2nd ¶, as enacted by PL
27 1987, c. 414, §2, is amended to read:

28 The notice shall advise the person that he was
29 summoned or ordered to answer for a civil violation or
30 a traffic infraction and failed to appear on the date
31 directed. The notice shall set a new date and time
32 for the person's appearance to answer the civil
33 violation or traffic infraction and shall inform the
34 person that failure to appear on this occasion will
35 result in the adjudication of the person having
36 committed the offense and the imposition of a ~~fine~~
37 penalty as provided by law. Notice under this section
38 shall be complete upon mailing.

1 **Sec. 12.** 14 MRSA §3143, 3rd ¶, as amended by PL
2 1987, c. 708, §13, is further amended to read:

3 Notwithstanding the Maine Rules of Civil
4 Procedure, Rule 55, or the Maine District Court
5 Rules of Civil Procedure, Rule 55, if a person who
6 has been summoned or ordered to answer for a civil
7 violation or a traffic infraction fails to appear, has
8 been mailed notice as provided in this section and
9 thereafter again fails to appear, the court, on its
10 own motion, shall adjudicate the defendant to have
11 committed the offense and shall impose a fine
12 penalty as provided by law. In the case of an
13 adjudication for a traffic infraction, the court shall
14 immediately suspend the defendant's license or permit
15 to operate motor vehicles in this State or the right
16 to apply for or obtain a license or permit to operate
17 motor vehicles in this State, in accordance with Title
18 29, section 2301-A. Relief from a default judgment
19 entered pursuant to this section may be addressed to
20 the court and may be granted in the court's discretion
21 upon a finding that it will further the interest of
22 justice.

23 **Sec. 13.** Effective date. Those sections of
24 this Act which amend the Maine Revised Statutes, Title
25 14, section 3143, shall take effect 90 days after
26 adjournment.

27 **Sec. 14.** 22 MRSA §13758, sub-§4, as enacted by
28 PL 1987, c. 710, §5, is amended to read:

29 4. Form. Registration forms shall state:
30 Applicant's name; address; day phone; 24-hour phone;
31 ownership status; manufacturer or wholesaler
32 designation; Drug Enforcement Agency and Federal Drug
33 Administration members numbers; and date executed.
34 Registration forms shall be executed by an owner or
35 officer of the entity, providing printed name and
36 title.

37 **Sec. 15.** 26 MRSA §844, sub-§1, as enacted by PL
38 1987, c. 661, is amended to read:

1 1. Family medical leave entitlement. Every
2 employee who has been employed by the same employer
3 for 12 consecutive months is entitled to up to 8
4 consecutive work weeks of family medical leave in any
5 2 years unless employed at a permanent work site with
6 fewer than 25 employees. The following conditions
7 apply to family medical leave granted under this
8 subchapter:

9 A. The employee must give at least 30 days
10 days' notice of the intended date upon which
11 family medical leave will commence and terminate,
12 unless prevented by medical emergency from giving
13 that notice;

14 B. The employer may require certification from a
15 physician to verify the amount of leave requested
16 by the employee; and

17 C. The employer and employee may negotiate for
18 more or less leave, but both parties must agree.

19 Sec. 16. Effective date. The section of this
20 Act which amends the Maine Revised Statutes, Title 26,
21 section 844, subsection 1, shall take effect 90 days
22 after adjournment.

23 Sec. 17. PL 1987, c. 559, Pt. B, §54 is amended
24 to read:

25 Sec. 54. Applicability. Sections 15, 17 to 19,
26 21 to 38 and 41 to 43 of Part B of this Act apply only
27 to injuries occurring on or after the effective date
28 of this Act. Section 14 of Part B of this Act applies
29 only to injuries occurring on or after July 1, 1989.

30 Sec. 18. PL 1987, c. 633, §3, first 2 lines are
31 repealed and the following enacted in their place:

32 Sec. 3. 34-A MRSA §3003, sub-§1, ¶D is enacted
33 to read:

34 Sec. 19. Effective date. That section of this
35 Act which amends Public Law 1987, chapter 633, section
36 3, the first 2 lines, shall take effect 90 days after

1 adjournment.

2 Emergency clause. In view of the emergency
3 cited in the preamble, this Act shall take effect when
4 approved.

5 STATEMENT OF FACT

6 Sections 1 to 4 are necessary to provide a
7 transition for the effective implementation of the
8 gender-neutral rule of construction adopted by the
9 Legislature.

10 Section 5 clarifies the law which established the
11 Jail Operation Surcharge Fund to specify that the
12 surcharge shall be considered a part of the fine for
13 collection purposes.

14 Section 6 provides a correction to reflect the
15 addition of a member to the Committee to Advise the
16 Department of Human Services on AIDS.

17 Sections 8 and 9 correct an improper reference to
18 a "zoning" board of appeals; the proper reference is
19 simply to a "municipal" board of appeals since a town
20 can have a board of appeals without it hearing zoning
21 appeals. It also provides that if no board of appeals
22 exists, the appeal is to the municipal officers rather
23 than to "the municipal body which hears zoning
24 appeals." The law's present provisions do not make
25 sense since if a municipality has zoning controls, it
26 must, by law, have a board of appeals.

27 Section 10 makes the reporting requirements
28 consistent for wood that is processed in this State
29 with wood that is transported out of this State.

30 Sections 11 and 12 delete a reference to the Maine
31 District Court Rules of Civil Procedure, which no
32 longer exist, and correct an improper direction to the
33 District Court to impose a fine upon persons who
34 receive a default judgment for failure to appear in

1 court. Some civil violations and traffic infractions
2 are not punishable by a fine, but may be punishable
3 only by a license suspension or other action. Present
4 law requires the court to impose a sanction which it
5 has no authority to impose in some instances. The
6 bill corrects this situation by simply requiring the
7 court to impose a "penalty as authorized by law."

8 Section 14 corrects a technical error regarding
9 registration information required from out-of-state
10 drug manufacturers.

11 Section 15 clarifies the intent of the Senate
12 amendment to the original bill which exempted
13 employers with 25 employees at one location.

14 Section 17 clarifies that the calculation of the
15 average weekly wage for seasonal workers is to be
16 applied only to persons who are injured on or after
17 July 1, 1989.

18 Section 18 makes a technical correction to an
19 amending clause.

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