

MAINE STATE LEGISLATURE

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L.D. 2045

(Filing No. S-573)

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STATE OF MAINE
SENATE
114TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 794, L.D. 2045, Bill, "An Act to Amend Certain Laws Dealing with Motor Vehicle Inspections"

Amend the bill by striking out everything after the title and before the statement of fact and inserting in its place the following:

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

Whereas, the effective date of the federal regulations concerning the inspection of commercial motor vehicles has been changed from December 7, 1989, to July 1, 1990, and state laws and corresponding rules that mirror the federal regulations should go into effect simultaneously; and

Whereas, certain laws affecting altered motor vehicles become effective March 1, 1990, and it is in the best interest of the vehicle owners and the responsible state agencies to delay the effective date until March 1, 1991; 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:

PART A

Sec. A-1. 29 MRSA §112, as enacted by PL 1989, c. 515, §§2 and 16, is repealed.

Sec. A-2. 29 MRSA §2502, sub-§4, as enacted by PL 1989, c. 515, §§8 and 16, is repealed.

2 4. Application of laws and rules. All laws and rules,
4 other than those preempted by this section, applying to motor
6 vehicle inspections and pertaining to the license holder,
 inspection mechanic and the State Police, apply to the
 inspections required by this section.

8 5. Vehicles exempt from annual inspection. When used
10 exclusively in intrastate commerce the following vehicles are
 exempt from the requirements of this section:

12 A. Any trailer or semitrailer with a gross weight,
14 including any load, that does not exceed 3,000 pounds; and

16 B. Any semitrailer designed and used exclusively for
18 dispensing cable from reels attached to the semitrailer,
20 commonly called a reel trailer, and any semitrailer designed
22 and used exclusively to support the ends of poles being
 transported, commonly called a pole dolly, when the gross
 weight of that semitrailer and load does not exceed 12,000
 pounds.

24 6. Proof of inspection. Proof of inspection must be shown
26 either by a report that certifies the accuracy and completeness
28 of the inspection as complying with all the requirements of this
30 section or by an inspection sticker placed on the commercial
 motor vehicle, trailer or semitrailer. If proof is shown by a
 report, the report must be produced on the demand of a police
 officer.

32 7. Vehicles registered or inspected in another state. In
34 addition to the exemptions of section 2506, and regardless of its
36 state of registration, any trailer or semitrailer subject to this
38 section displaying a valid certificate of motor vehicle
 inspection from any state or federally approved commercial
 vehicle inspection program is exempt from inspection under this
 section until the normal expiration of its certificate of
 inspection.

40 Sec. B-4. Effective date. This Part of this Act takes effect
42 July 1, 1990.

PART C

44 Sec. C-1. 25 MRSA §2103-A. as amended by PL 1987, c. 789,
46 §1, is further amended to read:

§2103-A. Adoption of rules

50 The Commissioner of Public Safety shall, ~~in accordance with~~
52 ~~the Maine Administrative Procedure Act, Title 5, chapter 375,~~
 adopt state rules to adopt by reference the rules federal

2 regulations as found in the 49 Code of Federal Regulations, Parts
3 107, 171, 172, 173, 174, 177, 178, 179, 387 and 397, as amended,
4 and subsequently shall adopt state rules to adopt by reference
5 every subsequent amendment to those federal regulations. If any
6 part of this chapter is found to be in violation of the United
7 States Constitution or the Constitution of Maine, it shall have
8 no effect on the remaining parts of this chapter. Except as
9 provided in this section, the Maine Administrative Procedure Act,
10 Title 5, chapter 375, does not apply to those adoptions.

11 1. Content of state rules. Any state rule adopted under
12 this section must contain a brief description of the substance of
13 the referenced federal regulations or amendments and instructions
14 for obtaining a copy or a certified copy of those federal
15 regulations or amendments from the appropriate federal agency.

16 2. Filing, publication and availability of rules. For
17 every state rule adopted under this section:

18 A. The commissioner shall file with the Secretary of State:

19 (1) A certified copy of the state rule adopting by
20 reference that federal regulation or a subsequent
21 amendment;

22 (2) A published copy of the federal regulation or
23 amendment as printed in the Federal Register; and

24 (3) Annually, a published copy of the updated volume
25 of the Code of Federal Regulations containing the
26 federal regulations in question;

27 B. The commissioner shall supply, without cost or at actual
28 cost, copies of each state rule to any person who has filed
29 with the agency within the past year a written request to be
30 supplied with all copies of the agency's rules, and to any
31 other person on request. The commissioner shall also make
32 available for inspection at no charge, and for copying at
33 actual cost, a current published copy of the referenced
34 federal regulations, but requests for purchase of copies or
35 certified copies of the federal regulations may be directed
36 to the appropriate federal agency;

37 C. The Secretary of State shall publish, pursuant to the
38 procedures set forth in Title 5, section 8053, subsection 5,
39 a notice containing the following information:

40 (1) A statement that the state rule has been adopted
41 and its effective date;

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2 (2) A brief description of the substance of the state
4 rule and the referenced federal regulations or
6 amendments; and

8 (3) The addresses where copies of the state rule and
10 the federal regulations and amendments may be obtained;
12 and

14 D. The Secretary of State shall maintain and make available
16 at the Secretary of State's office, for inspection at no
18 charge and for copying or purchase at actual cost, current
20 copies of those state rules as filed in accordance with
22 paragraph A and include them within the compilations subject
24 to Title 5, section 8056, subsection 3, paragraphs A-1 and
26 B. The Secretary of State shall also make available at the
28 Secretary of State's office, for inspection at no charge,
30 and for copying at actual cost, a current published copy of
32 the referenced federal regulations and amendments, but
34 requests for purchase of copies or certified copies of the
36 federal regulations or amendments may be directed to the
38 appropriate federal agency.

40 3. Effective date; emergency rules. A rule adopted under
42 this section may not take effect until at least 5 days after
44 filing with the Secretary of State under subsection 2, paragraph
46 A, except that, if the commissioner finds that immediate adoption
48 of the rule is necessary to avoid an immediate threat to public
50 health, safety or general welfare, the commissioner may adopt the
rule as an emergency rule in accordance with Title 5, section
8054, and that rule takes effect immediately.

32 **Sec. C-2. 29 MRSA §1369-A, sub-§2, ¶B,** as enacted by PL 1989,
34 c. 481, Pt. A, §24, is amended to read:

36 B. The provisions of subsection 1, paragraphs C and D, do
38 not apply to side windows behind the operator's seat or the
40 rear window of the following motor vehicles, provided that
the vehicle is equipped with 2 outside rear view mirrors,
one on each side, adjusted so that the operator has a clear
view of the highway behind the vehicle:

42 (1) A bus operated-for-compensation that transports
44 passengers for hire; or

46 (2) A motor vehicle used to transport human remains by
48 a funeral establishment, as described in Title 32,
50 section 1501, or by a medical examiner, appointed
pursuant to Title 22, sections 3022 or 3023; or

(3) A limousine that regularly transports passengers
for hire, has a carrying capacity of more than 6

2 passengers and whose owner is required to obtain an
3 operating permit pursuant to section 2703.

4 **Sec. C-3. 29 MRSA §1369-A, sub-§3**, as enacted by PL 1989, c.
5 481, Pt. A, §24, is repealed and the following enacted in its
6 place:

7 **3. Light transmittance certificate.** The owner or operator
8 of any motor vehicle with tinted windows shall acquire a light
9 transmittance certificate and shall show the certificate to the
10 inspection mechanic at the time of inspection to prove compliance
11 with section 2503, subsection 2, and this section. The
12 certificate must be on a form approved by the Bureau of State
13 Police. Any person who, for compensation, installs tinted
14 replacement windows or window tinting materials may issue a
15 certificate for any motor vehicle that complies with the light
16 transmittance standards of subsections 1 and 2, and shall ensure
17 compliance and issue a certificate for any vehicle on which that
18 person has installed the tinted window or tinting material.

19 **Sec. C-4. 29 MRSA §1653, 3rd ¶**, as enacted by PL 1989, c. 528,
20 §5, is amended to read:

21 If the weight of the vehicle exceeds the allowable gross
22 weight, including the weight specified in any applicable
23 commodity permit, by 20% or more, the police officer shall affix
24 an out-of-service sticker to the windshield until the vehicle is
25 brought into compliance with the prescribed weight limits and
26 shall require that no person move the vehicle until it is brought
27 into compliance. Any person who moves that vehicle before it is
28 brought into compliance and the out-of-service sticker has been
29 signed by a police officer to attest to that fact is guilty of a
30 Class E crime. When the vehicle is brought into compliance, that
31 fact may be attested by any police officer, who shall sign the
32 out-of-service sticker and ~~and then return the attested~~
33 ~~out-of-service sticker or portion of that sticker to the Bureau~~
34 ~~of State Police.~~ Any owner or operator who fails to have the
35 out-of-service sticker attested and ~~returned~~ or who fails to
36 return or deliver the attested out-of-service sticker or attested
37 portion of that sticker to the Bureau of State Police within 15
38 days of issuance is guilty of a traffic infraction.

39 **Sec. C-5. 29 MRSA §2502, first ¶**, as amended by PL 1989, c. 71,
40 §§8 and 9, and c. 481, Pt. A, §40, is repealed and the following
41 enacted in its place:

42 Except as provided in this chapter or section 2017, all
43 motor vehicles required to be registered in this State are
44 subject to an annual inspection as provided in this chapter. The
45 owner of any motor vehicle subject to inspection may have the
46 vehicle inspected at any time and on a more frequent basis than
47 annually.

2 Sec. C-6. 29 MRSA §2707, as amended by PL 1987, c. 781, §§8
and 15, is repealed and the following enacted in its place:

4 §2707. Rules

6 1. Adoption of federal regulations by reference. The
8 Bureau of State Police may adopt state rules to adopt by
10 reference the federal regulations as found in 49 Code of Federal
12 Regulations, Parts 40, 390, 391, 392, 393, 395 and 396, as
14 amended, and may subsequently adopt state rules to adopt by
16 reference any subsequent amendment to those federal regulations.
18 If the bureau declines to adopt or adopts with modification any
20 of these federal regulations, that action is subject to
22 subsection 2. Except as provided in this section, the Maine
 Administrative Procedure Act, Title 5, chapter 375, does not
 apply to those adoptions. Any state rule adopted under this
 subsection must contain a brief description of the substance of
 the federal regulations or amendments and instructions for
 obtaining a copy or a certified copy of those federal regulations
 or amendments from the appropriate federal agency. For every
 state rule adopted by reference under this subsection:

24 A. The bureau shall file with the Secretary of State:

26 (1) A certified copy of the state rule adopting by
28 reference that federal regulation or a subsequent
 amendment;

30 (2) A published copy of the federal regulation or
32 amendment as printed in the Federal Register; and

34 (3) Annually, a published copy of the updated volume
36 of the Code of Federal Regulations containing the
 federal regulations in question;

38 B. The bureau shall supply, without cost or at actual cost,
40 copies of each state rule to any person who has filed with
42 the agency within the past year a written request to be
44 supplied with all copies of the agency's rules, and to any
46 other person on request. The bureau shall also make
 available for inspection at no charge, and for copying at
 actual cost, a current published copy of the referenced
 federal regulations, but requests for purchase of copies or
 certified copies of the federal regulations may be directed
 to the appropriate federal agency;

48 C. The Secretary of State shall publish, pursuant to the
50 procedures set forth in Title 5, section 8053, subsection 5,
 a notice containing the following information:

1. 9. 15

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- 2 (1) A statement that the rule has been adopted and its
effective date;
- 4 (2) A brief description of the substance of the state
rule and the referenced federal regulations or
6 amendments; and
- 8 (3) The addresses where copies of the state rule and
the federal regulations and amendments may be obtained;

10 D. The Secretary of State shall maintain and make available
12 at the Secretary of State's office, for inspection at no
14 charge and for copying or purchase at actual cost, current
16 copies of those state rules as filed in accordance with
18 paragraph A and include them within the compilations subject
20 to Title 5, section 8056, subsection 3, paragraphs A-1 and
22 B. The Secretary of State shall also make available at the
24 Secretary of State's office, for inspection at no charge,
and for copying at actual cost, a current published copy of
the referenced federal regulations and amendments, but
requests for purchase of copies or certified copies of the
federal regulations or amendments may be directed to the
appropriate federal agency; and

26 E. A rule adopted under this section may not take effect
28 until at least 5 days after filing with the Secretary of
30 State under paragraph A, except that, if the bureau finds
32 that immediate adoption of the rule is necessary to avoid an
immediate threat to public health, safety or general
welfare, the bureau may adopt the rule as an emergency rule
in accordance with Title 5, section 8054, and that rule
takes effect immediately.

34 2. Rulemaking; general. In addition to the provisions of
36 subsection 1, the Bureau of State Police may, in accordance with
38 the Maine Administrative Procedure Act, Title 5, chapter 375,
40 modify or decline to adopt any of the federal regulations or
42 amendments referenced in this section, and may make such other
44 rules as it determines necessary or advisable to ensure proper
enforcement of this chapter and to promote the safety of the
operation of motor carriers over the highways. This authority
includes the right to make rules relating to the length of duty
of drivers.

46 3. Cooperative agreements. The Bureau of State Police may
48 enter into and make cooperative agreements with the Interstate
50 Commerce Commission and the United States Department of
52 Transportation to enforce the laws and regulations of the United
States and this State concerning highway transportation. For
vehicles regulated under this chapter, if a conflict exists
between the safety rules and other laws requiring safety
equipment, the safety rules take precedence.

2 Any permit issued under this subsection must contain such
3 information as the Chief of the State Police requires.

4
5 4. Inspection standards. The Chief of the State Police
6 shall adopt rules to establish standards for vehicles to qualify
7 for registration as altered vehicles. These standards must
8 include the equipment and condition of the equipment and the
9 specifications for permissible modifications. Those
10 specifications must require that the installation be inspected
11 and verified by the State Police.

12
13 5. Violation. Any person who operates or causes the
14 operation on any public way of an altered vehicle that is not
15 registered as required by this section is guilty of a Class E
16 crime.

17
18 **Sec. D-2. 29 MRSA §2502, sub-§4-A is enacted to read:**

19
20 4-A. Altered vehicles. In addition to any other inspection
21 required by this chapter, any altered vehicle registered in this
22 State is subject to an annual inspection conducted by the State
23 Police. An altered vehicle that satisfies the inspection
24 requirements must be issued an altered vehicle certificate of
25 inspection that expires on the last day of the month one year
26 from the day of issuance. The fee for each inspection of an
27 altered vehicle is \$15, payable whether or not the vehicle passes
28 inspection.

29
30 **Sec. D-3. Allocation.** The following funds are allocated from
31 the Highway Fund to carry out the purposes of this Act.

32
33 **1989-90** **1990-91**

34 **PUBLIC SAFETY, DEPARTMENT OF**

35 **Motor Vehicle Inspection**

36
37 **Personal Services** **(\$11,250)** **(\$33,750)**

38
39 Provides for the deallocation
40 of funds to adjust the
41 allocation enacted pursuant
42 to Public Law 1989, chapter
43 515, due to the proposed
44 postponement of the
45 implementation of the altered
46 vehicle registration and
47 inspection program from March
48 1, 1990, to a new effective
49 date of March 1, 1991.
50
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2 **Sec. D-4. Effective date.** Sections D-1 and D-2 of this Act take effect March 1, 1991.

4 **Emergency clause.** In view of the emergency cited in the preamble, this Act takes effect when approved, except as
6 otherwise indicated.

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FISCAL NOTE

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STATEMENT OF FACT

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Enactment of this bill postpones the effective date of the altered vehicle registration and inspection program by one year. Therefore, this bill results in the collection of no inspection fees and no increased registration fees in fiscal year 1989-90, and the collection of approximately \$15,000 in fiscal year 1990-91, and adjusts the allocation and budgeted revenues accordingly. This bill will have no net effect on the Highway Fund for the biennium.'

The amendment replaces the bill and adds an emergency preamble and clause.

Part A facilitates establishment of new effective dates for certain laws as follows: sections A-1 and A-2 repeal 2 sections of law dealing with altered vehicles, which are reenacted in Part D, and section A-4 repeals 2 sections dealing with inspection of commercial vehicles, which are reenacted in Part B. Section A-3 permanently repeals a requirement for the owner to remove the inspection sticker upon private sale of a motor vehicle.

Part B enacts a revised commercial vehicle inspection law on July 1, 1990, when new federal regulations take effect. Section B-1 allows federal commercial vehicle inspections to be accepted in this State.

Sections C-1 and C-6 simplify the procedures for adoption by reference of federal regulations for transportation of hazardous materials as required by present law and for adoption by

R. U. S.

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2 reference of federal regulations for motor carrier safety by
3 exempting them from the Maine Administrative Procedure Act, while
4 requiring appropriate filing, publication and availability.
5 Under this provision the agency uses the simplified rule-making
6 procedure for the original adoption by reference of a federal
7 regulation, and then uses the simplified rule-making procedure
8 again when adopting by reference any amendment to the federal
9 regulation. Any departure from the federal regulations requires
10 rulemaking under the full Maine Administrative Procedure Act.
11 These sections do not expand or reduce the scope of the
12 rule-making authority of the agency.

13
14 This amendment does not reenact language on severability
15 removed in section C-1 from Title 25, section 2103-A, because
16 that language is surplusage given the general rule of
17 construction governing severability in Title 1, section 71,
18 subsection 8, that applies to all of the statutes. It is the
19 intent of the Legislature that the removal of the severability
20 language from Title 25, section 2103-A, has no substantive effect
21 on the severability of this chapter or the applicability of that
22 general rule of construction.

23
24 Section C-2 exempts limousines from window tinting
25 restrictions applicable to other passenger vehicles for those
26 windows behind the operator's door.

27
28 Section C-3 allows commercial installers to certify tinted
29 glass installed by others.

30
31 Section C-4 makes the owner or operator, rather than the
32 police, responsible for returning to the State Police the
33 out-of-service sticker on an overweight vehicle after the
34 overweight has been corrected.

35
36 Section C-5 makes it clear that a person may have a motor
37 vehicle inspected more frequently than annually, if desired.

38
39 Part D reenacts the altered vehicle registration and
40 inspection requirements with a new effective date of March 1,
1991.

Reported by Senator Twitchell for the Committee on Transportation
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