

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

2  
4  
6  
8  
10  
12  
14  
16  
18  
20  
22  
24  
26  
28  
30  
32  
34  
36  
38  
40  
42

STATE OF MAINE  
SENATE  
115TH LEGISLATURE  
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 849, L.D. 2162, Bill, "An Act to Correct Errors and Inconsistencies in the Laws of Maine"

Amend the bill by inserting after the enacting clause and before section 1 the following: 'PART A'

Further amend the bill by striking out all of sections 3, 5, 6, 11, 12, 18, 37, 39, 49, 52, 64, 68, 70, 74, 76, 77, 87, 93, 94, 106, 107, 108, 109, 113 and 115.

Further amend the bill by inserting at the end before the emergency clause the following:

'PART B

Sec. B-1. 4 MRSA §1151, sub-§2, as amended by PL 1991, c. 377, §2 and c. 563, §1, is repealed and the following enacted in its place:

2. Licensing jurisdiction. Except as provided in Title 5, section 1004; Title 8, section 279-B; Title 10, section 8003, subsection 5; Title 20-A, sections 10712 and 10713; Title 29; Title 32, chapters 105 and 114; and Title 35-A, section 3132, the Administrative Court has exclusive jurisdiction upon complaint of an agency or, if the licensing agency fails or refuses to act within a reasonable time, upon complaint of the Attorney General, to revoke or suspend licenses issued by the agency and has original jurisdiction upon complaint of a licensing agency to determine whether renewal or reissuance of a license of that agency may be refused. The Administrative Court has original concurrent jurisdiction to grant equitable relief in proceedings

**COMMITTEE AMENDMENT**

R. of S.

COMMITTEE AMENDMENT "A" to S.P. 849, L.D. 2162

2 initiated by an agency or the Department of the Attorney General  
alleging any violation of a license or licensing laws or rules.

4 Notwithstanding any other provisions of law, a licensing agency  
may not reinstate or otherwise affect a license suspended,  
6 revoked or modified by the Administrative Court pursuant to a  
complaint filed by the Attorney General, without the approval of  
8 the Attorney General.

10 **Sec. B-2. 5 MRSA §20, sub-§1,** as enacted by PL 1985, c. 737,  
Pt. A, §15, is amended to read:

12  
14 1. **Employee of this State.** "Employee of this State" means  
an employee in the classified or unclassified service as defined  
16 in chapters 57 and 71 and 372.

18 **Sec. B-3. 5 MRSA §88-A, sub-§2,** as amended by PL 1991, c. 249  
and c. 595, §2, is repealed and the following enacted in its  
20 place:

22 2. Issuance of card; contents. Upon receipt of a completed  
application and payment of a fee of \$5, the Secretary of State  
24 shall issue an identification card to the applicant. If a person  
is the holder of a motor vehicle operator's license bearing a  
26 photograph of the individual and issued under Title 29, chapter  
7, the Secretary of State or the Secretary of State's  
28 representative may refuse to issue an identification card. The  
Secretary of State shall design cards for persons 18 to 21 years  
of age so that they are readily distinguishable from cards for  
30 persons 21 years of age or older. Each card must contain:

- 32 A. The applicant's photograph;
- 34 B. The applicant's name and address;
- 36 C. The applicant's date of birth; and
- 38 D. Any other information and identification that the  
Secretary of State considers necessary.

40 **Sec. B-4. 10 MRSA §1013, sub-§11,** as repealed by PL 1991, c.  
42 603, §5 and amended by c. 612, §1, is repealed.

44 **Sec. B-5. 20-A MRSA §2902, sub-§§2 and 4,** as enacted by PL  
1981, c. 693, §§5 and 8, are amended to read:

46  
48 2. **Language of instruction.** Use English as the language of  
instruction except as specified under section 4602 4701;

2 4. **Commissioner's basic curriculum.** Provide instruction in  
the basic curriculum established by rule by the commissioner  
under section ~~4601, subsection-4~~ 4704;

4  
6 **Sec. B-6. 22 MRSA §680, sub-§5**, as enacted by PL 1983, c. 345,  
§§13 and 14, is amended to read:

8 5. **Exemptions.** The department may, upon application by an  
interested person, or on its own initiative, grant such  
10 exemptions from the requirements of this section as it determines  
are in the public interest. Applications for exemption under  
12 this paragraph subsection may include activities, such as, but  
not limited to, the use of licensed materials for educational or  
14 noncommercial displays or scientific collections.

16 **Sec. B-7. 22 MRSA §2649, sub-§2**, as enacted by PL 1987, c.  
18 353, §1, is amended to read:

20 2. **Existing rules.** Any rules that are adopted must be at  
least as strict as those already in existence for that body of  
water. Nothing in this section may be construed to limit in any  
22 way the authority of the municipal officers to enact ordinances  
under Title 30 ~~30-A, section-2151, subsection-7~~ section 3009,  
24 subsection 1, paragraph E, or any private and special law  
granting a water utility or municipality greater control for  
26 protecting its public water supply than those set forth in this  
section.

28  
30 **Sec. B-8. 30-A MRSA §3758, sub-§2**, as amended by PL 1989, c.  
104, Pt. C, §§8 and 10, is further amended to read:

32 2. **Penalties.** Whoever violates this subchapter or the  
rules of the Department of Transportation adopted under section  
34 3759 shall must be penalized in accordance with section 4506  
4452. Each day that the violation continues constitutes a  
36 separate offense.

38 **Sec. B-9. 30-A MRSA §4215, sub-§3**, as amended by PL 1989, c.  
40 104, Pt. C, §§8 and 10, is further amended to read:

42 3. **Penalties.** Any person who installs or orders the  
installation of any plumbing or subsurface waste-water wastewater  
disposal system without the permit required by this section or  
44 who otherwise violates this section shall must be penalized in  
accordance with section 4506 4452. The municipality or the  
46 department may seek to enjoin violations of this section.

48 **Sec. B-10. 36 MRSA §151, first and 2nd ¶¶**, as amended by PL  
1989, c. 848, §3 and c. 871, §2, are repealed and the following  
50 enacted in their place:

2           Any person who is subject to an assessment by the State Tax  
3           Assessor or entitled by law to receive notice of a determination  
4           of the State Tax Assessor and who is aggrieved as a result of  
5           that action may request in writing, within 30 days after receipt  
6           of notice of such a decision, reconsideration by the State Tax  
7           Assessor of that decision.

8  
9           If a request for reconsideration is filed within the  
10          specified time period, the State Tax Assessor shall reconsider  
11          the decision. If the person requesting reconsideration requests  
12          at the same time, in writing, an informal conference, the State  
13          Tax Assessor shall provide an opportunity for an informal  
14          conference with the person to receive additional information and  
15          to hear argument regarding the protested decision. The State Tax  
16          Assessor shall give the person 10 working days' notice of the  
17          time and place of the conference. The conference may be held with  
18          less than 10 working days' notice if a mutually convenient time  
19          and place can be arranged between the person and the State Tax  
20          Assessor. The reconsideration, with or without an informal  
21          conference, is not an adjudicatory proceeding as defined in Title  
22          5, section 8002.

23           **Sec. B-11. 36 MRSA §4435**, as enacted by PL 1987, c. 772, §35,  
24           is amended to read:

25           **§4435. Report of conviction**

26  
27           Any district attorney's office which ~~that~~ prosecutes a  
28           dealer for trafficking in or furnishing marijuana or scheduled  
29           drugs, with respect to all or part of those scheduled drugs or  
30           marijuana ~~referred to in subsection 1~~, shall report, upon  
31           conviction of the dealer, the conviction to the State Tax  
32           Assessor within 30 days of the conviction. The report shall ~~must~~  
33           contain such information as may be required by the State Tax  
34           Assessor.  
35           

36  
37           **Sec. B-12. 39 MRSA §21-A, sub-§1**, as enacted by PL 1985, c.  
38           249, §4, is amended by amending the first 3 paragraphs to read:

39           **1. Private employers.** Every private employer is subject to  
40           this Act and shall secure the payment of compensation in  
41           conformity with this section, section 22-A and sections 22 23 to  
42           27 with respect to all employees, subject to the provisions of  
43           this section.  
44           

45           Any private employer who has not secured the payment of  
46           compensation under this section, section 22-A and sections 22 23  
47           to 27 is not entitled, in a civil action brought by an employee  
48           or his the employee's representative, for personal injuries or  
49

2 death arising out of and in the course of his employment, to the  
3 defense set forth in section 3. The employee of any such  
4 employer may, instead of bringing a civil action, claim  
5 compensation from the employer under this Act.

6 The following employers are not liable under this section for  
7 securing the payment of compensation in conformity with this  
8 section, section 22-A and sections 22 23 to 27 with respect to  
9 the employees listed, nor deprived of the defenses listed in  
10 section 3:

12 **Sec. B-13. PL 1989 c. 501, Pt. O, §22**, as amended by PL 1989, c.  
13 596, Pt. C, §8; c. 600, Pt. B, §§9 and 10; and c. 878, Pt. D,  
14 §§14 and 15, is repealed and the following enacted in its place:

16 **Sec. 22. Effective date.** Sections 1 to 6 of this Part take  
17 effect December 5, 1990. Sections 7, 9, 11, 12, 14, 15 and 17  
18 take effect September 4, 1989. Sections 10, 13 and 16 take  
19 effect December 3, 1990.

20 **Sec. B-14. Retroactivity.** The section of this Act that repeals  
21 and replaces Public Law 1989, chapter 501, Part O, section 22  
22 takes effect retroactive to July 1, 1989.

24 **Sec. B-15. PL 1991, c. 597, §34** is enacted to read:

26 **Sec. 34. Effective date.** Sections 4 and 5 of this Act take  
27 effect on January 1, 1992.

30 **Sec. B-16. Retroactivity.** The section of this Act that enacts  
31 Public Law 1991, chapter 597, section 34 takes effect retroactive  
32 to January 1, 1992.

34 **PART C**

36 **Sec. C-1. 10 MRSA §1013, sub-§13**, as enacted by PL 1991, c.  
37 612, §2, is amended to read:

40 **13. Higher Education Loan Program.** The Higher Education  
41 Loan Program as established in Title 20-A, chapter 417-B 417-C.

42 **Sec. C-2. 10 MRSA §1415-F**, as enacted by PL 1989, c. 75, §7,  
43 is amended to read:

46 **§1415-F. Manual of Accepted Practices**

48 The ~~director~~ commissioner shall prepare a Manual of Accepted  
Practices, ~~which shall consist~~ that consists of building

COMMITTEE AMENDMENT "A" to S.P. 849, L.D. 2162

procedures and building materials to enable builders of one-family and 2-family structures to conform to the residential standards in section 1415-C.

Sec. C-3. 20-A MRSA §13016, sub-§1, ¶C, as enacted by PL 1983, c. 845, §4, is amended to read:

C. Notwithstanding paragraphs A and B, the commissioner may grant an extension for not more than 2 years based on:

(1) The recommendation of the superintendent;

(2) The recommendation of the support system which that includes a Teacher Action Plan describing the goals to be met by the teacher to achieve a professional certificate, specific steps needed to achieve those goals, and criteria for measuring whether those steps have been successfully completed;

(3) If there is an inconsistency between the recommendations in subparagraphs (1) and (2), the commissioner may hold a fact-finding hearing in the school administrative unit where the teacher is employed. At the hearing, the Teacher Action Plan, superintendent's recommendations and support system recommendations shall must be presented. With the consent of the teacher the hearing may be open to the public; and

Sec. C-4. 38 MRSA §352, sub-§5-A, as amended by PL 1991, c. 591, Pt. U, §1, is further amended in that part designated "TABLE I" by repealing that part relating to "TITLE 38" "SECTION 590" and inserting in its place the following:

590. Air emissions license

See section 353-A

Sec. C-5. 39 MRSA §52-B, 2nd ¶, as enacted by PL 1991, c. 615, Pt. A, §27, is amended to read:

In order to qualify for reimbursement for health care services provided to employees under this Title, health care providers providing individual health care services and courses of treatment may not charge more for the services or courses of treatment for employees than is charged to private 3rd-party payers payors for similar services or courses of treatment. An employer is not responsible for charges that are determined to be excessive or treatment determined to be inappropriate by an independent medical examiner pursuant to section 92-A 92-B.

Sec. C-6. 39 MRSA §52-D, sub-§1, as enacted by PL 1991, c. 615, Pt. D, §5, is amended to read:

2  
4  
6  
8  
10  
12  
14  
16  
18  
20  
22  
24  
26  
28  
30  
32  
34  
36  
38  
40  
42  
44  
46  
48  
50

1. **Purpose.** To ensure quality treatment for injured employees and to provide reasonable and proper health care services, the Medical Coordinator shall develop and implement a medical utilization review and case management program consistent with the requirements of this section. The Medical Coordinator shall utilize independent medical examiners from the lists maintained pursuant to section 92-A 92-B to perform the medical utilization review and case management.'

Further amend the bill by renumbering the sections to read consecutively.

**STATEMENT OF FACT**

This amendment strikes 25 sections from the original bill. Some of these sections are corrected and restored in Part B of this amendment. Others are deleted because they are substantive or are covered in other bills.

This amendment adds a Part B to the bill that restores 14 sections stricken from the original bill and makes technical changes to accomplish the intent of the original bill.

Section B-1 adds decisions related to harness racing to the list in the Maine Revised Statutes, Title 4, section 1151 of exceptions to the jurisdiction of the Administrative Court. This change is necessary to reflect changes made in 1989 in parallel provisions in Title 5, section 10051 that were inadvertently not included in Title 4, section 1151.

Section B-2 adds an additional chapter to the corrected cross-reference.

Section B-3 includes provisions that were enacted in 1991 and omitted from the original bill.

Section B-4 deletes a subsection amended in the original bill because the program described has been repealed.

Sections B-5 to B-7 correct references that are incorrect in the original bill.

Sections B-8 and B-9 correct syntax in the original bill.

Section B-10 changes the word "petitioner" to the word "person" in the next to the last sentence to reflect changes in terminology that were enacted in 1990.



COMMITTEE AMENDMENT "A" to S.P. 849, L.D. 2162

2 Section B-11 eliminates an improper cross-reference that is  
unnecessary.

4 Section B-12 corrects references that are incorrect in the  
6 original bill.

8 Sections B-13 and B-14 correct a section in the original  
bill to correctly reflect the dates on which sections of Public  
10 Law 1989, chapter 501, Part O providing pay increases for certain  
officials were actually implemented.

12 Sections B-15 and B-16 correct provisions in the original  
14 bill that used an incorrect section number.

16 This amendment adds a Part C to the bill including sections  
making technical changes not included in the original bill.

18 Section C-1 corrects a cross-reference made necessary by the  
20 correction of duplicate section numbers in sections 42 and 43 of  
the original bill.

22 Section C-2 corrects a reference made necessary because of  
24 the relocation of responsibility for administration of energy  
standards from the former Office of Energy Resources to the  
26 Department of Economic and Community Development.

28 Section C-3 corrects punctuation to clarify the intent of  
the Maine Revised Statutes, Title 20-A, section 13016, subsection  
30 1, paragraph C.

32 Section C-4 corrects a cross-reference made necessary by  
changes in air emissions license fees in 1991.

34 Sections C-5 and C-6 correct cross-references to reflect  
36 changes in section numbering made in the 1991 Revisor's Report.

Reported by Senator Gauvreau for the Committee on Judiciary.  
Reproduced and Distributed Pursuant to Senate Rule 12.  
(3/24/92) (Filing No. S-676)