

MAINE STATE LEGISLATURE

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L.D. 10

DATE: *May 30, 1997*

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JUDICIARY

Reported by: *Senator Longley*

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STATE OF MAINE
SENATE
118TH LEGISLATURE
FIRST SPECIAL SESSION

COMMITTEE AMENDMENT "*A*" to S.P. 12, L.D. 10, Bill, "An Act to Correct Errors and Inconsistencies in the Laws of Maine"

Amend the bill by inserting after the enacting clause the following: '*PART A*'

Further amend the bill in section 7 in the first line (page 2, line 30 in L.D.) by striking out the following: "Act" and inserting in its place the following: 'Part'

Further amend the bill by striking out all of sections 8, 9 and 12.

Further amend the bill in section 22 in the first line (page 8, line 25 in L.D.) by striking out the following: "Act" and inserting in its place the following: 'Part'

Further amend the bill by striking out all of sections 23 and 24.

Further amend the bill in section 39 in the first line (page 12, line 2 in L.D.) by striking out the following: "Act" and inserting in its place the following: 'Part'

Further amend the bill in section 42 in the first line (page 12, line 22 in L.D.) by striking out the following: "Act" and inserting in its place the following: 'Part'

Further amend the bill in section 49 in the first line (page 13, line 33 in L.D.) by striking out the following: "Act" and inserting in its place the following: 'Part'

2 Further amend the bill by striking out all of sections 50,
3 51, 52, 53, 56 and 57.

4
5 Further amend the bill in section 63 in the first line (page
6 17, line 36 in L.D.) by striking out the following: "Act" and
7 inserting in its place the following: 'Part'

8
9 Further amend the bill by inserting after section 63 the
10 following:

11
12 **PART B**

13
14 **Sec. B-1. 5 MRSA §151, first ¶**, as amended by PL 1995, c. 402,
15 Pt. A, §2, and c. 505, §2 and affected by §22, is repealed and
16 the following enacted in its place:

17
18 All money received by the Treasurer of State from those
19 boards listed in section 12004-A constitutes a fund for each
20 board, which is a continuous carrying account for the payment of
21 the compensation and expenses of the members and the expenses of
22 the board and for executing the law relating to each board
23 respectively and as much of the fund as may be required is
24 appropriated for these purposes. All payments must be made from
25 the respective funds held in the State Treasury, after the
26 approval of the State Controller. In no event may these payments
27 exceed the amounts received by the Treasurer of State from the
28 treasurer of each respective board. Any balance remaining to the
29 credit of any board at the end of any year must be carried
30 forward to the next year.

31
32 **Sec. B-2. Retroactivity.** That section of this Part that repeals
33 and replaces the Maine Revised Statutes, Title 5, section 151,
34 first paragraph applies retroactively to January 1, 1996.

35
36 **Sec. B-3. 5 MRSA §3305, sub-§1, ¶L**, as repealed and replaced by
37 PL 1995, c. 625, Pt. A, §8 and amended by c. 656, Pt. A, §1, is
38 repealed.

39
40 **Sec. B-4. 5 MRSA §3305, sub-§1, ¶N**, as enacted by PL 1995, c.
41 625, Pt. A, §10, is amended to read:

42
43 N. Coordinate the development of solid waste management
44 policy including:

45
46 (1) Collecting and analyzing solid waste management
47 and recycling data from all available sources including
48 commercial and municipal entities;

49
50 (2) Preparing a solid waste management and recycling

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2 plan to be submitted to the Governor and the
Legislature by January 1, 1998 and every 2 5 years
3 thereafter; and

4
5 (3) Providing technical and financial assistance to
6 municipalities in waste reduction and recycling
activities; and

7
8 **Sec. B-5. 9-A MRSA §6-203, sub-§6**, as enacted by PL 1997, c.
10 155, Pt. F, §1 and affected by §2, is amended to read:

11 **6. Volume fees.** Volume fees paid with respect to consumer
12 credit transactions that are originated by a seller, lessor or
13 lender, other than a supervised financial organization, and that
14 are subsequently assigned to a financial institution, as defined
15 in Title 9-B, section 131, subsection 17, or to a credit union,
16 as defined in Title 9-B, section 131, subsection 12, within 30
17 days after the inception of the consumer credit transaction must
18 be allocated between within the Department of Professional and
19 Financial Regulation, between the Office of Consumer Credit
20 Regulation and the Bureau of Banking in proportion to the
21 reasonable costs of regulation of all aspects of such
22 transactions. The agreement for allocation must be established
23 by the Commissioner of Professional and Financial Regulation, in
24 consultation with the Director of the Office of Consumer Credit
25 Regulation and the Superintendent of Banking, not more frequently
26 than every 24 months.

27
28 **Sec. B-6. 15 MRSA §3203-A, sub-§7, ¶B-4**, as enacted by PL 1997,
30 c. 24, Pt. RR, §3, is amended to read:

31 B-4. Notwithstanding any other provision of law, on the
32 date that the Northern Maine Regional Juvenile Detention
33 Facility begins operating, the State is responsible for all
34 physically restrictive juvenile detention statewide, except
35 that the detention provided under subsection 1 remains the
36 responsibility of the counties. At the discretion of the
37 sheriff, a county may assume responsibility for the
38 detention of a juvenile for the first 48 hours, excluding
39 Saturdays, Sundays and legal holidays. Upon mutual
40 agreement of the Commissioner of Corrections and the sheriff
41 and upon terms mutually agreeable to them, a juvenile may be
42 further detained by a county. Any detention of a juvenile
43 by a county must be in a section of a jail or other secure
44 detention facility in compliance with paragraph A or in an
45 approved detention facility or temporary holding resource in
46 compliance with paragraph B. This paragraph does not apply
47 to a juvenile who is held in an adult section of a jail
48 pursuant to court order under paragraph C or D; section
49 3101, subsection 4, paragraph E-1; or section 3205,
50 subsection 2.

2 Appointed Special Advocate Program, who shall serve at his the
3 pleasure of the State Court Administrator. The ~~Chief-Judge-of~~
4 ~~the-District-Court~~ State Court Administrator may also appoint one
5 or more deputy directors or regional volunteer coordinators, who
6 also shall serve at his the pleasure of the State Court
7 Administrator. The ~~Chief-Judge-of-the-District-Court~~ State Court
8 Administrator shall provide necessary clerical assistance to the
9 Court Appointed Special Advocate Program, within the limit of
10 funds available.

11 **§1504. Facilities**

12 The ~~Chief-Judge-of-the-District-Court~~ State Court
13 Administrator shall provide a principal office for the Court
14 Appointed Special Advocate Program and shall arrange for such
15 facilities throughout the State as are necessary and adequate for
16 the court appointed special advocates to conduct their duties.

17 **Sec. C-2. 4 MRSA §1506**, as amended by PL 1989, c. 617, §2, is
18 further amended to read:

19 **§1506. Immunity from civil liability**

20 A person serving as a court appointed special advocate under
21 ~~contract-with~~ for the Judicial Department or as Director, deputy
22 director or regional volunteer coordinator of the Court Appointed
23 Special Advocate Program is immune from any civil liability, as
24 are employees of governmental entities, under the Maine Tort
25 Claims Act, Title 14, chapter 741, for acts performed within the
26 scope of ~~the-court-appointed-special-advocate's-or-director's~~
27 that person's duties.

28 **Sec. C-3. PL 1995, c. 665, Pt. J, §7**, is amended to read:

29 **Sec. J-7. Limit of State's obligation.** If the State's continued
30 obligation for any individual program contained in sections 2-~~and~~
31 4 and 6 of this Part exceeds the level of funding provided for
32 that program, any unexpended balances occurring in other
33 programs may be applied to avoid proration of payments for any
34 individual program. Any unexpended balances from sections 2-~~and~~
35 4 and 6 may not lapse but must be carried forward to be used for
36 the same purpose.

37 **PART D**

38 **Sec. D-1. 22 MRSA §1555-B, sub-§8, ¶B**, as enacted by PL 1997,
39 c. 305, §5, is amended to read:

40 B. A person who violates subsection 2 5 commits a civil
41 violation for which the following forfeitures may be
42 adjudged.

2 (1) For a first offense, a forfeiture of not less than
4 \$100 and not more than \$300 may be imposed. The judge,
6 as an alternative to or in addition to the forfeiture
8 permitted by this subparagraph, may assign the violator
to perform specified work for the benefit of the State,
the municipality or other public entity or a charitable
institution.

10 (2) For a 2nd offense, a forfeiture of not less than
12 \$200 and not more than \$500 may be imposed. The judge,
14 as an alternative to or in addition to the forfeiture
16 permitted by this subparagraph, may assign the violator
to perform specified work for the benefit of the State,
the municipality or other public entity or a charitable
institution.

18 (3) For all subsequent offenses, a forfeiture of \$500
20 must be imposed and that forfeiture may not be
22 suspended. The judge, in addition to the forfeiture
24 permitted by this subparagraph, may assign the violator
to perform specified work for the benefit of the State,
the municipality or other public entity or a charitable
institution.

26 **Sec. D-2. 29-A MRSA §515-A**, as enacted by PL 1997, c. 287, §1
and affected by §2, is amended to read:

28 **§515-A. Motorcycle registration plates**

30
32 Motorcycle registration plates must bear the words "Ride
34 Safe." Motorcycle registration plates issued prior to January 1,
1998 may be replaced, upon a registrant's request, by plates
36 issued under this ~~subsection~~ section. The registrant shall
surrender the original plates and pay a one-time \$5 fee for the
replacement plates.

38 Motorcycle plates issued under sections 457 and 517 are
40 exempt from this ~~subsection~~ section.

42 Further amend the bill by relettering or renumbering any
44 nonconsecutive Part letter or section number to read
consecutively.

46 **SUMMARY**

48 This amendment deletes sections from the bill that correct
50 statutory errors that are either corrected in other bills or in
Part B of this amendment. Part C of this amendment includes
changes that may be substantive in nature.

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2 Sections B-1 and B-2 replace sections 8 and 9 of the
original bill. Sections 8 and 9 corrected the conflict created
4 by the change in the name of the Board of Commercial Driver
Education and the subsequent elimination of the board. Section
6 B-1 repeals and replaces the paragraph of the statute containing
the conflict. The new version, rather than including a listing
8 of professional licensing boards, simply includes a
cross-reference to the section listing occupational and
10 professional licensing boards. This should avoid conflicts in
the future. Section B-2 makes the change retroactive to the date
12 when the Board of Driver Education was repealed.

14 Sections B-3 and B-4 replace section 12 in the original
bill. Section B-3 repeals the changes made to the Maine Revised
16 Statutes, Title 5, section 3305, subsection one, paragraph L,
concerning solid waste management and recycling plan reporting
18 dates. Section B-4 makes those reporting date changes to the
correct paragraph.

20 Section B-5 makes technical changes to Title 9-A, section
22 6-203, subsection 6 to clarify that the volume fees that are
subject to this provision are to be allocated between the Office
24 of Consumer Credit Regulation and the Bureau of Banking. Both
agencies are within the Department of Professional and Financial
26 Regulation.

28 Section B-6 corrects a reference to the Northern Maine
Regional Juvenile Detention Facility in a bill passed earlier
30 this year. Section B-7 makes the change in Section B-6 effective
on the date the earlier bill takes effect.

32 Section B-8 corrects a new subsection in the Maine Criminal
34 Code concerning committing a person into the sheriff's custody
for nonpayment of a fine. Such confinement is not technically a
36 sentence as stated in the earlier bill.

38 Sections C-1 and C-2 make changes to the Judicial
Department's statutes concerning the Court Appointed Special
40 Advocate Program. Although the position of director for the
program was created through an appropriation section in an
42 earlier bill, the statutory language was not adopted at that
time. These sections create the position of director and locate
44 the program within the Administrative Office of the Courts.

46 Section C-3 amends a supplemental budget bill from the 117th
Legislature to correct cross-references within that Part of that
48 bill.

50 Section D-1 corrects an internal cross-reference in a newly

R 48

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2 enacted section of law concerning sales of tobacco products. The
penalties provided in Title 22, section 1555-B, subsection 8,
4 paragraph B are intended to apply to minors who use false
identification for the purpose of purchasing, possessing or using
6 tobacco or tobacco-related products.

8 Section D-2 corrects an internal reference in a newly
enacted section of law concerning motorcycle registration plates.