

MAINE STATE LEGISLATURE

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R. S.

L.D. 3

DATE: March 31, 1999

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JUDICIARY

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**STATE OF MAINE
SENATE
119TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT " A " to S.P. 18, L.D. 3, 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 3, line 4 in L.D.) by striking out the following: "amends" and inserting in its place the following: 'repeals and replaces'

Further amend the bill in section 12 in subsection 11 in the last paragraph in the 3rd line (page 4, line 19 in L.D.) by striking out the following: "January 1, 1987" and inserting in its place the following: 'August 4, 1988'

Further amend the bill in section 14 in subsection 2 in the 2nd paragraph in the 3rd line (page 5, line 3 in L.D.) by striking out the following: "Committee, but ~~which~~ that rate" and inserting in its place the following: 'Committee, but which rate'

Further amend the bill in section 22 in paragraph A in the last line (page 7, line 28 in L.D.) by inserting after the following: "subsection 1" the following: 'paragraph A'

Further amend the bill by striking out all of section 30.

Further amend the bill by striking out all of sections 33 and 34.

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2 Further amend the bill in section 36 in paragraph A in
subparagraph (13) in the 3rd line (page 12, line 25 in L.D.) by
4 inserting after the following: "subsection 6;" the following:
'former'

6 Further amend the bill in section 36 in paragraph A in
subparagraph (13) in the last line (page 12, line 26 in L.D.) by
8 striking out the following: "and" and inserting in its place the
following: 'former' and by inserting after the following:
10 "subsection 5;" the following: 'Title 19-A, section 4011,
subsection 3; and Title 19-A, section 4012, subsection 5'

12 Further amend the bill in section 38 in the 2nd line (page
14 12, line 39 in L.D.) by striking out the following: "5" and
inserting in its place the following: '§5'

16 Further amend the bill in section 41 in the last line (page
18 13, line 41 in L.D.) by striking out the following: "October 1,
1997" and inserting in its place the following: 'June 30, 1998'

20 Further amend the bill by striking out all of section 46.

22 Further amend the bill in section 58 in the 2nd line (page
24 21, line 2 in L.D.) by striking out the following: "§3" and
inserting in its place the following: '§31'

26 Further amend the bill by striking out all of section 60.

28 Further amend the bill by inserting before the emergency
30 clause the following:

32 **PART B**

34 **Sec. B-1. 5 MRSA §17851, sub-§4, ¶B,** as amended by PL 1997, c.
740, §3 and c. 769, §2, is repealed and the following enacted in
36 its place:

38 B. Except as provided in section 17851-A, became a state
40 police officer after September 15, 1984 and completed 25
years of creditable service as a state police officer.

42 **Sec. B-2. 12 MRSA §7827, sub-§26,** as enacted by PL 1997, c.
739, §8, is repealed.

44 **Sec. B-3. 12 MRSA §7827, sub-§27** is enacted to read:

46 27. Unlawfully renting or leasing a personal watercraft. A
48 person is guilty of unlawfully renting or leasing a personal
watercraft if that person rents or leases a personal watercraft
50 in violation of section 7825-C.

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2 **Sec. B-4. 12 MRSA §7901, sub-§17**, as enacted by PL 1997, c.
739, §9, is repealed.

4 **Sec. B-5. 12 MRSA §7901, sub-§18** is enacted to read:

6 **18. Unlawfully renting or leasing a personal watercraft.** A
8 violation of section 7827, subsection 27 is a civil violation for
10 which a forfeiture of not less than \$200 must be adjudged. The
\$200 minimum fine may not be waived by the court.

12 **Sec. B-6. 15 MRSA §3316**, as amended by PL 1997, c. 591, §2
14 and c. 752, §25, is repealed and the following enacted in its
place:

16 **§3316. Commitment to the Department of Corrections or the**
18 **Department of Human Services**

20 **1. Sharing of information about a committed juvenile.**
Information regarding a committed juvenile must be shared as
follows.

22 A. When a juvenile is committed to a Department of
24 Corrections juvenile corrections facility or the Department
26 of Human Services, the court shall transmit, with the
28 commitment order, a copy of the petition, the order of
30 adjudication, copies of the social study, any clinical or
educational reports and other information pertinent to the
care and treatment of the juvenile.

32 B. The Department of Corrections facility or the Department
34 of Human Services shall provide the court with any
information concerning a juvenile committed to its care that
the court at any time may require.

36 **2. Indeterminate disposition.** The following provisions
38 apply to indeterminate dispositions.

40 A. A commitment of a juvenile to a Department of
42 Corrections juvenile corrections facility pursuant to
44 section 3314 must be for an indeterminate period not to
46 extend beyond the juvenile's 18th birthday unless the court
48 expressly further limits or extends the indeterminate
commitment, as long as the court does not limit the
commitment to less than one year nor extend the commitment
beyond a juvenile's 21st birthday and as long as an order
does not result in a commitment of less than one year,
unless the commitment is for an indeterminate period not to
extend beyond the juvenile's 21st birthday. Nothing in this
50 Part may be construed to prohibit the provision to a

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juvenile following the expiration of the juvenile's term of commitment of services voluntarily accepted by the juvenile and the juvenile's parents, guardian or legal custodian if the juvenile is not emancipated; except that these services may not be extended beyond the juvenile's 21st birthday.

B. A commitment of a juvenile to the Department of Human Services pursuant to section 3314 must be for an indeterminate period not to extend beyond the juvenile's 18th birthday unless the court expressly further limits the commitment.

3. Provision of services. Nothing in this chapter may prevent juveniles who are receiving services from the Department of Corrections from receiving services from the Department of Human Services.

4. Voluntary services. The following applies to voluntary services agreement provisions.

A. This chapter does not prevent a juvenile from receiving services from the Department of Corrections pursuant to a voluntary agreement with the juvenile and the juvenile's parents, guardian or legal custodian if the juvenile is not emancipated.

B. If a juvenile is placed in a residence outside the juvenile's home pursuant to a voluntary services agreement, the Commissioner of Corrections or the commissioner's designee may request the court to make a determination whether reasonable efforts have been made to prevent or eliminate the need for removal of the juvenile from the juvenile's home and whether continuation in the juvenile's home would be contrary to the welfare of the juvenile. If requested, the court shall make that determination prior to the expiration of 180 days from the start of the placement and shall review that determination not less than once every 12 months until the juvenile is no longer residing outside the juvenile's home.

Sec. B-7. 22 MRSA §1663, as enacted by PL 1983, c. 826, §1, is amended to read:

§1663. Rules

The Commissioner of Human Services is authorized and directed to adopt rules to implement this chapter to reflect widely accepted and current services which that are presently provided. The commissioner shall consult with organizations who counsel rape victims, the Maine Coalition in-Rape Against Sexual

P. of S. 2 Assault, and other appropriate parties and shall make allocations based on these recommendations.

4 **Sec. B-8. 22 MRSA §8704, sub-§4**, as amended by PL 1997, c. 525, §2, is further amended to read:

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8 **4. Rulemaking.** The board shall adopt rules necessary for the proper administration and enforcement of the requirements of this chapter. All rules must be adopted in accordance with Title 5, chapter 375, ~~subchapter II-A~~ and unless otherwise provided are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

14 **Sec. B-9. 36 MRSA §5219-K, sub-§1**, as enacted by PL 1995, c. 368, Pt. GGG, §7, is amended to read:

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18 **1. Credit allowed.** A taxpayer is allowed a credit against the tax due under this ~~chapter~~ Part equal to the sum of 5% of the excess, if any, of the qualified research expenses for the taxable year, over the base amount; and 7.5% of the basic research payments determined under subsection (e)(1)(A) of Section 41 of the Code. The term "base amount" means the average spent on qualified research expenses over the last 3 years by the taxpayer. The terms "qualified research expenses," "qualified organization base period amount," "basic research" and any other terms affecting the calculation of the credit, unless the context otherwise requires, have the same meanings as under Section 41 of the Code, as amended and in effect on December 31, 1994, but only apply to expenditures for research conducted in this State. In determining the amount of the credit allowable under this section, the State Tax Assessor may aggregate the activities of all corporations that are members of a controlled group of corporations, as defined by subsection (f)(1)(A) of Section 41 of the Code, and in addition may aggregate the activities of all entities, whether or not incorporated, that are under common control, as defined by subsection (f)(1)(B) of Section 41 of the Code.

38
40 **Sec. B-10. PL 1997, c. 795, §10** is amended to read:

42 **Sec. 10. Medicaid for persons with disabilities.** Beginning October 1, 1998 the Department of Human Services is authorized to implement the provisions of the Balanced Budget Act of 1997, Public Law 105-33, 111 Stat. 251, Section 4793 ~~4733~~ to create a Medicaid categorically needy eligibility group for individuals whose family income is less than 250% of the nonfarm income official poverty line and who, except for their earned income, would be considered to be receiving supplemental security income benefits.

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PART C

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Sec. C-1. 3 MRSA §959, sub-§1, ¶A, as enacted by PL 1995, c. 488, §2, is amended by amending subparagraph (5) to read:

(5) ~~Maine---Blueberry---Commission~~ Wild Blueberry Commission of Maine in 1999;

Sec. C-2. 3 MRSA §959, sub-§1, ¶C, as amended by PL 1997, c. 727, Pt. A, §2, is further amended by amending subparagraph (12) to read:

(12) ~~State--Board--of--Barbers~~ Board of Barbering and Cosmetology in 1997;

Sec. C-3. 3 MRSA §959, sub-§1, ¶C, as amended by PL 1997, c. 727, Pt. A, §2, is further amended by repealing subparagraph (14).

Sec. C-4. 3 MRSA §959, sub-§1, ¶C, as amended by PL 1997, c. 727, Pt. A, §2, is further amended by amending subparagraph (18) to read:

(18) ~~State Board of Substance--Abuse~~ Alcohol and Drug Counselors in 1997;

Sec. C-5. 3 MRSA §959, sub-§1, ¶C, as amended by PL 1997, c. 727, Pt. A, §2, is further amended by repealing subparagraph (20).

Sec. C-6. 3 MRSA §959, sub-§1, ¶C, as amended by PL 1997, c. 727, Pt. A, §2, is further amended by repealing subparagraph (44).

Sec. C-7. 3 MRSA §959, sub-§1, ¶C, as amended by PL 1997, c. 727, Pt. A, §2, is further amended by amending subparagraphs (48) and (49) to read:

(48) Board of Licensing of Dietetic Practice in 2005;
and

(49) Board of Complementary Health Care Providers in 2007;

Sec. C-8. 3 MRSA §959, sub-§1, ¶C, as amended by PL 1997, c. 727, Pt. A, §2, is further amended by enacting subparagraphs (50) to (52) to read:

(50) Maine Science and Technology Foundation in 2007;

(51) Board of Boiler Rules in 2007; and

(52) Board of Elevator and Tramway Safety in 2007.

Sec. C-9. 3 MRSA §959, sub-§1, ¶E, as enacted by PL 1995, c. 488, §2, is amended to read:

E. The joint standing committee of the Legislature having jurisdiction over education and cultural affairs matters shall use the following list as a guideline for scheduling reviews:

(1) Telecommunications Relay Services Advisory Council in 1997;

(2) Department of Education in 1997;

(2-A) State Board of Education in 1997;

(3) Maine Arts Commission in 1999;

(4) Maine Conservation School in 1999;

(5) Maine Historic Preservation Commission in 1999;

(5-A) Notwithstanding section 952, Maine Historical Society in 1999;

(6) Maine Library Commission in 1999;

(6-A) Maine State Cultural Affairs Council in 1999;

(6-B) Maine State Library in 1999;

(6-C) Maine State Museum in 1999;

(7) Maine State Museum Commission in 1999;

(8) Office of State Historian in 1999;

(9) Board of Trustees of the Maine Maritime Academy in 2001;

(10) Board of Trustees of the University of Maine System in 2001;

(11) Educational Leave Advisory Board in 2001;

(12) Maine Technical College System in 2001;

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2 (13) Maine Health and Higher Educational Facilities Authority in 2003; and

4 (14) Maine Educational Loan Authority in 2003.

6 **Sec. C-10. 3 MRSA §959, sub-§1, ¶F**, as enacted by PL 1995, c. 488, §2 and amended by c. 560, Pt. K, §82 and affected by §83, is further amended to read:

10 F. The joint standing committee of the Legislature having jurisdiction over human resource matters shall use the following list as a guideline for scheduling reviews:

14 ~~(1) -- Alcohol and Drug Abuse Planning Committee in 1997;~~

16 (2) Office of Substance Abuse in 1997;

18 (3) Maine Advisory Committee on Mental Retardation in 1999;

20 ~~(4) -- Maine Health Care Finance Commission in 1999;~~

22 (5) Maine Emergency Medical Services in 2001;

24 (6) Department of Human Services in 2001;

26 (7) Board of the Maine Children's Trust Incorporated in 2003;

28 (8) Governor's Committee on Employment of People with Disabilities in 2003;

30 (9) Maine Developmental Disabilities Council in 2003; and

32 (10) Department of Mental Health, Mental Retardation and Substance Abuse Services in 2005.

34 **Sec. C-11. 3 MRSA §959, sub-§1, ¶J**, as enacted by PL 1995, c. 488, §2 and as amended by PL 1997, c. 455, §31, is further amended to read:

38 J. The joint standing committee of the Legislature having jurisdiction over legal and veterans' affairs shall use the following schedule as a guideline for scheduling reviews:

40 ~~(1) --- Department of Defense, Veterans and Emergency Management in 2001;~~

42 (2) State Liquor and Lottery Commission in 1999; and

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(3) Bureau of Liquor Enforcement within the Department of Public Safety in 1999+; and

(4) Department of Defense, Veterans and Emergency Management in 2001.

Sec. C-11. 3 MRSA §959, sub-§1, ¶K, as enacted by PL 1995, c. 488, §2, is amended to read:

K. The joint standing committee of the Legislature having jurisdiction over marine resource matters shall use the following list as a guideline for scheduling reviews:

- (1) Atlantic States Marine Fisheries Commission in 1997;
- (2) Department of Marine Resources in 1997;
- ~~(3) Atlantic Sea-Run Salmon Commission in 1999;~~
- (4) Lobster Advisory Council in 1999; and
- (5) Maine Sardine Council in 1999+; and
- (6) Atlantic Salmon Authority in 2001.

Sec. C-12. 3 MRSA §959, sub-§1, ¶L, as enacted by PL 1995, c. 488, §2, is amended to read:

L. The joint standing committee of the Legislature having jurisdiction over natural resource matters shall use the following list as a guideline for scheduling reviews:

- (1) Department of Environmental Protection in 1997;
- (2) Board of Environmental Protection in 1997;
- (3) Advisory Commission on Radioactive Waste in 1999; and
- (4) Saco River Corridor Commission in 2005+; and
- (5) Board of Underground Oil Tank Installers in 2003.

Sec. C-13. 3 MRSA §959, sub-§1, ¶M, as enacted by PL 1995, c. 488, §2 and amended by PL 1997, c. 526, §14, is amended to read:

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M. The joint standing committee of the Legislature having jurisdiction over state and local government matters shall use the following list as a guideline for scheduling reviews:

- (1) Capitol Planning Commission in 1997;
- (2) State Civil Service Appeals Board in 1999;
- (3) State Claims Commission in 1999;
- (4) Maine Municipal Bond Bank in 2001;
- (5) Office of Treasurer of State in 2001;
- (6) Department of Administrative and Financial Services, except for the Bureau of Revenue Services, in 2003;
- (7) Department of the Secretary of State, except for the Bureau of Motor Vehicles, in 2003; and
- ~~(8) Local Government Records Board in 2003; and~~
- (9) State Planning Office in 2005.

Sec. C-14. 3 MRSA §959, sub-§1, ¶O, as enacted by PL 1995, c. 488, §2, is amended to read:

O. The joint standing committee of the Legislature having jurisdiction over transportation matters shall use the following schedule as a guideline for scheduling reviews:

- (1) Maine Turnpike Authority in 1997;
- (2) The Bureau of Motor Vehicles within the Department of the Secretary of State in 1999; and
- (3) The Department of Transportation in 1999; and
- (4) Maine State Pilotage Commission in 2001.

PART D

Sec. D-1. 12 MRSA §7406, sub-§10, as amended by PL 1997, c. 432, §40, is further amended to read:

10. Illegal possession. A person is guilty of illegal possession of wild animals or wild birds if that person possesses any wild animal or wild bird taken in violation of subsection 4,

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5, 6, 7, 8, 9 9-A, 9-B, 13, 16 or 17 or Title 17-A, section 402, except as otherwise provided in chapters 701 to 721.

Sec. D-2. 26 MRSA §843, sub-§3, ¶A, as enacted by PL 1987, c. 661, is amended to read:

A. Any person, sole proprietorship, partnership, corporation, association or other business entity that employs ~~25~~ 15 or more employees at one location in this State;

Sec. D-3. 36 MRSA §4695, 2nd ¶, as amended by PL 1997, c. 706, §9, is further amended to read:

An excise tax of 15¢ per case is levied and imposed upon the privilege of packing sardines and an excise tax of ~~15¢~~ 10¢ per case is levied and imposed upon the privilege of packing kippers, steaks or other canned herring products.

Sec. D-4. Retroactivity. That section of this Act that amends the Maine Revised Statutes, Title 36, section 4695 applies retroactively to April 3, 1998.

Sec. D-5. PL 1997, c. 691, §10 is amended to read:

Sec. 10. Application. Notwithstanding the Maine Revised Statutes, Title 1, section 302, sections ~~1 to 3~~ to 5 of this Act apply to all proceedings pending on the effective date of this Act except that Title 35-A, section 1311-A, subsections 1 and 2 do not apply to pending or future Public Utilities Commission proceedings in which the commission reviews a proposed sale of generation assets divested by an investor-owned electric utility pursuant to Title 35-A, section 3204.

Sec. D-6. Retroactivity. That section of this Act that amends PL 1997, chapter 691, section 10 applies retroactively to April 3, 1998.

Sec. D-7. Resolve 1997, c. 117, §1, sub-§6 is amended to read:

6. Report. The commission shall submit a report, together with any necessary implementing legislation, to the First Regular Session of the 120th Legislature by December 15, ~~2001~~ 2000.'

SUMMARY

This amendment makes the following changes to the bill.

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1. It corrects the effective date of changes concerning
Maine State Prison employee retirement benefits eligibility.
2. It corrects the cross-reference to the definition of
affiliate in the laws governing financial institutions.
3. It adds to current protection from abuse statutes
cross-references to provisions that authorize warrantless arrests.
4. It corrects the retroactivity date for corrections to
the Managing General Agents Act.
5. It deletes from the original bill and adds in a new Part
B corrections to the laws governing the unlawful renting or
leasing of personal watercraft. These corrections eliminate a
conflict in numbering and correct cross-references.
6. It adds in Part B:
- A. A section correcting a conflict in the State Police
retirement statutes; and
 - B. A correction of a conflict in the Maine Juvenile Code
concerning commitment of juveniles to the Department of
Corrections;
 - C. A section updating the name of the Maine Coalition
Against Sexual Assault;
 - D. A section correcting the rulemaking language for the
Maine Health Data Organization;
 - E. A section correcting a cross-reference in the research
expense tax credit law; and
 - F. A section correcting a cross-reference in an unallocated
section concerning Medicaid for persons with disabilities.
7. It adds updates and corrections to the State Government
Evaluation Act as Part C. It adds the following to the review
schedule for the joint standing committee having jurisdiction
over education matters:
- A. Maine Historical Society. Although the Maine Historical
Society is not a governmental entity, it is included in the
State Governmental Evaluation Act review based on its
receipt of support from the General Fund;
 - B. Maine State Cultural Affairs Council;

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C. Maine State Library; and

D. Maine State Museum.

8. It deletes from the bill and adds as Part D:

A. A change to the law defining the illegal possession of wild animals and wild birds obtained in violation of law. This is a substantive change;

B. A change to the family medical leave law to make the definition of "employer" consistent with the eligibility provisions. This amendment changes the definition of "employer" to include those with 15 or more employees; the current definition is limited to those with 25 or more employees. The family medical leave benefit entitlement was amended in 1997 to be available to employees at work sites with 15 or more employees. This change, although a substantive change to the definition, does not change the availability of benefits; and

C. A change to the resolve creating the Maine Millennium Commission on Hunger and Food Security. The original legislation required the commission to report to the Legislature on December 15, 2001. This amendment changes the reporting date to December 15, 2000.

9. It also adds in Part D:

A. A correction to the excise tax on packing herring other than sardines. In 1998, the Legislature considered a bill to increase the excise tax on packing herring from 10¢ a case to 15¢. The Joint Standing Committee on Marine Resources voted to leave the tax at 10¢ a case, but that correction was made in only one of 2 sections in the bill. This amendment changes the other section back to 10¢ a case, and makes this correction retroactive to the effective date of that bill, April 3, 1998; and

B. A correction to the application section of a 1998 law on electric industry restructuring. The application section of the committee amendment referred to sections 1 to 3 of that amendment. That amendment was amended by a floor amendment, which inserted 2 new sections at the beginning of the committee amendment. This amendment corrects that application section to apply to sections 3 to 5 of that Act. This amendment makes this correction retroactive to the effective date of that Act, April 3, 1998.

10. The amendment also makes technical changes to the bill.