

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE
AS PASSED BY THE
One Hundred and Sixth Legislature
1ST SPECIAL SESSION
JANUARY 2, 1974 TO MARCH 29, 1974
AND BY THE
One Hundred and Seventh Legislature
REGULAR SESSION
JANUARY 1, 1975 TO JULY 2, 1975

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PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
One Hundred and Seventh Legislature

1975

F. The protection of the natural environment, aesthetic and recreational uses of State waters; and

G. The protection of the fisheries or fishing industry of the State.

5. Exemption. The board may by regulation exempt certain activities not inconsistent with the purposes of this Act.

6. Prohibition. No person shall have a vessel at anchorage in Maine waters for more than 7 days without a current license from the board.

7. Licenses and fees. The board shall require a license for anchorage of a vessel in Maine waters and charge a fee of $\frac{1}{2}\text{¢}$ per deadweight ton for each 30 days of anchorage or part thereof. The board may license properly treated effluents and emissions regulated by this section consistent with the other environmental laws of the State of Maine.

8. Application for a license. Any person desiring to have a vessel at anchorage in Maine waters shall apply in writing to the board and, shall cause public notice of the application and a brief summary to be published in a paper of general circulation in the vicinity of the proposed activity and provide such information as the board may require by regulation. The board shall, within 30 days of receipt of such application, issue a license or deny a license giving the reasons therefor or order a hearing thereon. Any person denied a license without a hearing may request, in writing, within 30 days after notice of denial, a hearing before the board. Such request shall set forth in detail the findings to which he objects, the basis of such objection and the nature of the relief requested. Notice of the time and place of any hearing shall be given to the applicant and the public within 10 days of the hearing.

9. Penalty. Any person having a vessel at anchorage in Maine waters without having applied for or having been granted a license as provided in this section shall be subject to penalties provided in Title 38, sections 453 and 454.

10. Board shall solicit advice. The Board of Environmental Protection shall solicit the advice of the Commissioner of Marine Resources and the Commander of the United States Coast Guard prior to adopting any regulations under this section.

Effective October 1, 1975

CHAPTER 579

AN ACT to Reorganize the Department of Public Safety.

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

Whereas, the Department of Public Safety has been a department of State Government for a sufficient time to evaluate the strengths and weaknesses of its operation; and

Whereas, legitimate questions have been raised concerning the organization of the department and the operation of its bureaus and agencies; and

Whereas, it is necessary to strengthen the department to assure the safety and well-being of Maine citizens and the efficient management of law enforcement responsibilities of the State; and

Whereas, an opportunity has now occurred to carry out improvements in the organization of the department with minimum displacement of personnel; 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:

Sec. 1. 10 MRSA § 8001, first ¶, as last repealed and replaced by PL 1973, c. 788, § 43, is amended to read:

§ 8001. Department; commissioner

There is created and established the Department of Business Regulation to regulate financial institutions and transactions and protect depositors, to regulate the business of insurance in the State, to regulate commercial sports, to award just compensation in land condemnations, to license electricians and oil burner men and to regulate real estate brokers and salesmen. The administrative head of said department shall be the Commissioner of Business Regulation, who shall be appointed by the Governor with the advice and consent of the Council to serve a term coterminous with that of the Governor subject to removal for cause by the Governor and Council and said department shall be composed of the following bureaus, commissions and ~~board~~ boards, as heretofore created and established: The Bureau of Banks and Banking, formerly the Department of Banks and Banking; the Bureau of Insurance, formerly the Department of Insurance, except the Fire Prevention Division thereof; the Real Estate Commission; the Boxing Commission; the Running Horse Racing Commission ~~and~~; the Land Damage Board; the Electricians' Examining Board and the Oil Burner Men's Licensing Board.

Sec. 2. 10 MRSA § 8002, last ¶, as last repealed and replaced by PL 1973, c. 585, § 4, is amended to read:

The commissioner shall not have the authority to exercise or interfere with the exercise of any discretionary statutory authority granted to the following, which authority shall be exclusively within the specific bureau, commission or board: The Bureau of Banks and Banking, formerly the Department of Banks and Banking; the Bureau of Insurance, formerly the Department of Insurance; the Real Estate Commission; the Boxing Commission; the Running Horse Racing Commission; ~~and~~ the Land Damage Board; the Electricians' Examining Board and the Oil Burner Men's Licensing Board.

Sec. 3. 25 MRSA § 1501 as last amended by PL 1971, c. 592, § 6, is repealed and the following enacted in place thereof:

§ 1501. Chief; deputy; members of force; rules and regulations

The Commissioner of Public Safety, with the advice and consent of the Governor and Council, shall appoint a Chief of the State Police, as heretofore

appointed, to serve for a term of 4 years unless removed for cause. Such appointment shall be made from the commissioned officer ranks of the State Police. He may be removed by the Commissioner of Public Safety, with the approval of the Governor and Council, only after charges have been preferred in writing and, if he so requests, after public hearing.

The Chief of the State Police shall be the executive head of the Bureau of State Police, as heretofore established, and shall execute the duties of his office under the direction and subject to the approval of the Commissioner of Public Safety. In the absence of the Commissioner of Public Safety, the Chief of the State Police shall assume the duties and shall have the authority of the commissioner, except that he shall have no authority to change any general rules and regulations unless he is serving in the capacity of acting commissioner as a result of the death, removal, extended leave of absence or resignation of the commissioner.

Subject to the approval of the Commissioner of Public Safety, the chief may designate a commissioned officer of the State Police to act as his deputy and serve in such capacity a term coterminous with that of the chief, subject to removal for cause. Subject to the Personnel Law, the Chief of the State Police may enlist suitable persons as members of the State Police to enforce the law and employ such other employees as may be necessary. The Chief of the State Police shall make rules and regulations, subject to the approval of the Personnel Board, for the discipline and control of the State Police.

It is the intent of the Legislature that the Governor may in his discretion appoint the same person to serve as Commissioner of Public Safety and Chief of the Maine State Police. In this event, the Chief of the State Police shall be appointed by the Governor with the advice and consent of the Council for a term coterminous with that of the Governor, subject to removal for cause by the Governor and Council. Such appointment may be made from the commissioned officer membership of the State Police. In the event that the Commissioner of Public Safety and the Chief of the State Police are the same person, the commissioner shall receive only the salary designated for the Commissioner of Public Safety.

Sec. 4. 25 MRSA § 2396, first 2 sentences, as last repealed and replaced by PL 1973, c. 632, § 6, are amended to read:

The office of State Fire Marshal is hereby established as a bureau within the Department of Public Safety. The Commissioner of Public Safety is authorized and empowered to shall appoint, subject to the Personnel Law, a suitable person as State Fire Marshal and a person experienced in fire prevention work, who may be removed for cause by the commissioner. The State Fire Marshal shall appoint, subject to the Personnel Law, such inspectors and other employees as may be necessary to carry out the duties assigned to his office.

Sec. 5. 25 MRSA § 2801, as repealed and replaced by PL 1973, c. 136, § 1, is amended to read:

§ 2801. Maine Criminal Justice Academy; purpose

There is created within the Department of Public Safety a law enforcement and criminal justice training facility to be known as the "Maine Criminal Jus-

Academy" which shall be established at some convenient and suitable place in the Augusta area ~~as the board of trustees, hereinafter established may determine.~~

The purpose of the Maine Criminal Justice Academy shall be to provide a central training facility for all law enforcement personnel of the State and also for criminal justice personnel. The academy shall serve to promote the highest levels of professional law enforcement performance and to facilitate coordination and cooperation between various law enforcement and criminal justice agencies.

Sec. 6. 25 MRSA § 2802, 1st ¶, as last repealed and replaced by PL 1971, c. 592, § 11, is amended to read:

§ 2802. Board of trustees

There is created a board of trustees for the academy consisting of ~~12~~ 12 members as follows: The Commissioner of Public Safety, ex officio, the Attorney General, ex officio, and the following to be appointed by the Governor with the advice and consent of the Council: ~~A commissioned officer of the State Police, A~~ a county sheriff, ~~3 other persons who shall be~~ a chief of a municipal police department, 2 officers of municipal police departments, an educator, a representative from a criminal justice agency not involved in the general enforcement of Maine criminal laws, a representative of a federal law enforcement agency, a citizen and a municipal officer.

Sec. 7. 25 MRSA § 2803, as last amended by PL 1973, c. 327, § 1, is repealed and the following enacted in place thereof:

§ 2803. Powers and duties

The board of trustees of the academy shall have the following powers and duties:

1. Training and certification of deputy sheriffs and local law enforcement officers. In accordance with the provisions of section 2805 to set standards for admission to the academy, set requirements for graduation from the academy, prescribe curriculum and certify graduates of the academy;
2. Training and certification of sheriffs. To establish suitable training programs for sheriffs within the curriculum, set requirements for graduation of sheriffs from the academy and certify sheriffs who graduate from the academy;
3. Training and certification of State Police enlisted personnel. With the approval of the Chief of the State Police, to establish suitable training programs for enlisted personnel of the State Police and set requirements for graduation of such personnel from the academy. The board shall certify State Police enlisted personnel who graduate from the academy;
4. Other training programs. To establish, within the limits of funds available and with the approval of the commissioner, additional training programs considered to be beneficial to law enforcement officers and criminal justice personnel;

5. Establish fees. To establish, with the approval of the commissioner, reasonable fees for attendance in order to defray part of the costs of operation of the academy;

6. Formulate a budget. To formulate a budget for the academy, which shall be presented to the commissioner for his approval and inclusion in the budget of the Department of Public Safety;

7. Accept funds and grants. With the approval of the commissioner, to accept such federal funds or grants as may be available to carry out the purposes of the academy; and

8. Acquire facilities. With the approval of the commissioner, to lease, rent or acquire adequate facilities to conduct the academy's training programs.

Sec. 8. 25 MRSA § 2804, last sentence, as last amended by PL 1971, c. 241, is further amended to read:

The board shall organize annually by electing a chairman, vice-chairman and secretary ~~and a treasurer~~ from among its members.

Sec. 9. 25 MRSA § 2804-A, is enacted to read:

§ 2804-A. Director; appointment; powers and duties

The Commissioner of Public Safety, with the approval of the board of trustees, shall appoint a director, who shall be the administrator of the academy. Qualifications of the director shall be established by the commissioner and the board jointly. The salary of the director shall be established by the commissioner and the board jointly. The director may be dismissed for cause by the commissioner with the approval of the board.

The director shall have the duty to plan, direct and supervise the day-to-day operation of the academy and shall be charged with the responsibility of carrying out the policy and procedures established by the board.

The director shall employ, within the limits of funds available, with the approval of the board and the commissioner and subject to the Personnel Law, such personnel as may be reasonably necessary to carry out the purposes of the academy.

Sec. 10. 25 MRSA § 2901, as repealed and replaced by PL 1973, c. 788, § 113, is amended to read:

§ 2901. Department; commissioner

There is hereby created and established the Department of Public Safety to coordinate and efficiently manage the law enforcement responsibilities of the State of Maine, to consist of the Commissioner of Public Safety, who shall be appointed by the Governor with the advice and consent of the Council to serve a term coterminous with that of the Governor, subject to removal for cause by the Governor and Council and the following as heretofore cre-

ated and established: The Bureau of State Police, the ~~Enforcement Division within the Department of Public Safety~~ Bureau of Liquor Enforcement, the Office of the State Fire Marshal and the Maine Criminal Justice Academy.

Sec. 11. 25 MRSA § 2901-A, is enacted to read:

§ 2901-A. Duties of commissioner

The commissioner shall be the chief executive officer of the Department of Public Safety. He shall coordinate and supervise the activities and programs of the bureaus and agency which are part of the department; undertake comprehensive planning and analysis with respect to the functions and responsibilities of the department; and develop and implement, whenever necessary, procedures and practices to promote economy and coordination within the department; and actively seek cooperation between the department and all other law enforcement officers and agencies in the State. From time to time, he shall recommend to the Governor and Legislature such changes in the laws relating to the organization, functions, services or procedures of the agency and bureaus of the department as he shall deem desirable. The commissioner shall prepare a budget for the department.

Sec. 12. 25 MRSA § 2902, as last amended by PL 1973, c. 788, § 114, is repealed and the following enacted in place thereof:

§ 2902. Organization

The Commissioner of Public Safety shall organize the Department of Public Safety into the Maine Criminal Justice Academy and the following bureaus:

1. Bureau of State Police. The Bureau of State Police, which shall be under the direction of the Chief of the State Police;
2. Office of State Fire Marshal. The Office of State Fire Marshal, which shall be under the direction of the State Fire Marshal; and
3. Bureau of Liquor Enforcement. The Bureau of Liquor Enforcement, which shall be under the direction of the Director of Liquor Enforcement.

Sec. 13. 28 MRSA § 55, sub-§ 14, first 4 sentences, as last amended by PL 1971, c. 592, §§ 17 and 18, are repealed and the following enacted in place thereof:

The enforcement division of the State Liquor Commission shall be the Bureau of Liquor Enforcement within the Department of Public Safety as heretofore created. The Commissioner of Public Safety shall appoint as Director of the Bureau of Liquor Enforcement a person experienced in law enforcement or enforcement of liquor laws, who may be removed for cause by the commissioner. The director, subject to the Personnel Law, may appoint as many inspectors as may be found necessary. The inspectors shall be under the direct supervision and control of the director.

Sec. 14. 32 MRSA § 1151, first sentence, as last repealed and replaced by PL 1973, c. 363, is amended to read:

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An Electricians' Examining Board, as heretofore established and in this chapter called the "board," shall consist of an executive secretary, who shall be the Commissioner of ~~Public Safety~~ **Business Regulation** or a representative appointed by said commissioner, with the approval of a majority of the board, hereinafter called the "appointive members," who shall be appointed by the Governor with the advice and consent of the Council.

Sec. 15. 32 MRSA § 1152, first and 2nd sentences, as last repealed and replaced by PL 1973, c. 363, are amended to read:

The Commissioner of ~~Public Safety~~ **Business Regulation**, with the advice and consent of the board, shall be empowered to appoint, subject to the Personnel Law, such employees as may be necessary to carry out this chapter. Any person so employed shall be located in the Department of ~~Public Safety~~ **Business Regulation** and under the administrative and supervisory direction of the Commissioner of ~~Public Safety~~ **Business Regulation**.

Sec. 16. 32 MRSA § 235I, first sentence, as last repealed and replaced by PL 1973, c. 384, is amended to read:

An Oil Burner Man's Licensing Board, as heretofore established and in this chapter called the "board," shall consist of an executive secretary, who shall be the Commissioner of ~~Public Safety~~ **Business Regulation** or a representative appointed by said commissioner, with the approval of a majority of the board, and 4 other members, hereinafter called the "appointive members," who shall be appointed by the Governor with the advice and consent of the Council.

Sec. 17. 32 MRSA § 2352, first ¶, first and 2nd sentences, as last repealed and replaced by PL 1973, c. 384, are amended to read:

The Commissioner of ~~Public Safety~~ **Business Regulation**, with the advice and consent of the board, shall be empowered to appoint, subject to the Personnel Law, such employees as may be necessary to carry out this chapter. Any persons so employed shall be located in the Department of ~~Public Safety~~ **Business Regulation** and under the administrative and supervisory direction of the Commissioner of ~~Public Safety~~ **Business Regulation**.

Sec. 18. 32 MRSA § 3805, first sentence, as enacted by PL 1971, c. 582, § 1, is amended to read:

An application for a license to engage in the private detective business or a license to engage in the business of watch, guard or patrol agency shall be filed with the ~~Governor~~ **Chief of the State Police** on forms furnished by him, and statements of fact therein shall be under oath of the applicant.

Sec. 19. 32 MRSA § 3805, as enacted by PL 1971, c. 582, § 1, is amended by adding at the end a new sentence, to read:

The Chief of the State Police shall process such applications and review the applicants to assure compliance with the provisions of this section and shall present such applications, with his findings, to the Governor.

Sec. 20. 32 MRSA § 3806, 3rd ¶, last sentence, as enacted by PL 1971, c. 582, § 1, is amended to read:

An application for a renewal shall be on a form furnished by the ~~Governor~~ Chief of the State Police and the information contained in such application shall be reviewed by the chief for continued compliance with the provisions of section 3805 before such application is submitted to the Governor.

Sec. 21. Terms of Board of Trustees of the Maine Criminal Justice Academy. Notwithstanding the provisions of Title 25, section 2802, when the Governor next appoints members to the board of trustees of the Maine Criminal Justice Academy, he shall appoint for terms as follows: A commissioned officer of the State Police, a municipal police officer, a representative from a criminal justice agency not involved in the general enforcement of Maine criminal laws and a representative from a federal law enforcement agency to a one-year term; a county sheriff, a municipal police officer and a municipal officer to a 2-year term; a chief of a municipal police department, an educator and a citizen to a 3-year term. At the conclusion of these terms, all appointments shall be for 3-year terms as provided in section 2805.

Sec. 22. Transitional provisions. All existing rules and regulations currently in effect and operation on the effective date of this Act in any agency or board referred to in this Act shall continue in effect until rescinded, amended or changed according to law.

The term "regulation" shall include, but is not limited to, any regulation, rule, order, administrative procedure, policy determination, directive, authorization, permit, license, privilege, form, blank, requirement, designation or agreement.

All employees of the Electricians' Licensing Board and the Oil Burner Men's Licensing Board are, on the effective date of this Act, transferred to the Department of Business Regulation and shall continue in their employment after such effective date without interruption of state services.

Notwithstanding the Revised Statutes, Title 5, section 1585, all accrued expenditures, assets, liabilities, transfers, revenues or other available funds in any account or subdivision of an account of the Electricians' Examining Board and the Oil Burner Men's Licensing Board shall be transferred to the Department of Business Regulation by the State Controller, upon recommendation of the department head, the State Budget Officer and upon approval by the Governor and Council.

Emergency Clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

Effective June 24, 1975

CHAPTER 580

AN ACT to Establish the Maine State Ferry Advisory Board.

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

Sec. 1. PL 1971, c. 593, § 34 is amended to read:

Sec. 34. Authorization. The Commissioner of Transportation is authorized to retain members of the Economic Advisory Board, ~~the Advisory Com-~~