

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE
AS PASSED BY THE

ONE HUNDRED AND EIGHTH LEGISLATURE

FIRST REGULAR SESSION

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PUBLIC LAWS
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sion imposed for refusal to submit to a chemical test to determine blood-alcohol level by analysis of blood or breath, except where the conviction is the result of a plea of guilty in the District Court prior to trial or a waiver of trial and finding of guilty by the court.

E. For the purposes of this section, a prior conviction of operating or attempting to operate while under the influence of intoxicating liquor or drugs shall be considered a prior conviction if it occurred within 10 years of the date of the most recent conviction under this section.

F. After making an arrest for a violation of this section, the arresting officer shall investigate to determine whether the arrested person has any prior convictions under this section. As part of his investigation, the arresting officer shall make the necessary inquiries of the Secretary of State. If the arresting officer determines that the arrested person has a prior conviction, he shall cause to be issued a complaint for a 2nd violation in accordance with paragraph B.

G. Except for the purpose specified in paragraph B, it shall not be necessary to comply with the procedures set out in Title 15, section 757, to establish prior convictions under this section. After a conviction for violation of this section, the court shall conduct an inquiry to determine whether or not the defendant has been convicted of any offenses which are considered to be prior offenses for the purposes of this section. Certified copies of the record of prior conviction or convictions from the Secretary of State or any court of record shall be admissible, and upon receipt of any such copy and upon being satisfied that the defendant is the person named in that certified copy, the court shall treat the present conviction as a subsequent conviction and sentence the defendant accordingly.

Sec. 2. 29 MRSA § 1312, sub-§ 11, is enacted to read:

11. Accidents. Every person operating a motor vehicle which has been involved in an accident shall, at the request of a police officer, submit to a breath test to be administered by the police officer. If the test indicates that the operator has consumed alcohol, the police officer may require such operator to submit to a chemical test in the manner set forth in this section.

Effective October 24, 1977

CHAPTER 499

AN ACT Relating to Habitual Truants and School Dropouts.

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

Sec. 1. 20 MRSA § 911, as last amended by PL 1975, c. 510, § 21, is repealed and the following enacted in its place:

§ 911. Compulsory education; work permits for certain children; 16-year-old pupils

1. Attendance. Every child between his 7th and 17th birthdays shall attend a public day school during the time it is in session. An absence therefrom of $\frac{1}{2}$ day or more shall be deemed a violation of this requirement. This subsection shall not apply to a child who has graduated from high school before his 17th birthday.

2. Excusable absences. For the purposes of this chapter excusable absence shall mean an absence from school for one of the following reasons:

A. Personal illness;

B. Appointments with health professionals that cannot be made outside of the regular school day;

C. Observance of recognized religious holidays when the observance is required during a regular school day;

D. Emergency family situations; or

E. Planned absences for personal or educational purposes which have been approved in advance.

3. Equivalent instruction. A child shall be excused from attending a public day school if he obtains equivalent instruction in a private school, or in any other manner arranged for by the school committee or the board of directors subject to the approval of the commissioner.

4. Private school certificate of attendance. Children shall be credited with attendance at a private school only if a certificate showing their names, residence and attendance at the school, signed by the person or persons in charge of the school, has been filed with the school officials of the administrative unit in which the children reside.

5. Administration. The local school committee or board of directors shall be responsible for the administration of this section and shall promulgate reasonable rules and regulations to carry out this responsibility. The local school committee or board of directors shall file a copy of these rules and regulations with the commissioner.

6. Habitual truant; report; notice to parents; guidelines of meeting. If a child is habitually truant as defined in section 914, the following procedures shall be adhered to:

A. The principal shall provide a full report to the superintendent of schools which shall include, but not be limited to, the following information, if available:

(1) Written summations of any and all counseling sessions with the student;

(2) Results of any and all physical examinations, including screening for vision and hearing deficiencies;

- (3) Results of any and all psychological evaluations;
- (4) Written summations of any and all home visits and of any and all counseling sessions with school officials;
- (5) Written summations of faculty discussions;
- (6) Written reports from the positive action committee and any other public or private agencies which may have evaluated the child;
- (7) Written summations of any and all efforts by the school to meet the child's educational needs; and
- (8) Recommendations by the principal and faculty to resolve the problem.

B. If the superintendent determines that he is unable to resolve the problem, he shall refer the matter to the local school committee or board of directors.

C. Information presented to the local school committee or the board of directors shall include, but not be limited to, the report presented by the principal to the superintendent of schools.

D. The local school committee or board of directors shall call a meeting to hear the matter. At least 7 days in advance of the meeting, the parents or the guardian of the child shall be notified in writing of the date and the time of the meeting.

E. The written notice of the meeting shall advise the child's parents or his guardian of the following:

- (1) The purpose of the meeting;
- (2) Their right to inspect the child's records and the principal's report; and
- (3) The necessity for them and the child to be present.

7. Disposition by school committee. After considering the facts presented and after discussing the matter with the child and his parents or guardian, the school committee or board of directors shall determine by a majority vote to do one of the following:

A. Instruct the child to attend school as required by statute and inform the parents or the guardian of their legal responsibilities to assure the child's attendance; or

B. Waive the compulsory school attendance law provided the child is at least 14 years old;

- (1) The parents or guardian may appeal this decision to the commissioner, who shall appoint a fair hearing officer to hear the appeal;

(2) The fair hearing officer shall make a report to the commissioner on the testimony presented at the hearing and shall make a recommendation to the commissioner as to the disposition of the appeal; and

(3) The commissioner shall review the report and recommendation of the fair hearing officer and shall affirm, modify or reverse the decision of the local school committee or board of directors.

8. Responsibilities of parents and guardians; penalties. All persons having children under their control shall cause them to attend school as provided in this section. Any person having control of a child who is an habitual truant as defined in section 914 and being in any way responsible for such truancy, and any person who induces a child to absent himself from school, or harbors or conceals such child when he is absent, shall be punished by a fine of not more than \$25 or by imprisonment for not more than 30 days for each offense. If the court imposes a sentence of probation, it may in its sentence, as a condition of probation, require that the convicted person receive professional counseling by a qualified professional counselor who shall be selected by the convicted person, with the approval of the court, or by the court. The counselor shall submit a written report of his counseling to the court and to the person counseled.

9. Special work permit. A child between the ages of 15 and 17 who is unable to be issued a regular work permit may receive a work permit for employment in nonhazardous occupations. This special work permit shall be issued jointly by the commissioner and the Director of the Bureau of Labor.

10. Alternate program; involvement of student. Subject to the following conditions, the principal, with the approval of the local school committee or board of directors, is authorized to excuse any pupil who is 14 years of age or older from regular school programs for the purpose of participating in a suitable program of work, work study or training.

A. A pupil may not be excused unless the principal has received the consent of both the pupil and the pupil's parents or guardians.

B. Whenever the principal refuses to excuse a pupil and both the pupil and pupil's parents or guardians consent to the pupil's being excused, the parents or guardians may appeal the principal's decision to the local school committee or board of directors.

Because many students are alienated from regular school programs or have personal barriers preventing successful continuation in these programs, any student considered for an alternate program under this subsection shall be included in the process of selection and formation of these alternate programs.

11. Reports; superintendents; commissioner.

A. Each superintendent shall submit to the commissioner annually, prior to October 1st, a report which includes an identification of the number of habitual truants designated in the unit during the previous school year, a description of the efforts made by the local unit on behalf of habitual truants, an account of the number and disposition of actions brought under subsection 8 and any other information relating to truancy which the commissioner deems necessary.

B. The commissioner shall submit to the Legislature and the Governor annually, prior to January 15th, a report which includes an identification of the number of pupils designated as habitual truants during the previous school year, describes the development and use of alternate programs as authorized in this section as well as other efforts made by local units on behalf of habitual truants, identifies the number and disposition of actions brought under subsection 8 and assesses the effect of the provisions of this section on the incidence of truancy throughout the State.

Sec. 2. 20 MRSA § 914 is repealed and the following enacted in its place:

§ 914. Habitual truant; definition

1. Habitual truant. A child is an habitual truant if he is absent from school for 5 full school days or for 10 half school days within any 6-month period for other than an excusable absence as referred to in section 911.

Sec. 3. 20 MRSA § 966 is amended to read:

§ 966. Return to commissioner

Each superintendent of schools and each private school principal shall annually on October 1st and April 1st make returns to the commissioner of the number of residents of the State enrolled in elementary and secondary schools in the administrative unit or units school under his jurisdiction. Any resident pupil counted in a unit or school on October 1st must maintain a minimum attendance of 85% between October 1st and April 1st, exclusive of sickness or other excused absences, to be included in the count on April 1st. Students transferring into a unit or school must maintain a minimum attendance of 85%, exclusive of sickness or other excused absences, from the date of entry until April 1st to be counted in the April 1st count. For subsidy distribution purposes, the previous sentence shall not be in effect until the 1978-79 school year.

Sec. 4. 20 MRSA § 3748, sub-§ 1, ¶ B, sub-¶¶ (1), (2) and (3) are enacted to read:

(1) Programs for school dropouts and truants. Administrative units are encouraged to establish part-time or full-time programs for school dropouts and chronic truants of legal school age. Because many students are alienated from regular school programs or have personal barriers preventing successful continuation in these programs, any student considered for alternate programs under this section shall be involved in the process of selection and formation of these alternate programs.

(2) Count of pupils for subsidy purposes. Students enrolled in such programs shall be counted as .2 of a pupil for enrolling in a credit course leading toward high school graduation. For subsidy purposes no pupil shall be counted as more than one pupil under this Title. The reimbursement to the unit shall be in accordance with the provisions of this chapter.

(3) Tuition; approval of superintendent; commissioner's guidelines. Whenever a unit has no program for such students, it may, with the approval of the superintendent of schools, tuition such students to a neighboring administrative unit or private school. The sending unit shall pay tuition in an amount no greater than .2 of the present per pupil subsidy allocation for secondary students in the sending unit, for each course where a student is enrolled. The commissioner shall establish guidelines for the administration of this program.

Effective October 24, 1977

CHAPTER 500

AN ACT Concerning Requirements for Absentee Ballots.

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

Sec. 1. 21 MRSA § 1253, sub-§ 2, as repealed and replaced by PL 1975, c. 761, § 39, is amended by adding after the first sentence 2 new sentences to read:

The clerk shall issue to any 3rd person so designated only enough absentee ballots to insure that such a person shall not be in possession at any time of more than 40 absentee ballots for voters in a municipality. Such a 3rd person shall, unless good cause is shown, return an absentee ballot to the clerk's office within 5 business days of the date the absentee ballot was sent or delivered to him or within the time limits provided in section 1255, whichever is earlier.

Sec. 2. 21 MRSA § 1253, sub-§ 3, as last amended by PL 1975, c. 761, § 40, is further amended by adding at the end a new paragraph to read:

The clerk shall keep a list of the 3rd persons, designated in applications or requests, to whom absentee ballots are sent or delivered pursuant to subsection 2 and of the number of absentee ballots sent or delivered to such persons. Such 3rd persons shall not be in possession at any time of more than 40 absentee ballots for voters in a municipality.

Sec. 3. 21 MRSA § 1579, sub-§ 30 is enacted to read:

30. Return of absentee ballots. A 3rd person, designated in an application or request for an absentee ballot and to whom the clerk of a municipality furnishes an absentee ballot in accordance with such application or request, who, without good cause, fails to return such absentee ballot to the clerk's office within the time limit provided in section 1255.

Effective October 24, 1977