

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE
AS PASSED BY THE

ONE HUNDRED AND EIGHTH LEGISLATURE
AT THE

SECOND REGULAR SESSION

January 4, 1978 to April 6, 1978

FIRST SPECIAL SESSION

(No laws enacted)

September 6, 1978 to September 15, 1978

SECOND SPECIAL SESSION

October 18, 1978

THIRD SPECIAL SESSION

December 6, 1978

PUBLISHED BY THE DIRECTOR OF LEGISLATIVE RESEARCH IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED, TITLE 3, SECTION 164, SUBSECTION 6.

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1979

PUBLIC LAWS
OF THE
STATE OF MAINE
AS PASSED AT THE
SECOND REGULAR SESSION
of the
ONE HUNDRED AND EIGHTH LEGISLATURE
January 4, 1978 to April 6, 1978

Whereas, by Public Law 1975, chapter 554, the tax on potatoes will be reduced July 1, 1978, from \$.025 per hundredweight to \$.012 per hundredweight; and

Whereas, it is now apparent to the Legislature that a tax of \$.012 per hundredweight will not generate sufficient revenue to enable the State to properly promote and encourage the sale of potatoes, one of Maine's most important agricultural products; and

Whereas, it is vital to the continued success and growth of Maine's potato industry that the potato tax continue at the rate of \$.025 per hundredweight; and

Whereas, it is the purpose of this Act to continue the tax rate at \$.025 per hundredweight; and

Whereas, this Act must become effective before July 1, 1978, the date when the tax rate would otherwise decrease; 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:

36 MRSA § 4565, as last repealed and replaced by PL 1975, c. 554, § 5, is amended to read:

§ 4565. Rate of tax

A tax is levied and imposed at the rate of \$.025 per hundredweight on all potatoes raised in this State ~~prior to July 1, 1978, and at the rate of \$.012 per hundredweight on all potatoes raised in this State after July 1, 1978,~~ except that no tax shall be imposed on any potatoes which are retained by the grower to be used by him for seed purposes or for home consumption.

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

Effective March 16, 1978

CHAPTER 652

AN ACT Providing for Notice to Parents under the Child Abuse and Neglect Statutes.

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

Sec. 1. 22 MRSA § 3792, as last amended by PL 1977, c. 511, § 2, is repealed and the following enacted in its place:

§ 3792. Protective custody; petition, hearings and custody

Whenever a duly authorized agent of the department, sheriff or police officer, or 3 or more citizens of any municipality believe that a minor child under the age of 18 years is living in circumstances which are seriously jeopardizing the health, welfare or morals of that child, he or they may petition the probate court or the District Court in the county where the minor child resides, alleging that the child is living in circumstances which are seriously jeopardizing the health, welfare or morals of that child and that that child is in need of protective custody, and praying that suitable and proper provision be made for the care, custody, support and education of the child named in the petition. The court shall fix a time for hearing of the petition and shall order that notice be given to the parents or guardian of that child in such manner and such length of time as the court deems proper, provided that unless notice is waived in writing by the parents or guardian, hearing shall be fixed for a time not less than 10 days after service is made. The notice shall include a statement that the guardian or parents have a right to counsel and that, if they want counsel and are unable to afford an attorney, one will be appointed for them. The notice shall state that a request for appointment of counsel may be made at any time prior to or at the time fixed for hearing. The court shall order notice in writing be given by mail to the department at least 10 days before the date set for the hearing, unless the petitioner is the duly authorized agent of the department. The department may waive the notice in writing. If requested, the county attorney shall represent the department at the hearing.

The petitioner may request that the court make an order of care pending hearing and the court may make such an order if the parents or guardian consents in writing, or if the child is living in circumstances deemed by the court to present serious, immediate and urgent danger to the child's safety or life, in which case the order of care pending hearing may be made without prior notice to the parents or guardian.

In any case, a copy of the order of care pending hearing shall be served on the parents or guardian forthwith. Service shall be made in accordance with the Maine Rules of Civil Procedure, Rule 4, or by in-hand service by an authorized agent of the department. The copy of the order shall also notify the guardian or parents that they have a right to counsel and that, if they want counsel and are unable to afford an attorney, one will be appointed for them. An order made without prior notice to the parents or guardian shall also include a preliminary hearing date and notice to the guardian or parents that they may request appointment of counsel prior to or at the preliminary hearing and that at the preliminary hearing they may present such evidence as may justify the return of the child to them pending hearing. The preliminary hearing shall be held within 21 days after the date of the order of care pending hearing, unless all parties request a continuance.

The probate court or District Court shall have jurisdiction to hear such a petition in all cases involving the alleged need for protective custody of a minor child, without regard to the existence of a valid decree of custody in any other court. If, after hearing, it appears that the minor child named in the petition is living in circumstances which are seriously jeopardizing the health, welfare or morals of that child and is in need of protective custody, the court may order that child committed into the custody of the department or into the custody of any suitable person, provided that that person consents to accept custody of that child. The court shall cause a copy of the order of commitment and any subsequent modifications thereof to be sent forthwith to the department.

The expense of any care provided for any child committed under this section shall be paid by the department or person to whom the child is committed. When any child has been committed into the custody of the department or into the custody of any suitable person under this section, the court may order the parents of that child to contribute to the support of their minor child such sums payable weekly, monthly or quarterly as deemed reasonable and just and may enforce obedience by appropriate decrees. An order for child support under this section may include an order for the payment of part or all of the medical expenses, hospital expenses and other health care expenses of the child or an order to provide a policy or contract for coverage of those expenses. Execution may issue for those sums, when payable, and for costs.

When the court has made an order concerning the legal custody of a child under this section, and any person not entitled to custody of the child refuses to relinquish physical custody of that child to the department or person entitled to custody under the order, then, at the request of the department or person entitled to custody, a law enforcement officer may take any necessary and reasonable steps to obtain physical custody of the child for the rightful custodian, including entering public or private property when the officer has probable cause to believe that the child is present there.

Sec. 2. 22 MRSA § 3803, sub-§ 2, ¶ B, as enacted by PL 1977, c. 577, § 3, is repealed and the following enacted in its place:

B. Whenever a child has been committed to the custody of the department under section 3792, the department shall give prompt written notice to the parents of the following, provided that the notice is in the best interest of the child:

- (1) The residence of the child;
- (2) Any hospitalization of the child; and
- (3) Any serious injuries to and major medical care received by the child.

Whenever a child has been committed to the custody of the department under section 3792, the department shall give written notice to the parents at least 7

days prior to any change of residence of the child, provided that the prior notice is practicable and in the best interest of the child.

Effective July 6, 1978

CHAPTER 653

AN ACT to Readjust Disbursement of the Potato Tax Fund.

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

Sec. 1. 36 MRSA § 4571, sub-§ 1-A is enacted to read:

1-A. Maine Potato Council.

A. The Legislature finds and declares that the activities of the Maine Potato Council are of great benefit to the Maine economy and to the health and welfare of Maine citizens. The Legislature further finds that public support for the activities of the Maine Potato Council work, in promotion of Maine potatoes and improvement of potato industry practices, will benefit Maine citizens and the Maine economy. Therefore, the Legislature finds that use of a portion of the potato tax proceeds to support the Maine Potato Council is an expenditure in the public interest.

B. Subject to the provisions of this section, 20% of the total moneys received in any given year under section 4565 shall be paid quarterly to the Maine Potato Council which shall use those funds for improvements in the coordination of efforts to improve the potato industry, promotion of Maine potatoes and the Maine potato industry, assistance to potato farmers in improving potato farming practices and necessary administrative support to the Maine Potato Council. The council shall pay from the funds dues to the National Potato Council and any successor organization. The balance of these tax funds remaining shall be used in research and programs to improve the quality of potatoes.

The Commissioner of Agriculture shall promulgate rules:

- (1) Requiring the Maine Potato Council to submit to the commissioner, prior to the beginning of any fiscal year, a budget showing, for funds paid to the council under this section, actual and estimated amounts available and expended for that fiscal year and the fiscal year immediately preceding; the budget shall be a form prescribed by the commissioner and shall be available for public inspection in his office and in the office of the council; and