

# MAINE STATE LEGISLATURE

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**LAWS**  
OF THE  
**STATE OF MAINE**  
AS PASSED BY THE

**ONE HUNDRED AND TENTH LEGISLATURE**

**FIRST REGULAR SESSION**  
December 3, 1980 to June 19, 1981

**AND AT THE**

**FIRST SPECIAL SESSION**  
August 3, 1981

**PUBLISHED BY THE DIRECTOR OF LEGISLATIVE RESEARCH IN  
ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED, TITLE  
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**PUBLIC LAWS**  
OF THE  
**STATE OF MAINE**

AS PASSED AT THE  
FIRST REGULAR SESSION

of the  
ONE HUNDRED AND TENTH LEGISLATURE

1981

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

Effective June 11, 1981

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## CHAPTER 456

### H. P. 1411 — L. D. 1576

#### AN ACT Relating to Periodic Justification of Departments and Agencies of State Government under the Maine Sunset Law.

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

Whereas, the 90-day period may not terminate until after the beginning of the next fiscal year; and

Whereas, certain obligations and expenses incident to the operation of departments and agencies will become due and payable on or immediately after July 1, 1981; and

Whereas, certain independent agencies will terminate unless continued by the Legislature prior to June 30, 1981; 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:**

#### PART A

Sec. 1. 1 MRSA § 8, sub-§ 4 is repealed.

Sec. 2. 3 MRSA § 507-B, sub-§ 2 is enacted to read:

2. Agencies scheduled for termination on June 30, 1981. Pursuant to section 507, subsection 2, paragraph B, the following independent agencies, scheduled for termination on June 30, 1981, are continued without modification or are continued as modified by Act of the Legislature passed prior to June 30, 1981.

A. Agencies continued without modification are:

- (1) Maine Turnpike Authority.

**B. Agencies continued as modified by Act of the Legislature are:**

- (1) **State Board of Registration for Professional Engineers;**
- (2) **State Board of Registration for Land Surveyors; and**
- (3) **Penobscot Bay and River Pilotage Commission.**

**Sec. 3.** 4 MRSA § 158 is amended to read:

**§ 158. Ex officio, notary public; may administer oaths**

Judges and clerks of the District Court are, ex officio, ~~justices of the peace~~ **notaries public**, and all their official acts, attested by them in either capacity, except those pertaining to the exclusive jurisdiction of judges and clerks of District Courts, are of equal effect. Judges and clerks of the District Court may administer all oaths required by law, unless another officer is specifically required to do it.

**Sec. 4.** 4 MRSA § 169 is amended to read:

**§ 169. Administration of oaths**

Judges of the District Court and ~~justices of the peace~~ **notaries public** may administer all oaths required by law, unless another officer is specially required to do it.

**Sec. 5.** 4 MRSA § 202, first sentence, as amended by PL 1979, c. 540, § 6, is further amended to read:

All oaths required to be taken by personal representatives, trustees, guardians, conservators, or of any other persons in relation to any proceeding in the probate court, or to perpetuate the evidence of the publication of any order of notice, may be administered by the judge or register of probate or any ~~justice of the peace or~~ notary public.

**Sec. 6.** 4 MRSA § 860, last sentence is amended to read:

No person whose name has been struck from the roll of attorneys for misconduct shall plead or manage causes in court under a power of attorney for any other party or be eligible for appointment as a ~~justice of the peace~~ **notary public**.

**Sec. 7.** 4 MRSA § 951, first sentence is amended to read:

Every A notary public ~~shall constantly~~ **may** keep a seal of office, whereon is engraven his name and the words "Notary Public" and "Maine" or its abbreviation "Me.," with the arms of state or such other device as he chooses.

**Sec. 8.** 4 MRSA § 953, 2nd sentence is repealed.

Sec. 9. 4 MRSA § 955 is amended to read:

§ 955. Copies; evidence

The protest of any foreign or inland bill of exchange, promissory note or order, and all copies or certificates by him granted shall be under his hand ~~and notarial seal~~ and shall be received in all courts as legal evidence of ~~such~~ the transactions and as to the notice given to the drawer or indorser and of all facts therein contained.

Sec. 10. 4 MRSA § 955-A, as last amended by PL 1977, c. 694, § 3, is further amended to read:

§ 955-A. Removal from office

Whenever the Administrative Court, upon complaint, after due notice and hearing, shall find that a notary public ~~or justice of the peace~~ has performed any duty imposed upon him by law in an improper manner, or has performed acts not authorized by law, the Administrative Court may remove ~~such~~ the notary public ~~or justice of the peace~~ from office.

Sec. 11. 4 MRSA c. 21 is repealed.

Sec. 12. 4 MRSA § 1056, as enacted by PL 1967, c. 206, is amended to read:

§ 1056. Powers of attorneys

Attorneys at law duly admitted and eligible to practice in the courts of the State shall have all of the powers of ~~justices of the peace and~~ notaries public and be authorized to do all acts which may be done by ~~justices of the peace and~~ notaries public with the same effect thereof and have the same territorial jurisdiction.

Sec. 13. 5 MRSA § 2, first ¶, as repealed and replaced by PL 1975, c. 771, § 24, is amended to read:

All civil officers, appointed in accordance with law, whose tenure of office is not fixed by law or limited by the Constitution of Maine, otherwise than during the pleasure of the Governor, except ~~ministers of the gospel appointed to solemnize marriages and~~ persons appointed to qualify civil officers, shall hold their respective offices for 4 years and no longer, unless reappointed, and shall be subject to removal at any time within ~~said~~ that term by the Governor for cause.

Sec. 14. 5 MRSA § 6, 2nd ¶, as enacted by PL 1975, c. 87, § 1, is amended to read:

All persons renewing a commission as a notary public ~~or justice of the peace~~ ~~must~~ shall requalify within 30 days after issuance of ~~said~~ the renewal in the manner prescribed by the Secretary of State.

Sec. 15. 5 MRSA § 82, as last amended by PL 1979, c. 541, Pt. A, § 19, is repealed and the following enacted in its place:

**§ 82. Appointment of notaries public and justices of the peace; renewal of commissions**

The Secretary of State shall appoint justices of the peace who for the purpose of their official duties shall bear the title "Justice of the Peace or Notary Public." They have all the statutory power of a notary public and are subject to all statutory requirements and rules applying to notaries public.

The Secretary of State may appoint and renew commissions of all notaries public.

Notaries public shall serve terms of 7 years and exercise their power and duties in any county. Only adult residents of this State may be appointed to the offices.

The Secretary of State shall adopt rules relating to the appointment and renewal of commissions of notaries public. The rules shall include criteria and a procedure to be applied by the Secretary of State in appointment and renewal. The Secretary of State may not refuse to appoint or renew solely because the applicant lives or works in a specific geographic area or because of political party affiliation.

The Secretary of State shall provide written notice of the expiration of their commission to notaries public 30 days prior to the expiration date. Failure to receive a notice does not affect the expiration date of a commission.

The Secretary of State, upon receiving notice of the qualification of any notary public, shall immediately notify the register of probate and the clerk of the judicial courts of the county where the officer resides of the officer's appointment and qualification.

Sec. 16. 5 MRSA § 87, as amended by PL 1969, c. 225, § 2, is further amended to read:

**§ 87. Fees payable by public officers**

A fee of \$10 shall be paid to the Secretary of State by any person appointed to the office of ~~justice of the peace~~ notary public, commissioner to take depositions and disclosures, disclosure commissioner and commissioner appointed under Title 33, section 251, before ~~such~~ the person enters upon the discharge of his official duties.

Sec. 17. 5 MRSA § 95, sub-§ 10, first sentence, as enacted by PL 1973, c. 625, § 16, is repealed and the following enacted in its place:

To receive all records transferred to the Maine State Archives under subsection 8 and to negotiate for the transfer of public records from the custody of any public official not governed by subsection 7. The State Archivist shall charge a fee sufficient to cover the cost of receiving and processing all transfers from the

custody of any public official not governed by subsection 7. The fees collected shall be deposited in the General Fund.

Sec. 18. 5 MRSA § 95, sub-§ 13, as enacted by PL 1973, c. 625, § 16, is amended by inserting at the end the following new paragraph.

**Fees collected under this subsection shall be deposited in the General Fund.**

Sec. 19. 5 MRSA § 136 is amended to read:

**§ 136. Monthly exhibits**

At the expiration of each month, the Treasurer of State shall prepare an exhibit showing the banks and places in which moneys of the State have been kept or deposited during the preceding month, and the amount at the time of such the exhibit. and file it in the office of the Secretary of State This exhibit shall be open to public inspection.

Sec. 20. 5 MRSA § 7002, sub-§ 2, ¶ I is enacted to read:

**I. The director may make application for foreign trade zones.**

(1) The director may, on behalf of the State, make applications to the Foreign Trade Zone Board and establish foreign trade zones that are to be located on state-owned, leased or otherwise controlled property. A municipality or group of municipalities may, with the approval of the department, make applications to the Foreign Trade Zone Board and establish foreign trade zones at other locations. Foreign trade zones shall be established in or adjacent to any ports of entry in the State, where personal property in transit shall be exempt from the stock-in-trade tax and such other taxes and customs as are normally levied in a port of entry.

(2) Any development or activity with a foreign trade zone established in the State is subject to the laws which the Department of Environmental Protection, Department of Conservation, Department of Marine Resources and Department of Inland Fisheries and Wildlife are responsible for administering, as well as any other law which protects the environment.

(3) For the purpose of this paragraph, personal property in transit through the areas established under subparagraph (1) is defined as follows: Goods, wares and merchandise moving in interstate or international commerce through these zones, or which were consigned to a warehouse, public or private, within these zones, whether specified when transportation begins or afterward. This property shall not be deprived of exemption because, while in the warehouse, the property is assembled, bound, joined, processed, disassembled, divided, cut, broken in bulk, relabeled or repackaged. The exemption granted shall be liberally construed to effect the purposes of this paragraph. The warehouse in which these goods, wares or merchandise are



stored shall not be owned, in whole or in part, by either the consignee or consignor. This subparagraph does not apply to agricultural products.

**Sec. 21.** 5 MRSA § 8053, sub-§ 5, ¶ A, as amended by PL 1979, c. 596, § 2, is repealed and the following enacted in its place:

**A.** Arrange for the weekly publication of a consolidated notice of rulemaking of all state agencies, which shall also include a brief explanation to assist the public in participating in the rule-making process. Notice of each rule-making proceeding shall be published 17 to 24 days prior to the public hearing on the proposed rule or at least 30 days prior to the last date on which views and arguments may be submitted to the agency for consideration if no public hearing is scheduled;

**Sec. 22.** 6 MRSA § 12, 3rd ¶, as repealed and replaced by PL 1977, c. 678, § 26, is amended by adding after the 2nd sentence a new sentence to read:

**All fees collected shall be credited to the General Fund.**

**Sec. 23.** 9 MRSA § 5003, sub-§ 3-A is enacted to read:

**3-A. Commissioner.** "Commissioner" means the Commissioner of Business Regulation.

**Sec. 24.** 9 MRSA § 5004, sub-§ 1, first sentence, as enacted by PL 1977, c. 488, § 1, is amended to read:

The principal officer of every charitable organization which intends to solicit contributions within this State or to have contributions solicited on its behalf within this State shall file a registration statement with the ~~Secretary of State~~ **commissioner** at least 30 days prior to solicitation in each year in which the organization is engaged in solicitation activities.

**Sec. 25.** 9 MRSA § 5004, sub-§ 3, first sentence, as enacted by PL 1977, c. 488, § 1, is amended to read:

The ~~Secretary of State~~ **commissioner** shall prescribe the form of and issue registration statements.

**Sec. 26.** 9 MRSA § 5005, sub-§ 1, first sentence, as enacted by PL 1977, c. 488, § 1, is amended to read:

The following shall file a financial report with the ~~Secretary of State~~ **commissioner** within 6 months after the close of the organization's fiscal year:

**Sec. 27.** 9 MRSA § 5005, sub-§ 2, as enacted by PL 1977, c. 488, § 1, is amended to read:

**2. Fee for financial reports.** A fee of \$25 shall be paid to the ~~Secretary of State~~ **commissioner** when any financial report is filed.

**Sec. 28. 9 MRSA § 5005, sub-§ 3, first sentence,** as amended by PL 1977, c. 696, § 360, is further amended to read:

The ~~Secretary of State~~ **commissioner** shall adopt rules and regulations for the reports, which shall be based upon the accounting and reporting procedures set forth in the 'Audit Guides' published by the American Institute of Certified Public Accountants and as may be modified from time to time by the Institute or its successor.

**Sec. 29. 9 MRSA § 5005, sub-§ 3, ¶ C,** as enacted by PL 1979, c. 678, § 7, is amended to read:

**C.** In lieu of a financial statement, the ~~Secretary of State~~ **commissioner** may accept a copy of the return filed with the United States Internal Revenue Service by organizations exempt from income tax under the United States Internal Revenue Code and shall require by regulation such other information and documentation as the ~~Secretary of State~~ **commissioner** may deem appropriate to describe how funds were spent or raised to substantiate the figures in the return, including an accountant's statement, and to prove that the return submitted to the ~~Secretary of State~~ **commissioner** was in fact filed with the United States Internal Revenue Service.

**Sec. 30. 9 MRSA § 5006, sub-§ 2,** as last amended by PL 1977, c. 696, § 363, is further amended to read:

**2. Exemption statement.** Any charitable organization which claims to be exempt from the registration provisions of this Act and which intends to or does solicit charitable contributions shall submit, to the ~~Secretary of State~~ **commissioner**, a statement of the name, address and purpose of the organization and a statement setting forth the reason for the claim for exemption. This statement shall be on a form prescribed by the ~~Secretary of State~~ **commissioner** and shall be sworn to or affirmed by the principal officer of the charitable organization. For purposes of this section, a charitable organization shall not include persons exempt in paragraph C who are organized for a limited time for the sole purpose of providing immediate relief to a named beneficiary. No registration fee shall be required of any exempt charitable organization.

**Sec. 31. 9 MRSA § 5007,** as enacted by PL 1977, c. 488, § 1, is amended to read:

**§ 5007. Out-of-state organization**

Any charitable organization, professional fund-raising counsel, professional solicitor or commercial co-venturer having its principal place of business without the State or organized under and by virtue of the laws of a foreign state, which solicits contributions from the people in this State, or acts on behalf of a charitable organization in this State, shall be deemed to have irrevocably

appointed the ~~Secretary of State~~ **commissioner** as its agent upon whom may be served any summons, subpoena, subpoena duces tecum or other process directed to such charitable organization, professional fund-raising counsel, professional solicitor, commercial co-venturer or to any partner, principal, officer or director thereof, in any action or proceeding brought by the Attorney General under this chapter.

**Sec. 32. 9 MRSA § 5008, sub-§ 1, first sentence**, as amended by PL 1979, c. 678, § 8, is further amended to read:

No person ~~shall~~ **may** act as a professional fund-raising counsel, professional solicitor or a commercial co-venturer before he has registered with the ~~Secretary of State~~ **commissioner**.

**Sec. 33. 9 MRSA § 5008, sub-§ 1, 2nd and 3rd sentences**, as enacted by PL 1977, c. 488, § 1, are amended to read:

Applications for registration or reregistration shall be in writing, under oath, in the form prescribed by the ~~Secretary of State~~ **commissioner** and shall be accompanied by a fee in the amount of \$100. The applicant shall, at the time of making application for registration or reregistration, file with and have approved by the ~~Secretary of State~~ **commissioner** a bond, in which the applicant shall be the principal obligor, in the sum of \$10,000, with one or more responsible sureties whose liability in the aggregate as such sureties will at least equal that sum.

**Sec. 34. 9 MRSA § 5008, sub-§ 3**, as enacted by PL 1979, c. 678, § 10, is amended to read:

**3. Annual reports.** A professional fund-raising counsel, professional solicitor or commercial co-venturer shall file an annual report which states the names and addresses of all charitable organizations for whom any solicitation was conducted, the total amount raised and the amount paid to the charitable organization on a form with such verification as the ~~Secretary of State~~ **commissioner** shall prescribe by regulation.

**Sec. 35. 9 MRSA § 5009, first ¶**, as enacted by PL 1977, c. 488, § 1, is amended to read:

All contracts entered into between a professional fund-raising counsel, a professional solicitor or a commercial co-venturer and any charitable organization, whether or not the organization is exempted under section 5006, shall be in writing and a true and correct copy of each such contract shall be filed, by the professional fund-raising counsel, professional solicitor or commercial co-venturer who is a party thereto, with the ~~Secretary of State~~ **commissioner** prior to services being performed under the contract.

**Sec. 36. 9 MRSA § 5010**, as enacted by PL 1977, c. 488, § 1, is amended to read:

**§ 5010. Annual report by commissioner**

The ~~Secretary of State~~ **commissioner** shall annually, prior to February 1st, make a report to the Governor and the Legislature on the activities of charitable organizations within this State, based on the information filed under ~~the provisions of~~ this chapter.

Sec. 37. 9 MRSA § 5011, as enacted by PL 1977, c. 488, § 1, is amended to read:

§ 5011. **Public information**

All information required to be filed under this chapter shall be public records and shall be available to the public at the office of the ~~Secretary of State~~ **commissioner**.

Sec. 38. 9 MRSA § 5016 is enacted to read:

§ 5016. **Fees credited to the department**

All fees collected under this chapter shall be credited to the Department of Business Regulation to carry out the purposes of this chapter.

Sec. 39. 10 MRSA § 3605 is repealed.

Sec. 40. 13 MRSA § 2691 is amended to read:

§ 2691. **Warrant for calling meetings**

When any 5 or a majority of the proprietors of lands or wharves held in common desire a meeting of the proprietors for the purpose of forming a corporation or for any other purpose, they may make written application signed by them or their agents to any ~~justice of the peace~~ **notary public** residing in the county in which the lands or wharves are situated. ~~Said justice~~ **The notary** shall thereupon issue his warrant calling a meeting at the time and place and for the purposes distinctly stated in the application, directed to one of the proprietors, requiring him to give notice thereof.

Sec. 41. 13 MRSA § 2732 is amended to read:

§ 2732. **Officers sworn**

The clerk, treasurer, assessors and collector shall be sworn by the moderator or a ~~justice of the peace~~ **notary public**, and the clerk shall record the votes passed at all meetings.

Sec. 42. 13 MRSA § 2861, as last amended by PL 1971, c. 598, § 12, is further amended to read:

§ 2861. **Meeting to form parish**

Any person of age 18 or older, desirous of becoming an incorporated parish or

religious society, may apply to a ~~justice of the peace~~ **notary public**, who shall issue his warrant to one of them, directing him to notify the other applicants to meet at some proper place expressed in ~~such~~ the warrant. He shall give notice of ~~such~~ the meeting 7 days at least before holding the same, by posting a notification thereof on the outer door of the meetinghouse or place of public worship of ~~such~~ the society, if any, otherwise at such place as the ~~justice~~ **notary** appoints.

Sec. 43. 13 MRSA § 2904 is amended to read:

§ 2904. **Refusal of assessors**

If the assessors unreasonably refuse, any ~~justice of the peace~~ **notary public** on like application may issue his warrant to one of the applicants, who shall notify such meeting as prescribed in section 2861 or as agreed on by parish vote.

Sec. 44. 13 MRSA § 3022 is amended to read:

§ 3022. **Notice of meeting**

When 3 or more members of ~~such~~ the church who are voters according to section 3023 shall apply in writing to any ~~justice of the peace~~ **notary public** in the county for the purpose of incorporating ~~said~~ the church, ~~said~~ ~~justice~~ the ~~notary~~ shall issue his warrant addressed to one of ~~said~~ the applicants, stating the time, place and purposes of the meeting and directing him to notify the members of ~~said~~ the church by posting a certified copy of ~~said~~ the warrant in a conspicuous place near the main entrance to the usual place of meeting of ~~such~~ the church and in one other public and conspicuous place in the same town, for 7 days, at least, prior to ~~said~~ the meeting.

Sec. 45. 13 MRSA § 3107 is amended to read:

§ 3107. **Owners may incorporate**

The owners of a meetinghouse or building for public worship and the pew owners may be incorporated, when any 3 or more of them apply therefor to a ~~justice of the peace~~ **notary public**, who shall issue his warrant to one of them, stating the time, place and purpose of the meeting, and directing him to notify ~~said~~ the owners by posting a certified copy of it for 14 days on the principal outer door of ~~such~~ the building and in one or more public places in the same town.

Sec. 46. 13 MRSA § 3110 is amended to read:

§ 3110. **Meetings of owners**

When there has been no meeting of the incorporated pew owners, or proprietors or owners of a meetinghouse or building for public worship for 3 years, a meeting may be called on application of 3 or more members thereof to a ~~justice of the peace~~ **notary public**, who shall issue his warrant to one of them stating the time, place and purposes of the meeting, directing him to notify ~~such~~ the meeting by

posting a certified copy of ~~said~~ **the** warrant, 3 weeks before the time of meeting, on the principal outer door of ~~such~~ **the** building, and in one or more public places in the same town and publishing it in a newspaper published in the county, if any, otherwise in an adjoining county or in the state paper.

**Sec. 47. 13 MRSA § 3111, first sentence** is amended to read:

When a house of public worship is owned by persons of different denominations and when an organized society, or its members, own 5 pews therein, one or more of the minority owning not less than 5 pews may apply to a ~~justice of the peace~~ **notary public** to obtain a division of the time of occupying the house.

**Sec. 48. 13 MRSA § 3112, first sentence** is amended to read:

At a meeting called under section 3111, the owners, who are not applicants, or if they refuse or neglect, the ~~justice~~ **notary** who called the meeting may designate another ~~justice~~ **notary**, and the 2 may appoint a 3rd disinterested person, not an inhabitant of the town in which the house is located, or belonging to the denomination of either party interested.

**Sec. 49. 13-A MRSA § 1302, sub-§ 1, first sentence**, as amended by PL 1977, c. 130, § 25, is further amended to read:

Any corporation required to file an annual report as provided by section 1301 which fails to deliver its annual report for filing on or before June 1st of each year shall pay to the Secretary of State, in addition to the regular annual report fee, the sum of \$25 for each ~~failure to so file on time~~ **30-day period, or portion thereof, the report is not filed. In no case shall this penalty exceed \$300.**

**Sec. 50. 14 MRSA § 2002, first sentence** is amended to read:

The appraisers may be sworn by the officer without fee or by a ~~justice of the peace~~ **notary public**, faithfully and impartially to appraise the real estate to be taken, and a certificate of the oath shall be made, stating the date of its administration on the back of the execution by the person who administered it.

**Sec. 51. 14 MRSA § 2102, first sentence** is amended to read:

The debtor may have the amount due ascertained by 3 ~~justices of the peace~~ **notaries public** chosen, one by the debtor, one by the creditor and the other by those 2.

**Sec. 52. 14 MRSA § 2704** is amended to read:

**§ 2704. Trustee leaving State discloses before notary**

When a person summoned as trustee is about to depart from the State or go on a voyage and not return before his disclosure under oath is required to be served, he may apply to a ~~justice of the peace~~ **notary public** of the county where he resides

for a notice to the plaintiff to appear before ~~said justice~~ **the notary** at a place and time appointed for taking his disclosure. On service made and returned according to the order of the ~~justice~~ **notary**, the examination and disclosure shall be taken and sworn to before him; and being certified and returned to the court, the same proceedings may be had thereon as if it had been in court.

**Sec. 53.** 14 MRSA §§ 2706 - 2708 are amended to read:

**§ 2706. Disclosure sworn to**

The disclosure, when completed and subscribed by the trustee, shall be sworn to by him in open court or before ~~some justice of the peace~~ **a notary public**.

**§ 2707. Examination of trustee**

If the plaintiff thinks proper to examine ~~such the~~ supposed trustee on oath, the answers may be taken in the county in which the trustee resides before a Justice of the Superior Court or a ~~justice of the peace~~ **notary public**.

**§ 2708. Disclosure under oath**

When a trustee has submitted himself to examination on oath in court, his disclosure may be sworn to before a justice of the court or a ~~justice of the peace~~ **notary public**, and being filed in court, shall have the same effect as if sworn to in open court.

**Sec. 54.** 14 MRSA § 5524, **last sentence** is amended to read:

A ~~justice of the peace~~ **notary public** may, at any time before the sitting of the court, bail the party pursuant to ~~such the~~ order.

**Sec. 55.** 14 MRSA § 5541, **last sentence**, as repealed and replaced by PL 1979, c. 257, § 1, is amended to read:

Bail commissioners shall have the powers of ~~justices of the peace~~ **notaries public** to administer oaths or affirmations in carrying out their duties.

**Sec. 56.** 14 MRSA § 7153, is amended to read:

**§ 7153. Appraisal**

The value shall be ascertained by the appraisalment of 3 disinterested men mutually chosen by the parties, or, if they cannot agree, by a ~~justice of the peace~~ **notary public** in the county.

**Sec. 57.** 15 MRSA § 707, as enacted by PL 1965, c. 356, § 25, is amended to read:

**§ 707. Certain District Court clerks may issue process**

The Chief Judge of the District Court may authorize any clerk of the District Court, who is also a ~~justice of the peace~~ **notary public**, to issue process for the arrest of persons charged with offenses, if the Chief Judge of the District Court is satisfied that ~~such~~ the clerk has the necessary training and learning to perform ~~such~~ the function.

Any process issued by a clerk so authorized shall be issued in his capacity as a ~~justice of the peace~~ **notary public**.

Sec. 58. 16 MRSA § 101 is amended to read:

**§ 101. Subpoenas for witnesses**

The clerks of the several courts and ~~justices of the peace~~ **notaries public** may issue subpoenas for witnesses to attend before any court or before persons authorized to examine witnesses, to give evidence concerning any pending matter.

Sec. 59. 17-A MRSA § 506-A, sub-§ 1, as enacted by PL 1975, c. 740, § 67, is amended to read:

1. A person is guilty of harassment if, without reasonable cause, he engages in any course of conduct with the intent to harass, torment or threaten another person, after having been forbidden to do so by any sheriff, deputy sheriff, constable, police officer or ~~justice of the peace~~ **notary public**.

Sec. 60. 19 MRSA § 63, last sentence is repealed.

Sec. 61. 19 MRSA § 121, as last amended by PL 1979, c. 229, is repealed, and the following enacted in its place:

**§ 121. Authorization; license**

Every notary public residing in this State may solemnize marriages in this State. Every ordained minister of the gospel, clergyman engaged in the service of the religious body to which he belongs or person licensed to preach by an association of ministers, religious seminary or ecclesiastical body, whether a resident or nonresident of this State and whether or not a citizen of the United States, and of either sex, may solemnize marriages. A copy of the record of any marriage solemnized under the provisions of this section, duly made and kept, and attested or sworn to by the clerk of the town in which the marriage intention was recorded or in which the marriage was solemnized, shall be received in all courts as evidence of the fact of marriage. Notwithstanding Title 17-A, section 4-A, any person who violates this section, shall be punished by a fine of not more than \$100 for each offense, for the use of the town in which the offense occurred, and the State Registrar of Vital Statistics shall enforce this section as far as it comes within his power and shall notify the district attorney of the county in which the penalty should be enforced of the facts that have come to his knowledge, and, upon receipt of the notice, the district attorney shall prosecute the defaulting person or persons.



**Sec. 62.** 19 MRSA § 122 is amended to read:

**§ 122. Lack of jurisdiction or authority**

No marriage, solemnized before any known inhabitant of the State professing to be a ~~justice of the peace~~ **notary public** or an ordained or licensed minister of the gospel ~~duly appointed and commissioned~~, is void, nor is its validity affected by any want of jurisdiction or authority in the ~~justice~~ **notary** or minister or by any omission or informality in entering the intention of marriage, if the marriage is in other respects lawful and consummated with a full belief, on the part of either of the persons married, that they are lawfully married.

**Sec. 63.** 19 MRSA § 532, sub-§ 5, first sentence, as amended by PL 1979, c. 733, § 9, is further amended to read:

Consent may be acknowledged before a ~~justice of the peace~~ or notary public, who is not an attorney nor a partner, associate nor an employee of an attorney for the adopting parents, if consent is given by:

**Sec. 64.** 19 MRSA § 532-C, 3rd ¶, as enacted by PL 1973, c. 791, § 2, is amended to read:

If the judge finds that the putative father has waived his right to notice in a document acknowledged before a ~~justice of the peace~~ notary public or a judge of probate, which document must indicate that the putative father understands the consequences of the waiver of notice, the judge shall rule that only the mother of the illegitimate child must consent to the adoption of the child or execute a surrender and release for the purpose of adoption of the child. The notary public ~~or justice of the peace~~ may not be an attorney representing either the mother or the possible transferee.

**Sec. 65.** 21 MRSA § 102-A, sub-§ 1, ¶¶ I and J, as repealed and replaced by PL 1975, c. 761, § 9, are amended to read:

I. Certification that all information is correct, sworn before a notary public ~~or a justice of the peace~~; and

J. Date of registration; and

**Sec. 66.** 21 MRSA § 104, as enacted by PL 1977, c. 339, is amended to read:

**§ 104. Applications before notaries public**

A ~~justice of the peace~~ notary public or other authorized person before whom a person completes an application for registration to vote, as provided in section 102-A, shall deliver the application to the registrar before the closed period for the acceptance of registrations in the person's municipality, to be placed on the voting list prior to the next election.

Sec. 67. 21 MRSA § 445, sub-§ 7, ¶ A, as repealed and replaced by PL 1977, c. 425, § 1, is amended to read:

A. The circulator of a primary petition shall verify by oath or affirmation before a ~~Notary Public, Justice of the Peace~~ **notary public** or other person authorized by law to administer oaths or affirmations that all of the signatures to the petitions were made in his presence and that to the best of his knowledge and belief each signature is the signature of the person whose name it purports to be and each ~~such~~ person is enrolled in the party named in the petition and is a resident of the electoral district named in the petition.

Sec. 68. 21 MRSA § 494, sub-§ 7, ¶ A, as enacted by PL 1977, c. 425, § 2, is amended to read:

A. The circulator of a nomination petition shall verify by oath or affirmation before a ~~Notary Public, Justice of the Peace~~ **notary public** or other person authorized by law to administer oaths that all of the signatures to the petition were made in his presence and that to the best of his knowledge and belief each signature is the signature of the person whose name it purports to be and each person is a resident of the electoral district named in the petition.

Sec. 69. 21 MRSA § 1254, sub-§ 1, **first sentence** is amended to read:

When an absentee voter is within the State, he must mark his ballot in the presence of one of the following officials: ~~Justice of the peace, notary~~ **Notary public**, clerk or deputy clerk of a municipality, dedimus justice or clerk of courts.

Sec. 70. 22 MRSA § 2802, **5th sentence** is amended to read:

The person who solemnized the marriage shall add the title of the office by virtue of which marriage was solemnized ~~and his residence and the date of his~~ **commission.**

Sec. 71. 23 MRSA § 55, as amended by PL 1971, c. 593, § 22, is repealed.

Sec. 72. 23 MRSA § 251, as amended by PL 1971, c. 593, § 22, is repealed.

Sec. 73. 23 MRSA § 252, as amended by PL 1975, c. 771, § 249, is repealed.

Sec. 74. 23 MRSA § 253, as amended by PL 1971, c. 593, § 22, is repealed.

Sec. 75. 23 MRSA § 254, as amended by PL 1971, c. 593, § 22, is repealed.

Sec. 76. 23 MRSA § 337, sub-§ 1, as enacted by PL 1977, c. 658, § 2, is amended to read:

1. **Maintenance and operation of the Maine Turnpike.** Maintenance, **state enforcement of traffic laws** and operation of the Maine Turnpike, including any administrative costs specially incurred by the Department of Transportation or

any other state agency in connection with the operation of the Maine Turnpike and its toll facilities;

**Sec. 77.** 23 MRSA § 703, sub-§ 2, first sentence, as last amended by PL 1977, c. 688, § 2, is further amended to read:

The cost of construction or reconstruction shall be paid 50% from the General Highway Fund, subject to available funds, 25% from the municipality and county if the road is located in whole or in part in unorganized township or townships, and 25% from the owner or owners of the ski area involved or the owner or owners of the industrial development area involved.

**Sec. 78.** 23 MRSA § 953 is repealed.

**Sec. 79.** 23 MRSA c. 211 is repealed.

**Sec. 80.** 23 MRSA c. 213, as amended, is repealed.

**Sec. 81.** 23 MRSA §§ 2905-2928 are enacted to read:

**§ 2905. Crossing of public ways**

Railroads may cross any public highways in the line of the railroad, but may not pass along public highways without the written consent of the officials charged by statute with the duty of maintenance of these ways; but when a railroad is hereafter laid out across a public way, it shall be constructed so as to pass either over or under the way unless the Department of Transportation, after notice and hearing, authorizes a crossing at grade. Before entering upon the construction of any railroad along or across public ways, the manner and conditions of crossings shall be determined as provided by section 2902.

**§ 2906. Ways raised or lowered; course altered**

Highways and other ways may be raised or lowered, or the course of the highways may be altered, to facilitate a crossing or to permit a railroad to pass over or under the highway or at the side of it, on application to the Department of Transportation, and proceedings as provided by section 2902, and for such purposes land may be taken and damages awarded as provided for laying out highways and other ways. The Department of Transportation may prescribe the manner in which the work shall be done by the corporation. While the use of any way is thereby obstructed, a temporary way shall be provided by the corporation.

**§ 2907. Discontinuance of railroad crossings**

Any railroad corporation or the municipal officers of a city or town in which a public way crosses or is crossed by a railroad, whether at grade or otherwise, may file a petition in writing with the Department of Transportation alleging that the crossing is no longer required by the public and praying that it may be closed or discontinued. The department shall, upon receipt of such a petition, appoint a time

for hearing on the petition, after notice of not less than 10 days to the petitioners, the railroad corporation owning or operating the railroad and the city or town in which the crossing is located. After the notice and hearing, if the department finds that the crossing is no longer required by the public, it may order that the crossing be closed or discontinued. The department may close or discontinue railroad crossings, after notice of not less than 10 days to the railroad and municipality, or after hearing if requested within the 10 days either by the railroad or the municipality.

**§ 2908. Damages for neglect**

When the corporation unnecessarily neglects to perform the acts so required, those injured may recover damages in a civil action, commenced within one year after performance is required.

**§ 2909. Bridges over canals or railroads; repairs; proceedings where unsafe conditions**

A railroad may be carried over or under a canal or railroad in such manner as not unnecessarily to impede the travel or transportation on them. The corporation making the crossing is liable for damages, occasioned by making the crossing, in a civil action. Bridges and their abutments, constructed for a crossing of any way, shall be kept in repair by the corporation, or by persons or parties running trains on any railroad crossing a highway or town way. The municipal officers of any city or town may give notice in writing to persons, parties or corporations that a bridge required at the crossing has not been erected, or is out of repair and not safe and convenient, within the requirements of section 3651, or that the crossing of any highway or town way passing the railroad at grade, within their respective cities or towns, is not made or maintained safe and convenient as required by this section. Those persons, parties or corporations shall erect or repair the bridge or make the crossing safe and convenient within 10 days from the service of the notice. If they neglect to do so, any one of the municipal officers may apply to the Superior Court to compel the delinquents to erect or repair the bridge or make the crossing. After hearing, the court may make any order on the hearing, which the public convenience and safety require, and may by injunctions compel the respondents to comply with the order. The officers may, after 10 days from the service of the notice, cause necessary repairs to be made and the expense of the repairs shall be paid by the persons, parties or corporations whose duty it is to keep the crossing safe and convenient.

**§ 2910. Temporary crossings**

A railroad company may, for the purpose of accommodating lumbering operations and for the transportation in ordinary vehicles of wood, coal, ice, hay or other commodities, establish and maintain temporary crossings of any railroad operated by it, by agreement with any person who may request the crossing for its purposes. Upon petition, the Department of Transportation, after notice and hearing, may direct any railroad company to establish and maintain the temporary crossings at such places on its line of road as the department deems

expedient, and after that the railroad company shall establish the crossings and maintain them in accordance with this section and sections 2911 to 2913.

Whenever, in the opinion of the department, any temporary railroad crossing established under this section is no longer necessary, the department may, on its own motion or on petition of any interested party, after notice and hearing, order the crossing discontinued.

§ 2911. Crossing signs on each side of track; whistle and bell

At every temporary crossing, established in accordance with section 2910, boards with the words "Temporary railroad crossing, stop, look, listen" distinctly painted on each side, in letters plainly legible, shall be placed on each side line of the railroad right-of-way at the crossing, on a post or other structure, in such position as to be easily seen by persons about to cross the railroad at those places. For any such crossing so established, engine bells shall be rung and engine whistles sounded, as provided in section 2914.

§ 2912. Precautions at crossings

No team or vehicle may be driven over any temporary crossing unless the team or vehicle is first stopped within a reasonable distance from the nearest rail of the crossing, and the operator, by looking and listening, determines that nothing is approaching on the tracks of the railroad. Nothing in this section may prevent the Department of Transportation from making such further regulations for safety at any such crossing established under its direction as it deems expedient or necessary.

§ 2913. Crossings kept open part of year; expense apportioned

Each temporary crossing shall be kept open only during such time each year as the parties interested in the crossing may agree upon, or as the Department of Transportation may specify in cases where the department directs the crossings to be established. When the department directs any such temporary crossing to be established, it shall determine who shall bear the expense of establishing and maintaining the crossing and it may, if it sees fit, apportion the expense between the railroad company and the person or persons who have petitioned for the crossing. The expense of the crossing signs and the planking between the rails shall in any event be borne by the railroad company.

§ 2914. Signboards at grade crossings; ringing of engine bells

Every railroad corporation shall cause signboards with the words "Railroad Crossing" distinctly painted on each side of the signboards, or as a minimum on one side if signboards are placed facing on-coming traffic in each direction, in letters plainly legible, to be placed and constantly maintained at the side of highways and town ways where they are crossed at grade by those railroads, on posts or other structures, in such position as to be easily seen by persons passing

upon those ways. Every corporation shall cause a whistle and a bell of at least 35 pounds in weight to be placed upon each locomotive used upon its railroad, and the whistles shall be sounded as a warning beginning at a distance of 990 feet, on standard or narrow gauge railroads, from all crossings of those ways on the same level, unless the Department of Transportation, upon petition of the corporation or of the municipal officers or of 10 or more residents of any city or town in which the crossing is located, after notice and hearing, shall order the sounding of the whistle to be discontinued in any city or village until further order of the department. The bell shall be rung at a distance of 990 feet, on standard or narrow gauge railroads, from grade crossings and be kept ringing until the engine has passed the crossings. Upon petition of 10 or more residents of the State, after notice to the railroad corporation and a public hearing, the department may in writing order the corporation to give additional warning to travelers upon those ways by requiring the sounding of the whistles or the ringing of the bells at other places where the railroads cross the public ways other than at grade or run contiguous to the ways, and the orders shall have the same force and place the same obligations upon railroad corporations as when required under this section.

The Commissioner of Transportation may temporarily erect experimental signs at certain grade crossings in lieu of the signboards with the words "Railroad Crossing," as required in this section, for the purpose of conducting research for the development of improved signs. The erection of experimental signs by the department at a particular crossing shall relieve the railroad company using that crossing from any liability in damages, which might otherwise arise against that company by the temporary removal or temporary obliteration of the railroad company signboard required by this section. The erection and removal of the temporary signs shall be at the expense of the department and the removal and reinstallation of signboards with the words "Railroad Crossing" shall also be at the expense of the department.

Nothing in this section prevents the department from making such further regulations for safety at any crossing, including a private, temporary, farm or industrial crossing, as it deems expedient or necessary.

#### § 2915. Failure to comply; damages

For unnecessarily neglecting to comply with any provision of section 2914, the corporation forfeits not more than \$500. The corporation is liable for damages for its neglect to comply with these provisions, or for the neglect of any agent or for the mismanagement of an engine, to be recovered in a civil action by the person damaged by the neglect.

#### § 2916. Right of entry

The officers, agents and employees of the Department of Transportation may enter in and upon property of any railroad corporation for the purpose of inspecting railroad-highway crossings and attendant facilities, including grade separation facilities.

**§ 2917. Plant railroad defined**

Sections 1251, 1254, 2902, 2905, 2906, 2914 and section 4217, subsections 2 and 3, so far as applicable, apply to plant railroads. The term "plant railroad" shall be construed to mean a railroad of the owners of any mills, mines, quarries, gravel pits, log landings or yards, warehouses, storehouses, stock yards, bulk storage yards, airports, piers, docks, shipyards, educational institutions, power plants, gas works, petroleum tank farms or bulk stations, or other manufacturing, processing or mercantile establishments, and including state and federal institutions and developments, erected or in process of erection, which the railroad is located on land provided or acquired for the purpose by the owners, and whether operated by the owners, or by state or federal government or an agency thereof, or through connection with a public railroad under operating contract with it and by operation of its equipment over the plant railroad.

**§ 2918. Bridges erected by municipalities maintained**

Bridges erected by any municipality, over which any railroad passes, shall be constructed and maintained in such manner and condition as to safety as the Department of Transportation may determine. The department may require the officers of the railroad company and of the municipality to attend a hearing in the matter, after such notice of the hearing to all parties in interest as the department deems proper. The department shall determine at the hearing the repairs, renewals or strengthening of parts, or if necessary the manner of rebuilding the bridge required to make the bridge safe for the uses to which it is put. The department shall determine who shall bear the expenses of the repairs, renewals, strengthening or rebuilding, or it may apportion the expense between the railroad company and the city or town, as the case may be, in such manner as deemed by the department to be just and fair and shall make its report.

**§ 2919. Report of decisions and copies to parties interested**

The department shall make a report in writing of its decision in all matters named in section 2918, file the report in the department's office, and cause a copy of the decision to be sent by mail to each of the railroad corporations and to the municipal officers of the cities or towns, as the case may be, interested in the report.

**§ 2920. Speed limit at highway grade crossings**

The department is authorized to fix a maximum speed limit at which trains may be run over any grade crossing of a highway or other way and, when the limit has been fixed by the department, no engine or train may be run over the crossings at a greater speed than that fixed by the department and no way may be unreasonably and negligently obstructed by engines, tenders or cars. Any railroad corporation forfeits not more than \$100 for every violation of this section.

**§ 2921. Automatic signals; expense; definition**

The department may require each steam railroad company operating within this State to install, operate and maintain an automatic signal, gates or other protective device or to require a flagman to be stationed at any highway crossing within this State where, after reasonable notice and hearing, the department decides that public safety requires such signal, gates or other protective device or flagman as a proper measure of protection. The expense of installing, operating and maintaining any signal, gates or other protective device or of providing the flagman shall be borne by the corporation operating the railroad passing over the crossing to be protected, except that at crossings located on state and state aid highways the expense of installing the signal, gates or other protective device shall be apportioned between the corporation and the State in such proportions as the department determines. Wherever the term "signal" or "automatic signal" is used in this chapter, it shall be construed to be an appliance which gives warning of the approach of a train and which is either audible and visible by day and by night, or audible or visible as may be determined by the department. This section shall not apply to railroads of less than standard gauge, nor to the Knox Railroad Company, formerly called Georges Valley Railroad Company.

#### § 2922. Crossings designated

The Department of Transportation shall designate by general orders, which may be issued without formal notice or hearing, the grade crossings in this State at which, from all points on the highway or other way within 300 feet of these crossings, and on either side of the crossings, measured along the highway or way, a traveler on the way carrying the crossing can have a fair view of an approaching train, engine or car continuously from the time the train, engine or car is 300 feet from the crossing, until it has passed over the crossing, either under existing conditions or by bushes, trees, fences, signboards or encroachments being trimmed, cut down or removed.

#### § 2923. Obstructions ordered removed; notice

At every crossing of a highway or other way, except state and state aid highways and a railroad at grade, the municipal officers of the town or unorganized place in which the crossing is located are authorized and required on order of the Department of Transportation to remove embankments and other obstructions within highway limits and to enter upon private property and properly trim, cut down, remove or apply chemical treatment to bushes, and from time to time as may be necessary to cut down and remove trees, fences, signboards and encroachments which obstruct the view of an engine, train or car by a traveler at or near any such crossing. The department shall cause the same to be done on state and state aid highways. The authority of the department in any order to the municipal officers shall not extend beyond the land bounded on a line from a point 300 feet on either side of any such crossing, measured along the highway or other way, and a point 300 feet on either side of any such crossing measured along the railroad right-of-way, for the purpose of enabling a traveler on any such way, when the traveler is 300 feet or less distant from any such crossing, to have a fair view of an approaching train, engine or car from one or more angles continuously from the time the train, engine or car is 300 feet from



the crossing until it has passed over the crossing. Entry on private property for the purposes stated shall be only after a 10 days' notice, mailed to the last known address of the property owner, and posting of the notice in a conspicuous place in the municipality.

**§ 2924. Expense of removal paid by municipality; partial state reimbursement**

Within such time as the Department of Transportation by order directs, the municipal officers or county commissioners shall cause the bushes to be cut down and removed, or chemically treated, and shall cause the trees, fences, signboards or other encroachments to be trimmed, cut down or removed and from time to time, as may be ordered by the department, to keep them trimmed, cut down or removed, and the expense shall in the first instance be paid by the municipality where the labor is performed, but, upon the filing with the department of proper proof of the payment, 1/2 of any such amount shall be repaid by the State to the municipality. The payment shall be paid from the appropriation for the operation of the department. Any expense incurred by the department in applying chemical treatment, or to properly trim, cut down or remove and from time to time, as may be necessary, to keep trimmed, cut down and removed, bushes, trees and signboards, shall be borne by the department.

**§ 2925. Damages; municipality and State to share**

If any person claims damages on account of any act done under sections 2923 and 2924, he may, within 2 years after the doing of any such act, petition the Department of Transportation to assess his damages and the department, after reasonable notice to the petitioner and to the interested municipality and, after hearing, shall award such sum as seems proper as damages to be paid by the municipality where the property is located. Upon proper proof of any such payment, the Governor shall cause 1/2 of the payment to be paid by the State to the municipality.

**§ 2926. Buildings not removed without owner's consent**

Nothing contained in sections 2922 to 2925 authorizes the removal of any building without the consent of the owner.

**§ 2927. Applicability to all railroad**

Except where otherwise expressly specified, sections 2921 to 2926 and section 2928 apply to all railroads operated by steam, electric, diesel-electric, diesel-motor, gasoline-electric or gasoline-motor power and engaged in the transportation of freight or passengers in standard railroad freight or passenger cars.

**§ 2928. Railroad company may enter private property**

For the purpose of creating and maintaining the fair view mentioned in sections 2921 to 2927 or for the purpose of improving the view at one or more angles, any

steam railroad company subject to this chapter may enter upon private property and remove any embankment or other obstruction except a dwelling house. The owner of the property is entitled to damages, and may have the damages estimated and paid in a manner provided in Title 35, chapter 51, and there is the same right of appeal as given in that chapter.

Sec. 82. 23 MRSA § 2955, as amended by PL 1971, c. 593, § 22, is repealed.

Sec. 83. 23 MRSA § 3051, as amended by PL 1971, c. 593, § 22, is repealed.

Sec. 84. 23 MRSA § 3053, as amended by PL 1971, c. 593, § 22, is repealed.

Sec. 85. 23 MRSA § 3411, 5th ¶, first sentence, as repealed and replaced by PL 1971, c. 593, § 13, is amended to read:

While the use of any way is obstructed in carrying out the foregoing provisions of this section, such temporary way shall be provided as the ~~commission~~ department may order.

Sec. 86. 23 MRSA § 3414, as last amended by PL 1977, c. 380, Part B, § 6, is repealed.

Sec. 87. 23 MRSA § 4205, sub-§§ 1-5, as repealed and replaced by PL 1975, c. 771, § 257, are repealed.

Sec. 88. 23 MRSA c. 412 is enacted to read:

## CHAPTER 412

### WATERBORNE TRANSPORTATION

#### SUBCHAPTER I

#### FERRIES

§ 4401. Ferry service for North Haven, Vinalhaven, Islesboro, Matinicus Isle, Swan's Island and Frenchboro

It is the duty of the Department of Transportation to operate a ferry route or routes between the mainland and the towns of North Haven, Vinalhaven, Islesboro, Matinicus Isle and Swan's Island for the purpose of transporting vehicles, freight and passengers to and from these towns, and the department may operate the ferry route or routes to and from Frenchboro. Ferry service to Matinicus Isle shall be on a once-a-month basis and may be provided by state-owned or privately-contracted vessels. These ferry routes shall be designated as the "Maine State Ferry Service."

§ 4402. Charter service

The Department of Transportation may operate a special charter service to Hurricane Island in Knox County, or to ports added or to be added by legislative enactment. The operation of this charter service shall not interfere nor curtail in any way the schedule of the Maine State Ferry Service to ports named in section 4402, or to ports added or to be added by legislative enactment.

§ 4403. Ferry service between mainland and islands in Casco Bay

Whenever it is determined by the Public Utilities Commission that ferry transportation for persons and property between the mainland and the islands in Casco Bay located within the limits of the City of Portland and the Town of Cumberland can no longer feasibly be provided by private operators at rates established by the Public Utilities Commission, the Department of Transportation shall take such means as necessary to provide the service, either through contract with private operators or by acquiring and operating the necessary facilities as provided in this section.

§ 4404. Tolls

The Department of Transportation shall, in a manner consistent with the Maine Administrative Procedure Act, Title 5, chapter 375, establish tolls for the use of such ferry line or lines by vehicles, freight and passengers. Tolls collected from the operation of the Maine State Ferry Service shall at all times be kept in a separate fund distinct from all other moneys of the State and shall be used for the operation and debt retirement of the ferry service.

§ 4405. Student rates

The Department of Transportation shall grant to the towns of North Haven, Vinalhaven, Isleboro, Swan's Island and Frenchboro free use of the scheduled ferry service during the period September 1st to June 15th each year for:

1. School functions. Students and their adult supervisors using the ferry for transportation as part of a school function or school sponsored activity. Students are classified as children attending nursery schools or day care centers, children attending public or private schools approved by the State to educate students from grades kindergarten to grade 12, or any one or several of those grades;
2. Accompanying staff. The superintendent of schools, principal or staff members accompanying students as a part of a school function or school sponsored activity; and
3. Inter-school trips. Trips made by students from the mainland schools for the purpose of visiting the schools of the towns mentioned in this section.

All vehicles used to transport students, as the term students is defined in this section, are subject to applicable tariff charges,

The department may develop rules and regulations pertaining to the administration of this section.

## SUBCHAPTER II

### MAINE PORT AUTHORITY

#### § 4420. Purpose

The Maine Port Authority is constituted a public agency of the State for the general purpose of acquiring, constructing and operating any kind of port terminal facility within the State with all the rights, privileges and power necessary. Oil pipelines and other oil off-loading facilities shall be limited to sites in Portland harbor.

#### § 4421. Directors; appointment; president; vacancy

The Maine Port Authority shall consist of a board of 5 directors, who shall be broadly representative of coastal areas of the State. Four directors shall be appointed by the Governor, each to serve for 4 years; except for the first term, one director shall be appointed for one year, one for 2 years and one for 3 years. The remaining director shall be the Commissioner of Transportation, who shall serve as chairman of the board of directors and president. The directors shall elect a treasurer and such other officers as the board of directors may from time to time deem necessary. Any vacancy shall be filled for the unexpired term by the Governor.

1. Meetings of directors; compensation. All the powers of the Maine Port Authority may be exercised by the board of directors in lawful meeting and a majority of the directors are necessary for a quorum. Regular meetings of the board of directors may be established by bylaw and no notice need be given to the directors of the regular meeting. Each director shall receive from the Maine Port Authority \$25 each for attendance at an official meeting, except the president of the board shall serve without pay and each director shall be reimbursed for necessary expenses incurred in the discharge of his duties as a director.

2. Actions at law or in equity. Actions at law or in equity in the courts of this State or before the Public Utilities Commission or Industrial Accident Commission may be brought by or against the Maine Port Authority as if it were a private corporation, except that its property may not be attached, trusteeed or sequestered, but, if a judgment recovered against it is not paid within 30 days, its personal property may be seized on execution.

#### § 4422. Agreements

The Maine Port Authority and the Department of Transportation may enter into such agreements as the directors and commissioner deem to be in the best interests of the State for the department to acquire, construct, maintain and operate any or all facilities funded from bonds issued under section 4423. Any

agreements shall set forth the terms and conditions of the operation and be subject to all the terms and conditions of any trust indenture and covenants relating to revenue bonds. The Maine Port Authority or the department may establish, own, operate and maintain such navigational aids in coastal waters adjacent to the shores and harbors of the State as the directors or commissioner deem essential for safety. Any such navigational aids shall conform to and be consistent with any and all federal regulation.

**§ 4423. Bonds**

1. **Authorization.** The Maine Port Authority may provide by resolution from time to time for the issuance of bonds for the purpose of funding the establishment, acquisition or effectuation of port terminal facilities and things incidental thereto, for construction of proposed facilities and improvement of existing or acquired facilities and for the fulfillment of other undertakings which it may assume. The bonds of the Maine Port Authority do not constitute a debt of the State, or of any agency or political subdivision thereof, but are payable solely from the revenue of the authority, and neither the faith nor credit nor taxing power of the State, or any political subdivision thereof, is pledged to payment of the bonds. Any provision of any law to the contrary notwithstanding, any bonds issued pursuant to this subchapter is fully negotiable. In case any director whose signature appears on the bond or coupons ceases to be a director before the delivery of those bonds, that signature is valid and sufficient for all purposes as if that director had remained a director until delivery.

2. **Resolution; prospective issues.** The authority may by resolution authorizing prospective issues provide:

- A. The manner of executing the bonds and coupons;
- B. The form and denomination thereof;
- C. Maturity dates;
- D. Interest rates thereon;
- E. For redemption prior to maturity and the premium payable therefor;
- F. The place or places for the payment of interest and principal;
- G. For registration if the authority deems it to be desirable;
- H. For the pledge of all or any of the revenue for securing payment;
- I. For the replacement of lost, destroyed or mutilated bonds;
- J. For the setting aside of reserve and sinking funds and the regulations and disposition thereof;

- K. For limitation on the issuance of additional bonds;**
  - L. For the procedure, if any, by which the contract with the bondholder may be abrogated or amended;**
  - M. For the manner of sale and purchase thereof;**
  - N. For covenants against pledging of any of the revenue of the Maine Port Authority;**
  - O. For covenants fixing and establishing rates and charges for use of its facilities and services made available so as to provide at all times funds which will be sufficient to pay all costs of operation and maintenance, meet and pay the principal and interest of all bonds as they severally become due and payable; for the creating of such revenues for the principal and interest of all bonds and for the meeting of contingencies and the operation and maintenance of its facilities as the directors determine;**
  - P. For such other covenants as to rates and charges as the directors determine;**
  - Q. For covenants as to the rights, liability, powers and duties arising upon the breach by the Maine Port Authority of any covenant, condition or obligation;**
  - R. For covenants as to the bonds to be issued, as to the issuance of those bonds in escrow and otherwise and as to the use and disposition of the proceeds;**
  - S. For covenants as to the use of its facilities and their maintenance and replacement, and the insurance to be carried on them, and the use and disposition of insurance money;**
  - T. For the issuance of such bonds in series;**
  - U. For the performance of any and all acts as may be in the discretion of the directors necessary, convenient or desirable to secure the bonds, or will tend to make the bonds more marketable; and**
  - V. To issue bonds on terms and conditions so as to effectuate the purpose of this subchapter.**
- 3. Money received.** All moneys received from any bonds issued shall be applied solely for the establishment, acquisition or effectuation of port terminal facilities and things incidental thereto, for the construction of proposed facilities, improvement of existing or acquired facilities and the fulfillment of other undertakings which are within the power of the authority. There is created a lien upon the money until so applied in favor of the bondholders or any trustee as may be provided in respect of the bonds.
- 4. Trust indenture.** In the discretion of the directors, the bonds may be

secured by a trust indenture by and between the Maine Port Authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company, located either within or outside the State. Such a trust indenture may pledge or assign the revenues of the Maine Port Authority or any part of it.

Any indenture may set forth the rights and remedies of the bondholders and the trustee, and may restrict the individual right of action of bondholders, and may contain such other provisions as the directors may deem reasonable and proper for the security of bondholders. Expenses incurred in carrying out any trust indenture may be treated as a part of maintenance.

5. Rights of bondholders. Provisions may be made for protecting and enforcing the rights and remedies of the bondholders, including covenants as to acquisition of property, construction, maintenance, operation and repair, insurance and the custody, security and application of all moneys.

6. Depositories. Any trust company or bank having the powers of a trust company and located either within or outside the State may act as depositories of the proceeds of the bonds and revenue and may furnish such indemnity or pledge such securities as may be required by the Maine Port Authority.

7. Tax free. The purposes of this subchapter being public and for the benefit of the people of the State, the Maine Port Authority bonds shall at all times be free from taxation by the State.

8. Revenue refunding bonds. The Maine Port Authority may issue revenue refunding bonds for the purpose of refunding the revenue bonds issued under this subchapter. The issuance of any refunding bonds shall be the same as provided for in this subchapter relating to revenue bonds.

9. Default. In the event of default on the bonds and in the event the default continues for a period of 3 months, action may be brought to enforce the rights of the bondholders by insuring that the operation by the directors be in conformity with the covenants of the bonds or indenture.

#### § 4424. Property of the State

All real and personal property owned by and in the name of the Maine Port Authority shall be considered as property of the State and entitled to the privileges and exemptions of property of the State, except insofar as waived by the duly authorized contract, or other written instrument of the Maine Port Authority or by this subchapter. The Maine Port Authority and the Department of Transportation shall agree upon and from time to time review the preferred status of property held or controlled by them and necessary to either body's performing its statutory duty and shall arrange to sell, exchange, give or otherwise transfer title or possession of various properties between themselves consistent with sound business management and as may serve the best interest of the State in their opinion; and shall be authorized to execute and record a deed or lease between them to effectuate the transfer. The Governor may grant to the

Maine Port Authority such rights in submerged land owned by the State and located within harbor limits as may be necessary for the Maine Port Authority to fulfill its powers, duties and obligations.

§ 4425. Acquisition of land

Land required for improvement to existing facilities or construction of new facilities undertaken by the Maine Port Authority or in cooperation with the Department of Transportation may be acquired for these purposes in the same manner as provided in section 154.

§ 4426. Conflict of interest

No member, officer or employee of the Maine Port Authority may acquire any interest, direct or indirect, in any contract or proposed contract of the authority nor may any member, officer or employee participate in any decision on any contract entered into by the authority if he has any interest, direct or indirect, in any firm, partnership, corporation or association which will be party to such contract or financially involved in any transaction with the authority, except this prohibition shall not be applicable to the acquisition of any interest in notes or bonds of the authority issued in connection with any contracts or agreements of the authority or to the execution of agreements by banking institutions for the deposit or handling of authority funds in connection with any contract or to act as trustee under any trust indenture or to utility services, the rates for which are fixed or controlled by a governmental agency.

§ 4427. Environmental laws

Facilities acquired, constructed, operated or maintained under this subchapter, and land upon which the facilities are located is subject to such of the environmental laws of the State as would be applicable to private enterprise were the facilities owned or operated by the private sector and further providing that the Department of Transportation and the Maine Port Authority, its successors or assigns, are subject to Title 38, chapter 3, subchapter II-A.

Sec. 89. 25 MRSA § 2399, 2nd ¶, last sentence, as repealed and replaced by PL 1973, c. 727, § 1, is amended to read:

~~Said~~ These funds shall be used solely to defray the expenses incurred by the Commissioner of Public Safety in administering all fire preventive and investigative laws, rules and regulations and in educating the public in fire safety and are appropriated for such purposes and to carry out the administration and duties of the Office of State Fire Marshal.

Sec. 90. 25 MRSA § 2399, 2nd ¶, as amended by PL 1977, c. 258, is further amended by adding at the end a new sentence to read:

These funds shall also be used to defray the expenses of the fire service training program as established in Title 20, chapter 315.



**Sec. 91.** 29 MRSA § 347, first sentence, as amended by PL 1975, c. 589, § 15, is further amended to read:

Except as sections 357 and 358 provide, the annual fee for every license shall be ~~§30~~ **\$50**.

**Sec. 92.** 29 MRSA § 357, 2nd ¶, first sentence, as enacted by PL 1973, c. 529, § 1, is amended to read:

Every manufacturer or dealer in motorcycles or motor driven cycles shall annually pay a fee of ~~§10~~ **\$15** for a registration certificate to handle, demonstrate, sell and exchange motorcycles or motor driven cycles.

**Sec. 93.** 29 MRSA § 358, first sentence, as enacted by PL 1973, c. 529, § 1, is amended to read:

Every manufacturer or dealer in boat or snowmobile trailers shall annually pay a fee of ~~§10~~ **\$15** for a registration certificate to handle, demonstrate, sell and exchange boat or snowmobile trailers.

**Sec. 94.** 29 MRSA c. 7, sub-c. IV, as amended, is repealed.

**Sec. 95.** 29 MRSA § 722 is amended to read:

**§ 722. Licenses required; application; fees**

No person shall operate a commercial driver education school or act as an instructor unless a license therefor has been secured from the Secretary of State. Applications for such license may be filed with the Secretary of State and shall contain such information and shall be on such form as the Secretary of State may prescribe. Each application for a commercial driver education school license shall be accompanied by an application fee of ~~§10~~ **\$20** which shall not be refunded. If such application is approved by the Secretary of State, the applicant upon payment of an additional fee of ~~§15~~ **\$20** shall be granted a license which shall be valid during the calendar year of its issue unless sooner revoked as provided. The renewal fee shall be ~~§25~~ **\$40**.

Each application for a commercial instructor's license shall be accompanied by an application fee of ~~§10~~ **\$20**, which shall not be refunded. If such application is approved by the Secretary of State, the applicant, upon payment of an additional fee of ~~§5~~ **\$10**, shall be granted a license which shall be valid during the calendar year of its issue unless sooner revoked. The renewal fee shall be ~~§15~~ **\$30**.

**All fees received under this section shall be dedicated to carrying out the purposes of this subchapter.**

**Sec. 96.** 29 MRSA § 2241-D, sub-§ 1, as enacted by PL 1971, c. 544, § 102, is amended to read:

1. **Fee.** Notwithstanding any other provisions of ~~section 2241~~ **Title 29**, before a mandatory suspension, a mandatory revocation or a suspension ordered by the Secretary of State or a court of a person's driving privilege may be terminated or reinstated, there shall be paid to the Secretary of State a fee of ~~\$10~~ **\$20** which shall be in addition to the regular registration or license fee.

**Sec. 97.** 29 MRSA § 2362, sub-§ 11, as amended by PL 1979, c. 541, Pt. B, § 37, is further amended to read:

11. **Special mobile equipment.** Special mobile equipment as defined in section 1, subsection 14; or

**Sec. 98.** 29 MRSA § 2362, sub-§ 12, as enacted by PL 1979, c. 541, Pt. B, § 38, is amended to read:

12. **Special equipment.** Special equipment as defined in section 1, subsection 13-A; or

**Sec. 99.** 29 MRSA § 2362, sub-§ 13 is enacted to read:

13. **Certain automobiles and commercial vehicles.** Automobiles and all over-the-road commercial vehicles that are more than 10 years old.

**Sec. 100.** 30 MRSA § 349, first sentence, as enacted by PL 1973, c. 289, § 1, is amended to read:

The State Archivist shall provide advice and assistance to counties in the establishment and administration of county ~~records~~ archival programs.

**Sec. 101.** 30 MRSA § 2002, sub-§ 4 is repealed and the following enacted in its place:

4. **Report.** The commissioners shall make a report of their proceedings to the court.

**Sec. 102.** 30 MRSA § 2051, sub-§§ 3 and 4 are amended to read:

3. **Petition of 3 voters, if no selectmen.** When a town, once organized, is without selectmen, a meeting may be called by a ~~justice of the peace~~ **notary public** in the county on the written petition of any 3 voters.

4. **Petition by voters, if selectmen refuse.** If the selectmen unreasonably refuse to call a town meeting, it may be called by a ~~justice of the peace~~ **notary public** in the county on the written petition of a number of voters equal to at least 10% of the number of votes cast in the town at the last gubernatorial election, but in no case less than 10.

**Sec. 103.** 30 MRSA § 2216, first sentence, as enacted by PL 1973, c. 625, § 201, is amended to read:

The State Archivist shall provide advice and assistance to municipalities in the establishment and administration of municipal ~~records~~ archival programs.

**Sec. 104.** 30 MRSA § 4154, first sentence is amended to read:

The members of the ~~said~~ committee mentioned in section 4153, before acting, shall be sworn before a ~~justice of the peace~~ notary public, and a certificate thereof shall be indorsed on the warrant.

**Sec. 105.** 32 MRSA § 502, 8th sentence is amended to read:

~~Said~~ The records, or duplicates thereof, shall always be open to inspection ~~in the office of the Secretary of State during regular office hours~~ and shall be prima facie evidence of all matters recorded therein.

**Sec. 106.** 32 MRSA § 576, as amended by PL 1967, c. 205, is further amended to read:

**§ 576. Prohibited practices**

No collection agency ~~shall~~ may: Threaten to bring legal action in its own name or list the name of a lawyer; use or employ ~~justices of the peace~~ notaries public, constables, sheriffs or any other officer authorized to serve legal papers in connection with the collection of a claim; use or threaten to use physical violence in connection with the collection of claims; furnish legal advice or otherwise engage in the practice of law or represent that it is competent to do so, or institute judicial proceedings on behalf of others; communicate with debtors in the name of a lawyer or upon the stationery of a lawyer, or prepare any forms or instruments which only lawyers are authorized to prepare; purchase, receive or solicit assignments of claims for the purpose of collection, or institute suits thereon in any court; use instruments which simulate the form and appearance of judicial process; exercise authority on behalf of a creditor to employ the services of lawyers unless the creditor has specifically authorized the agency in writing to do so and the agency's course of conduct is at all times consistent with the true relationship of attorney and client between the lawyer and the creditor; demand or obtain in any manner a share of the compensation for services performed by a lawyer in collecting a claim; publish or cause to be published any list of debtors except for credit reporting purposes or threaten to do so; use "shame cards," "shame automobiles," or similar devices, methods of intimidation or methods contrary to postal regulations to collect accounts; refuse to return any claim or claims upon written request of the creditor, claimant or forwarder after the tender of such amounts, if any, as may be due and owing to the agency; advertise or threaten to advertise for sale any claim as a means of forcing payment thereof, unless such agency is acting as the assignee for the benefit of creditors or acting under an order of court; refuse or intentionally fail to account to its clients for all money collected within 60 days from the last day of the month in which the same is collected; refuse or intentionally fail to return to the creditor all valuable papers deposited with a claim when such claim is returned, operate under a name or in a

manner which implies that such agency is a branch of or associated with any department of the Federal Government or of any state or municipal government, or use any seal, insignia, envelope or other format which simulates that of any government department or agency; commingle money collected for a customer with the agency's own funds or use any part of a customer's money in the conduct of the agency's business; share quarters or office space, or have a common waiting room with a practicing lawyer; make repeated or harassing communications to employers, or make collect telephone calls by subterfuge; engage in the business of lending money to any person, or contact any person for the purpose of securing a loan for any person with which to pay any claim left with it for collection, or recommend any person or persons as a source of funds to pay any such claim; collect or attempt to collect from any person an amount in excess of the amount submitted by the creditor for collection.

**Sec. 107.** 32 MRSA § 1308, 4th ¶ from the end is amended to read:

Not later than August 1st of each year, the board shall submit to the ~~Governor~~ **Commissioner of Business Regulation** a report of its transactions of the preceding fiscal year ending June 30th and shall transmit to him a complete statement of the receipts and expenditures of the board, attested by affidavits of its chairman and its secretary.

**Sec. 108.** 32 MRSA § 1308, last ¶, as enacted by PL 1977, c. 604, § 15, is amended to read:

The board shall submit to the Commissioner of ~~Transportation~~ **Business Regulation** its budgetary requirements in the same manner as is provided in Title 5, section 1665, and the commissioner shall in turn transmit these requirements to the Bureau of the Budget without any revision, alteration or change.

**Sec. 109.** 32 MRSA § 1309, last sentence, as reenacted by PL 1979, c. 541, Pt. A, § 206, is amended to read:

Copies of this roster shall be mailed to each person so registered ~~placed on file with the Secretary of State~~ and furnished to the public upon request.

**Sec. 110.** 32 MRSA § 1678, 4th ¶ from the end, as repealed and replaced by PL 1977, c. 604, § 19, is amended to read:

On or before August 1st of each year, the board shall submit to the Commissioner of ~~Transportation~~ **Business Regulation**, for the preceding fiscal year ending June 30th, its annual report of its operations and financial position, together with such comments and recommendations as the commission deems essential.

**Sec. 111.** 32 MRSA § 1678, last ¶, as enacted by PL 1977, c. 604, § 19, is amended to read:

The board shall submit to the Commissioner of ~~Transportation~~ **Business**

**Regulation** its budgetary requirements in the same manner as is provided in Title 5, section 1665, and the commissioner shall in turn transmit these requirements to the Bureau of the Budget without any revision, alteration or change.

Sec. 112. 32 MRSA § 1679, as enacted by PL 1967, c. 423, § 1, is amended to read:

**§ 1679. Rosters of land surveyors**

Rosters, showing the names and places of business of all registered land surveyors, shall be prepared by the secretary of the board during the month of January of each **even-numbered** year. Copies of these rosters shall be mailed to each person so registered ~~placed on file with the Secretary of State and clerk of courts and register of deeds of each county~~ and furnished to the public upon request.

Sec. 113. 32 MRSA c. 95 is enacted to read:

**CHAPTER 95  
COMMERCIAL DRIVING INSTRUCTION  
SUBCHAPTER I  
GENERAL PROVISIONS**

**§ 9501. Short title**

This chapter may be cited as the “**Licensure Act for Commercial Driving Instruction.**”

**§ 9502. Definitions**

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. **Board.** “**Board**” means the Board of Commercial Driver Education.
2. **Commercial driver education.** “**Commercial driver education**” means any type of instruction or tutoring given any person in the driving of a motor vehicle or in the preparing of any person for a driver examination in exchange for remuneration.
3. **Commercial driver education school.** “**Commercial driver education school**” means any person or persons engaged in teaching driver education for remuneration, except a public or private school approved by the State Board of Education.
4. **Commissioner.** “**Commissioner**” means the Commissioner of Business Regulation.

5. **Instructor.** "Instructor" means any person engaged in teaching commercial driver education.

6. **Licensee and applicant.** "Licensee and applicant" as applied to a firm, partnership or association include the members thereof and as applied to a corporation include the officers and directors thereof.

7. **Person.** "Person" means any individual, combination of individuals, firm, partnership, association or corporation. Whenever used in any provision of this chapter which prescribes or imposes a fine or imprisonment, or both, the term "person," as applied to a firm, partnership or association, includes the members thereof and, as applied to a corporation, includes the officers thereof. A firm, partnership, association or corporation may be subjected as an entity to the payment of a fine.

## SUBCHAPTER II

### BOARD OF COMMERCIAL DRIVER EDUCATION

#### § 9552. Membership

The Board of Commercial Driver Education shall be composed of 5 members appointed by the Governor. Two members shall be representatives of Class A schools, as defined in section 9601, one shall be a representative of Class B schools, as defined in section 9601, one member shall be a public representative and one member shall be the Director of the Division of Motor Vehicles or his designee. The term of office of each member shall be 4 years, except that, of the 3 school members on the first board appointed under this subchapter, one shall be appointed for 2 years and one shall be appointed for 3 years.

#### § 9553. Duties

The board shall meet at least quarterly. It shall keep records of its proceedings and a register of all licenses granted under this chapter.

1. **Rules.** The board shall, with the advice and consent of the commissioner and in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, adopt rules for the holding of examinations and carrying out the other purposes of this chapter.

2. **License, refusal to issue or renew; suspension; revocation.** The board shall investigate or cause to be investigated all complaints involving a commercial driver education school or instructor and all cases of noncompliance with or violation of this chapter or rules issued hereunder. The board may, after a hearing in conformance with the Maine Administrative Procedure Act, Title 5, chapter 375, refuse to issue or renew a license. The Administrative Court Judge may suspend or revoke the license of any commercial driver education school or instructor found guilty of violating any provision of this chapter or of any lawful order or rule rendered or adopted by the board.

§ 9554. Compensation and expenses of board members

Except for the public representative, members of the board shall serve without compensation, but shall receive expenses as provided for all state employees. The public representative shall receive as compensation for his services \$35 a day for no more than 4 days each calendar year.

SUBCHAPTER III

LICENSURE

§ 9601. License required

No person may operate a commercial driver education school or act as an instructor without first being licensed under this chapter.

1. Commercial driver education school licenses. The following types of commercial driver education school licenses may be issued by the board.

A. A Class A school license shall be granted to a commercial driver education school which employs Class A instructors, as defined in this section, and which is authorized to teach both the classroom and behind the wheel or road phases of driver education.

B. A Class B school license shall be granted to a commercial driver education school which employs Class B instructors, as defined in this section, and which is authorized to teach only the behind the wheel or road phases of driver education to persons holding a State of Maine instruction permit.

C. A truck training supplement license shall be granted only to a Class A school which is authorized to provide driver education for Class 1 or 2 vehicles, as defined in Title 29, section 530.

2. Instructors' licenses. The following types of instructors' licenses may be issued by the board.

A. A Class A instructor's license entitles the holder to teach both the classroom and behind the wheel or road phases of driver education for Class 3 vehicles, as defined in Title 29, section 530.

B. A Class B instructor's license entitles the holder to teach only the behind the wheel or road phases of driver education for Class 3 vehicles, as defined in Title 29, section 530.

C. A truck training supplemental instructor's license entitles the holder to teach both the classroom and behind the wheel or road phases of driver education for Class 1 or 2 vehicles, as defined in Title 29, section 530.

§ 9602. Commercial driver education school license requirements

The board shall, with the approval of the commissioner and under the Maine Administrative Procedure Act, Title 5, chapter 375, establish rules governing the curriculum, facilities, operations and the issuance and renewal of licenses for each type of commercial driver education school set forth in section 9601. In addition, all licenses shall meet the following requirements.

1. Insurance requirements. The board shall not issue any license for a commercial driver education school until the applicant has procured and filed with the commissioner a certificate showing that the applicant is covered by an automobile bodily injury and property damage liability insurance policy, insuring against any legal liability in accordance with the terms of the policy for personal injury or death of any one person in the sum of \$100,000 and for any number of persons in the sum of \$300,000, and against property damage in the sum of \$100,000, which injury, death or damage may result from or have been caused by the operation of any vehicle being used under this chapter. In lieu of such insurance, the applicant may file with the commissioner a bond or bonds issued by a surety company authorized to do business in the State in the amount of at least \$100,000 on account of injury to or death of one person, and subject to such limits, as respects injury to or death of one person, of at least \$300,000 on account of any one accident resulting in injury or death of more than one person and of at least \$100,000 for damage to property of others. Failure to maintain compliance with this section shall be grounds for suspension or revocation of a commercial driver education school license, as provided in section 9553.

2. Maintenance of records. Every commercial driver education school shall keep records on such forms as the board prescribes. They shall include the name and address of each instructor, the board license number of each instructor, the specific type of instruction given to each enrolled student and such other information as the board requires. The records shall be open to inspection by the board at all reasonable times. Failure to keep such records shall be a misdemeanor.

3. Training vehicles. Every vehicle used as a training vehicle shall be maintained in safe mechanical condition at all times. Each Class 3 vehicle, as defined in Title 29, section 530, shall be equipped with dual foot brakes and, if the vehicle is not equipped with an automatic transmission, dual clutch pedals. While engaged in actual instruction, every vehicle must be equipped with an identification sign, listing the name of the school, and a student driver sign.

4. Curriculum at Class A schools. The Class A school curriculum shall consist of at least 30 hours of classroom instruction and 6 hours of behind the wheel instruction before a student may be issued a course completion certificate. Classroom instruction shall be limited to not more than 4 hours in any one 24-hour period. Instruction in motorcycle safety shall conform to standards which are established by the board.

#### § 9603. Instructor license requirements

The board shall, with the approval of the commissioner, establish rules



governing the issuance and renewal of licenses for each type of instructor set forth in section 9601. In addition to requirements set forth by the board, all applicants shall meet the following minimum requirements.

1. **Age and education.** An applicant shall be at least 21 years of age and have a high school diploma or its equivalent.
2. **Health.** An applicant shall not be subject to uncontrolled seizures, diabetic blackouts or any type of disease causing momentary lapse of consciousness.
3. **Driving record.** An applicant shall have at least 4 years of driving experience as a licensed operator and a conviction-free motor vehicle record for one year prior to the date of application.
4. **Examination.** An applicant shall pass an examination consisting of the knowledge, vision and road tests in the type of vehicle for which the license is to be used, as prescribed by the board, and tests to determine knowledge and understanding of an appropriate driving textbook, which the board may prescribe, and the State of Maine Driver License Examination Manual. The board may not waive any part of the prescribed examination for a commercial driver education instructor's license.
5. **Association with commercial driver education school.** An applicant shall be employed by or associated with a commercial driver education school licensed by the board.
6. **Additional Class A requirements.** In addition, an applicant for a Class A license shall have satisfactorily completed an educational program prescribed by the board to assure that the applicant is trained in the teaching of driver education in the classroom and on the road. At a minimum, this program shall include a college level course or its equivalent in the teaching of driver education and a college level course or its equivalent in psychology or teaching methods.

#### § 9604. Display of license

Each person granted a commercial driver education school license shall display the license conspicuously on the school premises. Each person granted an instructor's license shall carry the license in his possession while engaged in giving commercial driver education instruction.

#### § 9605. Licensing fees

1. **Commercial driver education school license.** Each application for a commercial driver education school license shall be accompanied by an application fee of \$20 which shall not be refunded. If the application is approved by the board, the applicant, upon payment of an additional fee of \$20, shall be granted a license, which shall be valid during the calendar year of its issue unless sooner revoked as provided. The renewal fee is \$40.

2. **Instructor license.** Each application for an instructor's license shall be accompanied by an application fee of \$20 which shall not be refunded. If the application is approved by the board, the applicant, upon payment of an additional fee of \$10, shall be granted a license, which shall be valid during the calendar year of its issue unless sooner revoked. The renewal fee is \$30.

§ 9606. **Disposition of fees**

All fees received by the board under this chapter shall be used to carry out the purposes of this chapter. Any balance of these fees shall not lapse, but shall be carried forward as a continuing account to be expended for the same purposes in the following fiscal years.

§ 9607. **Examination and investigation activities and expenses**

Every commercial driver education school shall be assessed for the actual expenses incurred by the board or its agents for regular or special investigations or enforcement activities undertaken under this chapter.

1. **Frequency of investigations.** These activities shall include at least an annual on-site visit to the main office of each commercial driver school for the purpose of reviewing records, facilities and operating procedures.

2. **Agents.** The board may contract with the Division of Motor Vehicles in the Department of Secretary of State to serve as an agent for the purposes of this section.

3. **Assessment and payment procedures.** The assessment shall include the proportionate part of the salaries of the board's agents while engaged in these activities and related travel expenses. The assessment shall be made by the commissioner as soon as feasible after the close of each investigation and sent to the licensee. The amount of assessment shall be paid to the Treasurer of State within 30 days following receipt by the licensee. The licensee shall receive a copy of the findings which result from each investigation no more than 45 days after the findings are filed with the board.

§ 9608. **Penalties**

Any person who operates a commercial driver education school or acts as a commercial instructor without a license shall be punished by a fine of not less than \$50 nor more than \$500, or by imprisonment for not more than 30 days or by both.

§ 9609. **Insurance for graduates**

Rating bureaus or independent insurers as recognized by the Insurance Superintendent may grant an automobile insurance discount for commercial driver education school graduates on the same basis as is granted for public school driver education graduates, provided that the graduate is certified by a

**commercial driver education school, and the commercial school approved in accordance with this chapter.**

**Sec. 114. 33 MRSA § 203, first sentence,** as amended by PL 1969, c. 260, is further amended to read:

Deeds and all other written instruments before recording in the registries of deeds, except those issued by a court of competent jurisdiction and duly attested by the proper officer thereof, and excepting plans and notices of foreclosure of mortgages and certain financing statements as provided in Title 11, section 9-401, and excepting notices of liens for internal revenue taxes and certificates discharging such liens as provided in section 664, shall be acknowledged by the grantors, or by the persons executing any such written instruments, or by one of them, or by their attorney executing the same, or by the lessor in a lease or one of the lessors or his attorney executing the same, before a ~~justice of the peace or~~ notary public having a seal, in the State, or before an attorney-at-law duly admitted and eligible to practice in the courts of the State, if within the State; or before any clerk of a court of record having a seal, notary public ~~justice of the peace or~~ commissioner appointed by the Governor of this State for the purpose, or a commissioner authorized in the State where the acknowledgment is taken, within the United States; or before a minister, vice-consul or consul of the United States or notary public in any foreign country.

**Sec. 115. 33 MRSA § 203, 3rd ¶** is amended to read:

Any **notary public or** justice of the peace who is a stockholder, director, officer or employee of a bank or other corporation may take the acknowledgment of any party to any written instrument executed to or by such corporation, provided such **notary public or** justice of the peace is not a party to such instrument either individually or as a representative of such bank or other corporation.

**Sec. 116. 33 MRSA § 304** is amended to read:

**§ 304. —proof before notary public after summons**

In such case, a ~~justice of the peace or~~ notary public where the grantor resides or where his land lies, upon application of the grantee or person claiming under him, may summon the grantor to appear before him at a time and place named, to hear the testimony of the subscribing witnesses. The date of the deed, the names of the parties and of the subscribing witnesses to it must be stated in the summons, which must be served 7 days before the time for proving the deed.

**Sec. 117. 33 MRSA § 305** is amended to read:

**§ 305. —certification**

When the ~~justice or~~ notary at ~~said~~ the hearing is satisfied by the testimony of witnesses that they saw the deed duly executed by the grantor, he shall certify the same thereon, and state in his certificate the presence or absence of the grantor.

Sec. 118. 35 MRSA § 2, 2nd sentence is amended to read:

No commissioner ~~shall~~ may hold any other civil office of profit or trust under the Government of the United States or of this State except the office of Coordinator of Atomic Development Activities or the office of ~~justice of the peace~~ or notary public, nor shall he serve on or under any committee of any political party.

Sec. 119. 35 MRSA §§ 811 to 827, § 1178, §§ 1187 to 1192 and §§ 1195 and 1196, as amended, are repealed.

Sec. 120. 36 MRSA § 898, last sentence is amended to read:

If he complies with this demand, he shall receive such credit as the municipal officers, on inspection of the tax lists, adjudge him entitled to, and account for the balance; but if he refuses, he shall forthwith be committed to jail by the officer who so took him or by a warrant from a ~~justice of the peace~~ notary public, there to remain until he complies.

Sec. 121. 38 MRSA § 90-A, first ¶, as enacted by PL 1977, c. 604, § 42, is amended to read:

On or before August 1st of each year, the commission shall submit to the Commissioner of ~~Transportation Business Regulation~~, for the preceding fiscal year ending June 30th its annual report of its operations and financial position, together with such comments and recommendations as the commission deems essential.

Sec. 122. 38 MRSA § 90-B, as enacted by PL 1977, c. 604, § 42, is amended to read:

#### § 90-B. Budget

The commission shall submit to the Commissioner of ~~Transportation Business Regulation~~ its budgetary requirements in the same manner as is provided in Title 5, section 1665, and the commissioner shall in turn transmit these requirements to the Bureau of the Budget without any revision, alteration or change.

Sec. 123. P&SL 1929, c. 114, as amended, is repealed.

Sec. 124. P&SL 1957, c. 190, §§ 1, 4, 4-A, 9 and 11, as amended, are repealed.

Sec. 125. P&SL 1975, c. 19, § 3 is amended to read:

Sec. 3. **Application.** Application for display of the wheelchair symbol shall be made to the ~~Secretary of State~~ Governor's Committee on Employment of the Handicapped, who shall obtain and keep on file a supply of symbols.

Sec. 126. **Lapse of funds from the Public Utilities Commission Transportation Division Fund**

In accordance with Title 35, section 1557, subsection 2, \$450,000 shall lapse from the Public Utilities Commission Transportation Division Fund to the Highway Fund.

**Sec. 127. Transition clauses.**

1. **Notary public.** Whoever is a notary public on July 1, 1981, shall continue in office after July 1st until the expiration of his term. All subsequent renewals of notary public commissions shall be made under Title 5, section 82.

2. **Justice of the peace.** Whoever is a justice of the peace on July 1, 1981, shall continue after July 1st until the expiration of his term, and may have his commission renewed for one additional 7-year term, except that he shall be a notary public as provided in this Act. All subsequent renewals of justice of the peace commissions shall be made under Title 5, section 82.

3. **Commercial driving school licenses.** Section 113 shall only apply to licenses granted after December 31, 1981. Any balance of funds collected under Title 29, section 722 on December 31, 1981, shall be transferred to the Department of Business Regulation for the purpose of carrying out the provisions of section 113 of this Act.

**Sec. 128. Revision clause.** Wherever in the Revised Statutes the words "justice of the peace" appear or reference is made to that name, they shall be amended to read and mean "notary public," except where those words are used to make reference only to actions taken prior to the effective date of this Act, including, but not limited to, the Revised Statutes, Title 33, section 352.

**Part B**

**Adjustments to General Fund.** In order to provide for necessary adjustment of the General Fund to implement the recommendations of the Joint Standing Committee on Audit and Program Review, appropriations are decreased by the amounts designated in the following tabulations.

DEPARTMENT OR AGENCY	APPROPRIATION FROM GENERAL FUND	
	1981-82	1982-83
Department of Educational and Cultural Services		
Education — Adult Education		
Positions	(-1)	(-1)
Personal Services	(\$43,866)	(\$44,165)

## DEPARTMENT OR AGENCY

APPROPRIATIONS FROM  
GENERAL FUND

	1981-82	1982-83
All Other	( 10,900)	( 10,900)
Eliminates the General Fund share of the fire service training program which will be funded instead from the fire insurance fund in the office of the State Fire Marshal.	(\$54,766)	(\$55,065)

## Department of Transportation

## Waterways — Administration

All Other	(\$52,000)	(\$52,000)
Reduces the General Fund subsidy to the Maine State Pier to reflect anticipated improvements in the efficiency of pier operations and elimination of one port solicitation position.		

## Department of Treasury

## Treasurer — Debt Service

All Other	(\$428,774)	( 0 )
This decrease in appropriations of debt service is offset by a transfer from the bond redemption account of unused bond funds authorized by P&SL 1967, c. 178, for airport construction projects.		

<b>TOTAL PART B — GENERAL FUND</b>	(\$535,540)	(\$107,065)
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## Part C

**Allocations from the Highway Fund.** In order to provide for expenditures of State Government and in order to implement the recommendations of the Joint Standing Committee on Audit and Program Review, the sums designated in the following tabulations shall be segregated, apportioned and expended as designated in the following schedule.

## DEPARTMENT OR AGENCY

ALLOCATION FROM THE  
HIGHWAY FUND

	1981-82	1982-83
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## Department of the Secretary of State

**DEPARTMENT OR AGENCY**

**ALLOCATIONS FROM THE  
HIGHWAY FUND  
1981-82      1982-83**

Motor Vehicles

Unallocated

(\$ 34,913)      (\$ 45,784)

Eliminates the Social-Medical Coordination Program (\$22,455 in the first year and \$21,668 in the 2nd year) and provides for a reduction in allocation due to the transfer of the commercial driving school program to the Department of Business Regulation effective January 1, 1982 (\$12,458 in the first year and \$24,116 in the 2nd year).

**TOTAL PART C — HIGHWAY FUND**

(\$34,913)      (\$45,784)

**Emergency Clause.** This Act shall take effect July 1, 1981, except that section 126 shall take effect when approved and section 94 shall take effect January 1, 1982.

Effective July 1, 1981, unless otherwise indicated

**CHAPTER 457**

**S. P. 654 — L. D. 1679**

**AN ACT to Remove the Customer Charge from Electric Utility Rate Structures.**

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

35 MRSA § 96, as enacted by PL 1979, c. 539, is repealed and the following enacted in its place:

**§ 96. Minimum charge**

1. Companies required to provide minimum charge. Any electric company serving more than 5,000 customers which has in effect for residential customers a flat rate combining energy and demand charges shall recover its customer costs through the same rate. As part of that rate, each such electric company shall provide for a minimum charge to include such an amount of kilowatt hours as the commission shall determine.

2. Institution of minimum charge. The minimum charge required by this section shall be instituted not later than the date of the first residential rate order adopted with respect to the company after the effective date of this section. For