

# MAINE STATE LEGISLATURE

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**LAWS**  
OF THE  
**STATE OF MAINE**

AS PASSED BY THE  
  
ONE HUNDRED AND ELEVENTH LEGISLATURE

**FIRST REGULAR SESSION**  
December 1, 1982 to June 24, 1983  
Chapters 1-452

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

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J.S. McCarthy Co., Inc.  
Augusta, Maine  
1983

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**PUBLIC LAWS**  
OF THE  
**STATE OF MAINE**

AS PASSED AT THE  
FIRST REGULAR SESSION

and

FIRST SPECIAL SESSION

of the

ONE HUNDRED AND ELEVENTH LEGISLATURE

1983

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2. Legislative approval of budget. Expenditures from the Transportation Safety Fund are subject to legislative approval in the same manner as allocations from the Highway Fund are approved.

3. Use of funds. Subject to the Personnel Law, money in the fund may be expended to hire employees and to defray other costs authorized by law for the several agencies as follows.

A. There shall be allocated to the Department of Public Safety for State Police up to \$450,000 annually from the fund to carry out the statutory duties of the bureau imposed by this chapter and Title 35 and for related activities.

~~B. There shall be allocated to the Department of Transportation not more than \$5,000 annually from the fund to be expended to carry out the statutory duties of the department imposed by this chapter and by Title 35, chapters 91 and 97, relating to common, special and charter carriers of passengers for hire and for related activities.~~

C. Any balance in the fund in excess of that required for the purposes of ~~paragraphs~~ paragraph A and B may be allocated in the same manner and for the same purposes as moneys in the Highway Fund, but with special emphasis on matters relating to transportation safety. Any allocation of this balance shall be identified as to source.

4. Unexpended funds. Any funds not expended at the end of a fiscal year shall not lapse, but shall be carried forward for the purposes specified in succeeding fiscal years.

Sec. 7. 35 MRSA cc. 91 and 97, as amended are repealed.

Sec. 8. Effective date. This Act shall take effect on January 1, 1984.

Effective January 1, 1984.

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## CHAPTER 235

H.P. 844 - L.D. 1094

AN ACT to Amend Certain Aspects of Post-conviction Review.

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

Sec. 1. 15 MRSA §2121, sub-§2, as amended by PL 1981, c. 238, §1, is further amended to read:

2. Post-sentencing proceeding. "Post-sentencing proceeding" means a court proceeding or administrative action occurring during the course of and pursuant to the operation of a sentence which affects whether there is incarceration or its length, including revocation of parole or entrustment of a juvenile, failure to grant parole or an error of law in the computation of a sentence and default in payment of fines under Title 17-A, section 1304. It does not include administrative disciplinary proceedings resulting in a loss of time deductions under Title 17-A, section 1253, subsection 5, revocation of probation or proceedings before the Appellate Division of the Supreme Judicial Court pursuant to chapter 306.

Sec. 2. 15 MRSA §2121, sub-§3, as enacted by PL 1979, c. 701, §15, is repealed and the following enacted in its place:

3. Sentence. "Sentence" means the punishment imposed in a criminal proceeding or the disposition imposed in a juvenile proceeding.

Sec. 3. 15 MRSA §2123, sub-§2, as enacted by PL 1979, c. 701, §15, is amended to read:

2. Venue. Venue shall be in the county in which the ~~conviction~~ criminal judgment took place. Venue may be transferred by the assigned justice at his discretion.

Sec. 4. 15 MRSA §2124, first ¶, as enacted by PL 1979, c. 701, §15, is repealed and the following enacted in its place:

An action for post-conviction review of a criminal judgment of this State or of a post-sentencing proceeding following the criminal judgment, may be brought if the person seeking relief demonstrates that the challenged criminal judgment or post-sentencing proceeding is causing a present restraint or other specified impediment as described in subsections 1 to 3:

Sec. 5. 15 MRSA §2124, sub-§§1, 2 and 3, as enacted by PL 1979, c. 701, §15, are amended to read:

1. Present restraint by criminal judgment. Present restraint or impediment as a direct result of the challenged criminal judgment, including:

A. Incarceration pursuant to the sentence imposed as a result of the criminal judgment which is challenged;

B. Other restraint, including probation, parole, other conditional release or a juvenile ~~disposition~~ disposition other than incarceration or probation, imposed as a result of the sentence for the criminal judgment which is challenged;

C. A sentence of unconditional discharge resulting from a criminal judgment, for a period of 2 years following the date of sentence;

D. Incarceration, other restraint or an impediment specified in paragraphs A, B and C which is to be served in the future, ~~although~~ although the convicted or adjudicated person is not in execution of the sentence either because of release on bail pending appeal of the criminal judgment or because another sentence must be served first; or

E. A fine imposed by the challenged criminal judgment which has not been paid;

2. Post-sentencing proceeding. Incarceration or increased incarceration imposed pursuant to a post-sentencing proceeding following a criminal judgment, although the criminal judgment itself is not challenged; or

3. Present indirect impediment. Present restraint or impediment resulting indirectly from the challenged criminal judgment of this State, ~~including~~:

A. Incarceration imposed in this State, in another state or in a Federal Court pursuant to a sentence for a subsequent criminal judgment for a crime punishable by a year or more, the length of the incarceration being greater than it would otherwise have been in the absence of the challenged criminal judgment of this State. The criminal judgment which is challenged must be for a crime punishable by a year or more. This requirement is not satisfied by a showing only that the court imposing the present sentence was aware of the challenged criminal judgment or if it appears from the length or seriousness of the person's total criminal record that the challenged criminal judgment, taking into account its seriousness and date, could have little or no effect on the length of incarceration under the subsequent sentence;

B. A pending trial or incarceration pursuant to a sentence following a criminal judgment in this

State, in another state or in a Federal Court for a crime, the degree of which or the potential penalty of which is increased as a result of the challenged criminal judgment of this State. This requirement is not satisfied unless:

(1) The subsequent crime, as enhanced, is, in the case of a crime in this State, punishable by incarceration of one year or more or, in the case of a crime in another jurisdiction, is a felony or an infamous crime; and

(2) If a sentence for the subsequent crime has been imposed, the length of that sentence actually exceeds the amount of incarceration which could have been imposed for the subsequent crime had its potential penalty not been enhanced by the challenged criminal judgment; or

C. A pending trial or any of the restraints or impediments specified in subsection 1 following a criminal judgment in this State, another state or in a Federal Court for a crime for which proof of the criminal judgment of this State that is challenged constitutes an element of the subsequent crime.

Sec. 6. 15 MRSA §2128, as enacted by PL 1979, c. 701, §15, is amended by inserting before subsection 1 the following:

A person under restraint or impediment specified in section 2124 shall demonstrate that relief is not unavailable on the basis of waiver as described in subsections 1 to 5.

Effective September 23, 1983.

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## CHAPTER 236

H.P. 1134 - L.D. 1487

AN ACT to Amend the Statutes Relating  
to Itinerant Sellers.

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

Sec. 1. 32 MRSA §4682-A is enacted to read: