

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

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

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

1979, c. 534, §3, is further amended to read:

Within a reasonable time before any election, the Secretary of State shall furnish each municipality with ballots, specimen ballots, instruction posters, election return forms, posters of specimen ballots for constitutional resolutions and statewide referenda, including the Attorney General's explanatory statements prepared under Title 1, section 353, materials setting forth the full text of all constitutional resolutions and statewide referenda and other materials necessary for conducting and reporting the results of the election.

Sec. 2. 21 MRSA §801, sub-§2, as amended by PL 1979, c. 534, §4, is further amended to read:

2. Election materials distributed and posted. At any time after receipt thereof and prior to the opening of the polls, the clerk may open the packages or boxes of election materials, break the seals on the packages not marked "ballots," use the materials for instructional purposes, and then the clerk or his designated agents shall post an adequate number of instruction posters, and posters of specimen ballots for constitutional resolutions and statewide referenda, including the Attorney General's explanatory statements prepared under Title 1, section 353, materials setting out the full text of constitutional resolutions and statewide referenda, and specimen ballots in the voting room outside the guardrail. At the opening of the polls, the warden shall break the seals on the packages containing the ballots, and distribute the ballots to the incoming election clerks.

Effective September 23, 1983.

CHAPTER 386

H.P. 791 - L.D. 1032

AN ACT to Amend the Statutes Governing
the Licensing and Approval of Adult
and Child Care Programs.

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

Sec. 1. 22 MRSA §7801, as enacted by PL 1975, c. 719, §6, is repealed and the following enacted in its place:

§7801. License or approval required

1. License required. No person, firm, corporation or association may operate any of the following without having, subject to this subtitle and to the rules promulgated by the department under this subtitle, a written license therefor from the department:

- A. A boarding home facility;
- B. A drug treatment center;
- C. A children's home;
- D. A child placing agency;
- E. A day care facility; or
- F. A nursery school.

2. Approval. No person, firm, corporation or association which operates an adult foster care facility may be entitled to reimbursement from state funds without having, subject to this subtitle and to the rules promulgated by the department under this subtitle, a written approval therefor from the department.

Sec. 2. 22 MRSA §7802, as amended by PL 1977, c. 694, §374, is repealed and the following enacted in its place:

§7802. Issuance of license or approval

1. Types of license or approval. The department shall issue the following types of licenses.

A. A provisional license or approval shall be issued by the department to an applicant who:

(1) Has not previously operated the facility for which the application is made or is licensed or approved but has not operated during the term of that license or approval;

(2) Complies with all applicable laws and rules, except those which can only be complied with once clients are served by the applicant; and

(3) Demonstrates the ability to comply with all applicable laws and rules by the end of the provisional license or approval term.

B. The department shall issue a full license or

approval to an applicant who complies with all applicable laws and rules.

C. A conditional license or approval may be issued by the department when the individual or agency fails to comply with applicable law and rules and, in the judgment of the commissioner, the best interest of the public would be so served by issuing a conditional license or approval. The conditional license or approval shall specify when and what corrections must be made during the term of the conditional license or approval.

2. Term of license or approval; compliance visits.

A. The provisional license or approval shall be issued for a minimum period of 3 months or a longer period, as deemed appropriate by the department, not to exceed 12 consecutive months.

B. The terms of full licenses or approvals shall be as follows:

(1) Except as provided in subparagraph (2), the term of all full licenses and approvals issued pursuant to this chapter shall be for one year.

(2) The term of a residential child care facility license shall be for 2 years.

(3) The term of a drug treatment center license may be for either one or 2 years.

C. The conditional license shall be issued for a specific period, not to exceed one year, or the remaining period of the previous full license, whichever the department determines appropriate based on the laws and rules violated.

D. Regardless of the term of the license, approval or registration, the department shall monitor for continued compliance with applicable laws and rules on at least an annual basis.

3. Failure to comply with applicable laws and rules. In taking action under paragraphs A to C, the department shall notify the licensee of the opportunity to request an administrative hearing in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375.

A. When an applicant fails to comply with applicable law and rules, the department may refuse to

issue or renew the license or approval.

B. If, at the expiration of a full or provisional license or approval, or during the term of a full license or approval, the facility fails to comply with applicable law and rules and, in the judgment of the commissioner, the best interest of the public would be served, the department may issue a conditional license or approval, or change a full license or approval to a conditional license or approval. Failure by the conditional licensee to meet the conditions specified by the department shall permit the department to void the conditional license or approval or refuse to issue a full license or approval. The conditional license or approval shall be void when the department has delivered in hand or by certified mail a written notice to the licensee or, if the licensee cannot be reached for service in hand or by certified mail, has left written notice thereof at the agency or facility. For the purposes of this subsection the term "licensee" means the person, firm, corporation or association to whom a conditional license or approval has been issued.

C. Whenever, upon investigation, conditions are found which, in the opinion of the department, immediately endanger the health or safety of persons living in or attending a facility, the department may request the Administrative Court for an emergency suspension pursuant to Title 4, section 1153.

D. Any license or approval issued under this subtitle may be suspended or revoked for violation of applicable law and rules, committing, permitting, aiding or abetting any illegal practices in the operation of the facility or conduct or practices detrimental to the welfare of persons living in or attending the facility.

When the department believes that a license or approval should be suspended or revoked, it shall file a complaint with the Administrative Court as provided in the Maine Administrative Procedure Act, Title 5, chapter 375.

4. Subsequent application for a full license or approval. Subsequent to any of the following actions, a subsequent application for a full license or approval may be considered by the department when the deficiencies identified by the department have been corrected:

A. Issuance of a conditional license or approval;

B. Refusal to issue or renew a full license or approval;

C. Revocation or suspension of a full license or approval; or

D. Refusal to issue a provisional license or approval.

5. Appeals. Any person aggrieved by the department's decision to take any of the following actions, may request an administrative hearing, as provided by the Maine Administrative Procedure Act, Title 5, chapter 375:

A. Issue a conditional license or approval;

B. Amend or modify a license or approval;

C. Void a conditional license or approval;

D. Refuse to issue or renew a full license or approval; or

E. Refuse to issue a provisional license.

Sec. 3. 22 MRSA §7803, as amended by PL 1977, c. 694, §§375 and 376, is repealed.

Sec. 4. 22 MRSA §8402, sub-§§1 and 2, as enacted by PL 1975, c. 709 §2, are repealed.

Effective September 23, 1983.

CHAPTER 387

H.P. 1172 - L.D. 1560

AN ACT Concerning the Catching of Herring for Bait.

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

Sec. 1. 12 MRSA §6542, sub-§1, as enacted by PL 1977, c. 661, §5, is repealed:

Sec. 2. 32 MRSA §4159, first ¶, as amended by PL 1975, c. 44, §1, is further amended to read: