

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND ELEVENTH LEGISLATURE

SECOND SPECIAL SESSION

November 18, 1983

AND AT THE

SECOND REGULAR SESSION

January 4, 1984 to April 25, 1984

AND AT THE

THIRD SPECIAL SESSION

September 4, 1984 to September 11, 1984

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

J.S. McCarthy Co., Inc.
Augusta, Maine
1986

PUBLIC LAWS
OF THE
STATE OF MAINE
AS PASSED AT THE
SECOND REGULAR SESSION
of the
ONE HUNDRED AND ELEVENTH LEGISLATURE
JANUARY 4, 1984 TO APRIL 25, 1984

2. Sunset. If, within 2 years of the effective date of its establishment, a board has not been assigned a date for review under the Maine Sunset Act, Title 3, chapter 23, it shall terminate, subject to the grace period provided in that chapter.

Effective July 25, 1984.

CHAPTER 815

S.P. 763 - L.D. 2071

AN ACT to Limit the Authority of the
Public Utilities Commission to Award
Compensation to Intervenors.

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

Sec. 1. 35 MRSA §19 is enacted to read:

§19. Funding of intervenors by the commission

Notwithstanding sections 3, 4 and 313, the commission shall not order compensation of intervenors by any utility except as authorized by this section. Compensation of intervenors may be ordered only to the extent that compensation is specifically required by the Public Utilities Regulatory Policies Act of 1978, United States Code, Title 16, Section 2601, et. seq.

Sec. 2. Effective date. Section 1 shall be effective 90 days after adjournment of the 2nd Regular Session of the 111th Legislature, except that the Revised Statutes, Title 35, section 19, shall not apply to cases pending before the commission on April 1, 1984. In those cases, intervenor funding shall be paid in accordance with the final order of the commission in the case in question.

Effective July 25, 1984, unless otherwise indicated.

CHAPTER 816

S.P. 911 - L.D. 2462

AN ACT to Make Corrections of Errors and
Inconsistencies in the Laws of Maine.

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

Whereas, Acts of this and previous Legislature have resulted in certain technical errors and inconsistencies in the laws of Maine; and

Whereas, it is vitally necessary that these uncertainties and this confusion be resolved in order to prevent any injustice or hardship to the citizens of Maine; 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. 7 MRSA §3155, first ¶, as enacted by PL 1983, c. 573, §4, is amended to read:

Any person who fails to furnish reports required by the commissioner pursuant to section ~~3155~~ 3154 in a timely fashion shall be subject to the following civil penalties, to be collected by the commissioner in a civil action:

Sec. 2. 9 MRSA §4052, sub-§2, as enacted by PL 1975, c. 429, §1, is amended to read:

2. Finance charge. "~~Credit~~ Finance charge" means that amount by which the balance payable by the insured exceeds the principal balance.

Sec. 3. 9 MRSA §4064, sub-§1, ¶C, as amended by PL 1981, c. 470, §14, is further amended to read:

C. Set forth the following items where applicable;

- (1) The total amount of the premiums;
- (2) The amount of the down payment;
- (3) The principal balance, the difference between subparagraphs (1) and (2);

(4) The amount of the ~~credit~~ finance charge;

(5) The balance payable by the insured, the sum of subparagraphs (3) and (4); and

(6) The number of installments required, the amount of each installment expressed in dollars and the due date or period thereof.

Sec. 4. 9 MRSA §4066, as enacted by PL 1975, c. 429, §1, is amended to read:

§4066. Finance charge

The ~~credit~~ finance charge, calculated according to the actuarial method, may not exceed the equivalent of 18% per year on the unpaid balances of the amount financed or a charge of \$15 per insured premium finance agreement, whichever is greater.

This section does not limit or restrict the manner of calculating the ~~credit~~ finance charge whether by way of add-on, discount or otherwise, so long as the rate of the ~~credit~~ finance charge does not exceed that permitted by this section.

Sec. 5. 14 MRSA §7552, as amended by PL 1983, cc. 362, §2 and 507, §7, is repealed and the following enacted in its place:

§7552. Injury to lands or property

Whoever cuts down, destroys, injures or carries away any ornamental or fruit tree, Christmas tree, evergreen boughs, agricultural product, timber, wood, underwood, stones, gravel, ore, goods or property of any kind from land not his own, without license of the owner, or injures or throws down any fences, bars or gates, or leaves such gates open, or breaks glass in any building is liable in damages to the owner in a civil action. If such an act or such acts are committed willfully or knowingly, the defendant is liable to the owner in treble damages and, in addition, for the cost of any professional services necessary for the determination of damages, for attorney's fees, and for court costs. For purposes of this section, Christmas trees and evergreen boughs are defined in Title 12, section 8841, and agricultural product is defined in section 7551-A.

Sec. 6. 17-A MRSA §1252, sub-§3, as amended by PL 1977, c. 510, §77, is further amended to read:

3. The court may add to the sentence of imprisonment a restitution order as is provided for in chapter 49, section 1204, subsection 2-A, paragraph B. In such cases, it shall be the responsibility of the Department of Mental Health and Corrections to determine whether the order has been complied with and consideration shall be given in the department's administrative decisions concerning the imprisoned person as to whether the order has been complied with.

Sec. 7. 18-A MRSA §2-514, sub-§(a), Maine Statutory Will, Article 2, 2.4, ¶B, as enacted by PL 1983, c. 376, is amended to read:

B. I leave the following stated amount to my spouse_____ and the remainder in equal shares to my children and the descendants of any deceased child. If my wife spouse is not living, ~~her~~ that share shall be distributed in equal shares to my children and the descendants of any deceased child.

(signature)

Sec. 8. 18-A MRSA §5-303, sub-§(b), as amended by PL 1983, cc. 176, Pt. A, §7 and 241, §1, is repealed and the following enacted in its place:

(b) Upon the filing of a petition, the court shall set a date for hearing on the issues of incapacity and unless the allegedly incapacitated person has counsel of his own choice, it may appoint an appropriate official or attorney to represent him in the proceeding, who shall have the powers and duties of a guardian ad litem. The person alleged to be incapacitated shall be examined by a physician or by a licensed psychologist acceptable to the court who shall submit his report in writing to the court. The court may appoint a visitor who shall interview the allegedly incapacitated person and the person who is seeking appointment as guardian, and visit the present place of abode of the person alleged to be incapacitated and the place it is proposed that he will be detained or reside if the requested appointment is made, and submit his report in writing to the court. The person alleged to be incapacitated is entitled to be present at the hearing in person, and to see and hear all evidence bearing upon his condition. He is entitled to be represented by counsel, to present evidence, to cross-examine witnesses, including the physician and the visitor. The issue may be determined at a closed hearing if the person alleged to be incapacitated or his counsel so requests.

Sec. 9. 20 MRSA §2273, sub-§§1-B and 1-C, as enacted by PL 1981, c. 705, Pt. D, §1, are repealed.

Sec. 10. 20-A MRSA §1051, sub-§1, as amended by PL 1983, cc. 39, §1 and 485, §5, is repealed and the following enacted in its place:

1. Eligibility requirements. Only those persons who hold a state certificate of superintendence grade, issued in accordance with chapter 501, may be eligible to become superintendents. Members of the school board may not be eligible to become superintendent in the school administrative unit which they represent. Superintendents' certificates may be revoked in accordance with section 13001. Grounds for revocation shall include, but not be limited to, the employment or retention of uncertified personnel in a school administrative unit in violation of this Title or of any rules adopted pursuant to this Title.

Sec. 11. 20-A MRSA §1405, as repealed and replaced by PL 1983, c. 422, §11, is repealed.

Sec. 12. 20-A MRSA §2301, as amended by PL 1983, c. 422, §13, is repealed.

Sec. 13. 20-A MRSA §11804, as enacted by PL 1981, c. 693, §§5 and 8, is repealed and the following enacted in its place:

§11804. Agreement for contract students after July 1, 1981

1. Agreement. Any state contract student commencing professional education on or after July 1, 1981, shall, as a condition precedent to the commencement of the education, enter into an agreement with the State under which the student shall agree:

A. To pay tuition to the institution; and

B. Upon the conclusion of professional education, including internship, residency and obligated public health service, to pay the State an amount of money equal to the state capitation payment expended by the State in purchasing the state contracted position which the student occupied.

(1) This amount shall be payable at 9% simple annual interest in not more than 10 annual equal installments.

(2) These installment payments shall commence upon conclusion of the state contract student's professional education under rules promulgated by the commissioner.

3. Forgiveness. Any student who, upon the conclusion of his professional education, including, if applicable, internship, residency and obligated public health service, elects to serve as a general, family, pediatric or veterinary practitioner in an underserved rural geographic area in the State shall be forgiven 20% of the indebtedness, as determined in subsection 4, for each of the first 5 years of that service.

4. Determination. The Commissioner of Human Services shall determine underserved rural areas for general, family or pediatric services. The Commissioner of Agriculture, Food and Rural Resources shall determine underserved rural areas for veterinary services.

Sec. 14. 21 MRSA §103-A, as amended by PL 1983, cc. 169, §4, and 425, §3, is repealed and the following enacted in its place:

§103-A. Overseas registration

1. Application. A person qualified to register as provided in section 241, subsections 1 to 3, who is outside the United States may register and enroll in a political party by filing a federal postcard application or an application designed by the Secretary of State and provided by the registrar, containing the following information:

A. First name, middle name or initial and last name, or first name or initial, middle name and last name;

B. Legal address, including street, street number, apartment number, town, county and zip code;

C. Mailing address;

D. Date of birth;

E. Last domicile immediately prior to departure from the United States;

F. Voting precinct or election district of last domicile within the United States;

G. Whether a citizen by birth or naturalization; if by naturalization, the date, place and court of naturalization;

H. Notification that failure to complete the entire application may prevent registration;

I. Passport or card of identity registration number;

J. Signature;

K. Certification that all information is correct, sworn before a diplomatic or consular official of the United States or before the master of a United States vessel of 1,000 tons or more;

L. Date of application;

M. Date of registration; and

N. Choice of political party.

Sec. 15. 22 MRSA §1579, as enacted by PL 1983, c. 226, is reallocated to be 22 MRSA §1580.

Sec. 16. 22 MRSA c. 405-B, as enacted by PL 1983, c. 459, §3, is reallocated to be 22 MRSA c. 405-C.

Sec. 17. 22 MRSA §3759, as enacted by PL 1983, c. 525, §1, is reallocated to be 22 MRSA §3760.

Sec. 18. 26 MRSA §834, as reallocated by PL 1983, c. 583, §15, is amended to read:

§834. Civil actions for injunctive relief or other remedies

An employee who alleges a violation of his rights under section 823 833 and who has first made a reasonable effort to maintain or restore his rights through any grievance procedure or similar process which may be available at his place of employment may bring a civil action for appropriate injunctive relief and other remedies provided in section 825 835 within 90 days after the occurrence of that alleged violation or, if a grievance procedure or similar process is used, within 60 days after the grievance procedure or similar process terminates without resolution. The action may be brought in the Superior Court for the county where the alleged violation occurred, the county where the complainant resides or the county where the person against whom the civil

complaint is filed resides or has his principal place of business.

An employee shall establish each and every element of his case, as set out in section 823 833, by a preponderance of the evidence.

Sec. 19. 26 MRSA §836, as reallocated by PL 1983, c. 583, §15, is amended to read:

§836. Penalties for violations

A person who violates section 829 839 is liable for a civil fine of \$10 for each day of willful violation which shall not be suspended. Any civil fine imposed under this section shall be submitted to the Treasurer of State for deposit to the General Fund.

Sec. 20. 26 MRSA §838, as reallocated by PL 1983, c. 583, §15, is amended to read:

§838. Compensation for employee participation in investigation, hearing or inquiry

This subchapter shall not be construed to require an employer to compensate an employee for participation in an investigation, hearing or inquiry held by a public body in accordance with section 823 833.

Sec. 21. 26 MRSA §1082, sub-§1, as amended by PL 1983, cc. 351, §8 and 489 §14, is repealed and the following enacted in its place:

1. Powers and duties of the commissioner. Except as otherwise provided, it shall be the duty of the Commissioner of Labor to administer this chapter, through an organization to be known as the Bureau of Employment Security. The commissioner shall appoint a Director of Employment Security to serve at his pleasure. The commissioner may employ such persons, make such expenditures, require such reports, make such investigations and take such other actions as he deems necessary or suitable to that end. The commissioner shall be responsible and shall possess the necessary authority for the operation and management of the Bureau of Employment Security. The commissioner shall determine methods of operational procedures in accordance with the provisions of this chapter. The commissioner may adopt rules in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, to achieve this purpose, except rules pertaining to unemployment insurance as provided in subsection 2. The commissioner shall determine methods of operational procedures in accordance with the

provisions of this chapter and by the Maine Administrative Procedure Act, Title 5, chapter 375. The commissioner shall make such recommendations for amendments to this chapter as he deems proper. Whenever the commissioner believes that a change in contribution or benefit rates will become necessary to protect the solvency of the fund, he shall promptly so inform the Governor and the Legislature and make recommendations with respect thereto.

Sec. 22. 26 MRSA §1192, sub-§3, as amended by PL 1983, cc. 257, §1 and 351, §16, is repealed and the following enacted in its place:

3. Is able and available for work. He is able to work and is available for full-time work at his usual or customary trade, occupation, profession or business or in such other trade, occupation, profession or business for which his prior training or experience shows him to be fitted or qualified; and in addition to having complied with subsection 2 is himself actively seeking work in accordance with the regulations of the commission; provided that no ineligibility may be found solely because the claimant is unable to accept employment on a shift, the greater part of which falls between the hours of midnight to 5 a.m., and is unavailable for that employment because of parental obligation, the need to care for an immediate family member, or the unavailability of a personal care attendant required to assist the unemployed individual who is a handicapped person; and provided that an unemployed individual who is neither able nor available for work due to good cause as determined by the deputy shall be eligible to receive prorated benefits for that portion of the week during which he was able and available;

Sec. 23. 26 MRSA §1194, sub-§2, as amended by PL 1983, cc. 246 and 351, §19, is repealed and the following enacted in its place:

2. Determination. A representative designated by the commissioner, and in this chapter referred to as a deputy, shall promptly examine the first claim filed by a claimant in each benefit year and shall determine the weekly benefit amount and maximum benefit amount potentially payable to the claimant during that benefit year in accordance with section 1192, subsection 5.

The deputy shall promptly examine all subsequent claims filed and, on the basis of the facts found by him, shall determine whether or not that claim is valid with respect to sections 1192 and 1193, other

than section 1192, subsection 5, or shall refer that claim or any question involved therein to an appeal tribunal or to the commission, which shall make a determination with respect thereto in accordance with the procedure described in subsection 3, except that in any case in which the payment or denial of benefits will be subject to section 1193, subsection 4, the deputy shall promptly transmit a report with respect to that subsection to the Director of Unemployment Compensation upon the basis of which the director shall notify its appropriate deputies as to the applicability of that subsection.

The deputy shall determine in accordance with section 1221, subsection 3, paragraph A, the proper employer's experience rating record, if any, against which benefits of an eligible individual shall be charged, if and when paid.

The deputy shall promptly notify the claimant and any other interested party of the determinations and reasons therefor. Subject to subsection 11, unless the claimant or any such interested party, within 15 calendar days after that notification was mailed to his last known address, files an appeal from that determination, that determination shall be final, provided that the period within which an appeal may be filed may be extended, for a period not to exceed an additional 15 calendar days, for good cause shown. If new evidence or pertinent facts that would alter that determination become known to the deputy prior to the date that determination becomes final, a redetermination is authorized, but that redetermination must be mailed before the original determination becomes final.

If an employer's separation report for an employee is not received by the office specified thereon within 10 days after that report was requested, the claim shall be adjudicated on the basis of information at hand. If the employer's separation report containing possible disqualifying information is received after the 10-day period and the claimant is denied benefits by a revised deputy's decision, benefits paid prior to the date of the revised decision shall not constitute an overpayment of benefits. Any benefits paid after the date of the revised decision shall constitute an overpayment.

If an employer files an amended separation report or otherwise raises a new issue as to the employee's eligibility or changes the wages or weeks used in determining benefits which results in a denial of benefits or a reduction of the weekly benefit amount, the

benefits paid prior to the date the determination is mailed shall not constitute an overpayment. Any benefits received after that date to which the claimant is not entitled pursuant to a new determination based on that new employer information shall constitute an overpayment.

If, during the period a claimant is receiving benefits, new information or a new issue arises concerning the claimant's eligibility for benefits or which affects the claimant's weekly benefit amount, no benefits may be withheld until a determination is made on the issue, unless authorized by the claimant. Before a determination is made, written notice shall be mailed to the claimant and other interested parties, which shall include the issue to be decided, the law upon which it is based, any factual allegations known to the bureau, the right to a fact-finding interview, the date and location of the scheduled interview, and the claimant's rights regarding the continuation of benefits, conduct of the interview and appeal. The fact-finding interview shall be scheduled not less than 5 days nor more than 14 days after the notice is mailed. The bureau shall include with the notice a preprinted form, which the claimant may sign and return to the bureau after indicating thereon whether he wishes to continue to receive benefits until a determination is made, acknowledging an understanding that any benefits paid prior to the determination may be an overpayment under applicable law and recoverable by the bureau if it is later determined that the claimant was not entitled to the benefits. If the claimant does not appear for the scheduled interview, the deputy shall make a determination on the basis of available evidence. The deputy shall make a prompt determination of the issue based solely on any written statements of interested parties filed with the bureau before the interview, together with the evidence presented by interested parties who personally appeared at the interview. Upon request and notice to all parties at the interview, the deputy may accept corroborative documentary evidence after the interview. In no other case may the deputy base his decision on evidence received after the interview has been held.

Sec. 24. 26 MRSA §1401, 2nd ¶ as amended by PL 1983, c. 305, §8 and c. 351, §37, is repealed and the following enacted in its place:

The Commissioner of Labor shall receive a fixed weekly salary in accordance with Title 2, section 6, and shall be paid from the administrative funds of

the Bureau of Employment Security, the Bureau of Labor Standards and from other program administrative funds which he is authorized by statute or Executive Order to administer. The commissioner may establish an Office of the Commissioner, consisting of such personnel as deemed necessary to carry out the duties and responsibilities of the commissioner, and paid from administrative funds from programs which the commissioner is authorized to administer.

Sec. 25. 29 MRSA §1, sub-§7, as amended by PL 1983, c. 455, §2 and c. 480, Pt. A, §32, is repealed and the following enacted in its place:

7. Motor vehicle. "Motor vehicle" means any self-propelled vehicle not operated exclusively on tracks, but not including snowmobiles as defined in Title 12, section 7821.

Sec. 26. 29 MRSA §244, 5th ¶, as amended by PL 1983, c. 94, Pt. B, §4 and c. 282, §1, is repealed and the following enacted in its place:

Only one trailer or semitrailer shall be drawn by a motor vehicle; except that combinations of truck tractor, semitrailer and full trailer may be operated on the Interstate Highway System and those qualifying federal aid primary system highways designated by the Secretary of the United States Department of Transportation, pursuant to the United States Surface Transportation Assistance Act of 1982, Public Law 97-424, Section 411; provided that driveaway, towaway operations, as defined by the Bureau of State Police, may include a combination of saddlemount vehicles not to exceed 3 units in contact with surface of the highway.

Sec. 27. 29 MRSA §531-B, as amended by PL 1975, c. 731, §34, is further amended to read:

§531-B. License or permit to be carried and exhibited on demand

Every licensee, including persons to whom a temporary driver's license has been issued, and every person to whom an instruction permit has been issued shall have his operator's license or instruction permit in his immediate possession at all times when operating a motor vehicle and shall hand over for inspection the same upon demand of a police officer. No person charged with violating this section shall be adjudicated to have committed a traffic infraction if he produces in court an operator's license or in-

struction permit theretofore issued to him and valid at the time of the issuance of a the Uniform Traffic Ticket and Complaint. If the person charged shall exhibit to a law enforcement officer designated by the issuing officer such an operator's license or instruction permit, not later than 24 hours before the time set for the court appearance, then the traffic infraction proceeding shall be dismissed.

Sec. 28. 29 MRSA §1655, 2nd ¶, as enacted by PL 1983, c. 94, Pt. B, §16, is amended to read:

Notwithstanding the first paragraph, the tandem axle unit limit for 5 or more axle combination vehicles shall not exceed 44,000 pounds and a 6-axle combination vehicle, as defined in section 1652, subsection 1, paragraph E, may be operated, or caused to be operated, with a maximum gross weight of 100,000 pounds, provided that the maximum gross weight permitted on a tandem axle unit shall be 44,000 pounds and the maximum gross weight permitted on a tri-axle unit shall be 54,000 pounds, and provided that the distance between the extreme axles, excluding the steering ~~smle~~ axle, is at least 32 feet.

Sec. 29. 29 MRSA §2362, sub-§13, as enacted by PL 1981, c. 110, §6, is reallocated to be 29 MRSA §2362, sub-§14.

Sec. 30. 29 MRSA §2518, sub-§1, as amended by PL 1981, c. 370, §13 and c. 445, is repealed and the following enacted in its place:

1. Disposition of stickers. All inspection stickers and materials issued to inspection stations by the Chief of the State Police shall remain the property of the State. Each official inspection station shall stock a sufficient number of stickers to meet their demands at all times. These shall be furnished by the Chief of the State Police at 50¢ each. The stickers shall be made of such material and quality of adhesive as prescribed by the Chief of the State Police. At the end of the calendar year, or if the station license is suspended, any unused or expired stickers shall, within 20 working days, be returned to the Chief of the State Police and the purchase price refunded or exchanged for current year stickers, except that refunds or exchanges shall not be made for other than full sheets of unused stickers.

Sec. 31. 30 MRSA §5607, as amended by PL 1983, c. 601, §2 and c. 615, is repealed and the following enacted in its place:

§5607. Annual meeting

Organized plantations shall hold an annual meeting and choose a clerk, 3 assessors, treasurer, collector of taxes, school committee, one or more surveyors of lumber and 2 or more fence-viewers. The provisions of section 2060, subsection 5, relating to the terms of office and election of assessors, shall apply to the terms of office and election of assessors of organized plantations. When money is raised for repair of ways and bridges, the assessors of the plantation shall choose one or more road commissioners as selectmen of towns do.

Sec. 32. 32 MRSA §1501, first ¶, as amended by PL 1983, c. 413, §61 and c. 468, §5, is repealed and the following enacted in its place:

The State Board of Funeral Service may determine the qualifications necessary to enable any person to lawfully engage in the funeral service profession and operate a funeral establishment. The board shall examine all applicants for licenses for the practice of funeral service and shall issue a license to all persons who successfully pass that examination. To be licensed for the practice of funeral service under this chapter, a person must be at least 18 years of age, a resident of this State, have successfully completed a prescribed course at a school or schools approved by the State Board of Funeral Service and must have served as a practitioner trainee for not less than 12 months under the personal supervision of a person licensed for the practice of funeral service and approved by the board. Each applicant shall demonstrate that he is trustworthy and competent to engage in the profession of funeral service in such a manner as to safeguard the interests of the public.

Sec. 33. 32 MRSA §1504, 2nd ¶, as amended by PL 1983, c. 553, §34, is further amended to read:

All licenses and certificates of registration which have been issued by the board shall expire on December 31st, annually. Any person holding a license or registration under this law may have the license renewed by making and filing with the board an application therefor within 30 days preceding the expiration of his license or certificate of registration, upon blanks prescribed by the board and upon payment of the established renewal fee. The board shall establish the initial and renewal fees, which shall not exceed \$40 for an embalmer's license, funeral director's license and funeral home registration. The license for the practitioner of funeral

services shall not exceed \$50 and the fee for a resident trainee shall not exceed \$10. A license may be renewed up to 90 days after the date of its expiration upon payment of a late fee of \$10 in addition to the renewal fee. Any person who submits an application for renewal more than 90 days after the license expiration date shall be subject to all requirements governing new applicants under this chapter, except that the board may in its discretion, giving due consideration to the protection of the public, waive examination if the renewal application is made within 2 years from the date of the expiration.

Sec. 34. 32 MRSA §3831, as amended by PL 1983, c. 413, §152 and c. 468, §22, is repealed and the following enacted in its place:

§3831. Registration; qualifications

1. Psychological examiner. Any person wishing to obtain the right to practice as a psychological examiner, who has not been licensed to do so, shall, before it shall be lawful for him to practice as a psychological examiner, make application to the State Board of Examiners of Psychologists, upon such form and in such manner as prescribed by the board, and obtain from the board a license to do so. Unless such a person has obtained a license, it shall be unlawful for him to practice and, if he shall practice as a psychological examiner without first having obtained such a license, he shall be deemed to have violated this chapter. A candidate for this license shall furnish the board with satisfactory evidence that he is trustworthy and competent to practice as a psychological examiner in such manner as to safeguard the interests of the public; has had a master's degree reflecting comprehensive training in psychology from an accredited educational institution recognized by the board as maintaining satisfactory standards; has had at least one year of full-time supervised experience in psychology of a type considered by the board to be qualifying in nature; is competent as a psychological examiner as shown by passing such examinations, written or oral, or both, as the board deems necessary; is not considered by the board to be engaged in unethical practice; and has not within the preceding 6 months failed an examination given by the board.

2. Psychologist. Any person wishing to obtain the right to practice as a psychologist, who has not been licensed to do so, shall, before it shall be lawful for him to practice psychology, make application to the State Board of Examiners of Psychologists, upon such form and in such manner as pre-

scribed by the board, and obtain from the board a license to do so. Unless such a person has obtained a license, it shall be unlawful for him to practice and, if he shall practice psychology without first having obtained a license, he shall be deemed to have violated this chapter. A candidate for this license shall furnish the board with satisfactory evidence that he is trustworthy and competent to practice as a psychologist in such manner as to safeguard the interest of the public; has received a doctorate degree reflecting comprehensive training in psychology from an accredited institution recognized by the board as maintaining satisfactory standards, at the time the degree was granted; has had at least 2 years of experience in psychology of a type considered by the board to be qualifying in nature; is competent in psychology, as shown by passing such examinations, written or oral, or both, as the board deems necessary; is not considered by the board to be engaged in unethical practice; and has not within the preceding 6 months failed an examination given by the board.

Sec. 35. 32 MRSA §3836, as amended by PL 1983, c. 413, §156 and c. 468, §24, is repealed and the following enacted in its place:

§3836. Licensure under special conditions

The board may, at any time at its discretion, grant a license without an assembled examination to any person who at the time of application is licensed or certified by a similar board of another state whose standards, in the opinion of the board, are equivalent to those required by this chapter. The board, at its discretion, may issue a temporary license, at the appropriate level, to applicants for a permanent license upon payment of a fee, to be established by the board, and successful completion of an oral examination, that license to be valid until results are received from the next written examination. Failure to pass the written examination will terminate the temporary license.

Sec. 36. 32 MRSA §4902, sub-§7, as enacted by PL 1973, c. 558, §1, is amended to read:

7. Practice of geology. "Practice of geology" means the performance of geological work or service for the public, including, but not limited to, consultation, investigation, surveys, evaluation, planning, mapping or inspection of geological work, wherein the performance is related to the public welfare of or the safeguarding of life, health, property and the environment.

Sec. 37. 32 MRSA §6030, as amended by PL 1983, c. 413, §208, is further amended to read:

§6030. Continuing professional education

The board shall require the applicant for license renewal to present evidence of his the satisfactory completion of continuing professional education in accordance with rules adopted by the board.

Sec. 38. 32 MRSA §9608, 2nd ¶, as enacted by PL 1983, c. 413, §239, is amended to read:

The State may bring an action in Superior Court to enjoin any person ~~from~~ from violating this chapter, regardless of whether proceedings have been or may be instituted in the Administrative Court or whether criminal proceedings have been or may be instituted.

Sec. 39. 32 MRSA §9856, as enacted by PL 1983, c. 524, is repealed and the following enacted in its place:

§9856. Application; fees

1. Application for license. To apply for a license as a radiographer, nuclear medicine technologist, radiation therapy technologist or for a limited license, an applicant shall:

A. Submit a written application with supporting documents to the board on forms provided by the board;

B. Pay an application fee which shall not exceed \$70; and

C. Pay an examination fee which shall not exceed \$50.

2. Denial of application. In case the application is denied and permission to take the examination is refused, the examination fee only shall be returned to the applicant. Any applicant who fails to pass the examination shall be entitled to reexamination within 6 months upon repayment of the examination fee only. Pursuant to section 9858, the board may issue a temporary license to an applicant who has failed an examination and is awaiting reexamination; the temporary license shall expire at such time as the board may by rule direct.

Sec. 40. 33 MRSA §1603-116, sub-§(b), as amended by PL 1983, cc. 78, §3 and 480, Pt. A, §38, is repealed and the following enacted in its place:

(b) A lien under this section is prior to all other liens and encumbrances on a unit except: (1) Liens and encumbrances recorded before the recordation of the declaration; (2) A first mortgage recorded before or after the date on which the assessment sought to be enforced becomes delinquent; and (3) Liens for real estate taxes and other governmental assessments or charges against the unit. This subsection does not affect the priority of mechanics' or materialmen's liens, or the priority of liens for other assessments made by the association. The lien under this section is not subject to the provisions of Title 14, section 4651 and Title 18-A, Part 2, as they or their equivalents may be amended or modified from time to time.

Sec. 41. 34-A MRSA §3401, sub-§2, as repealed and replaced by PL 1983, c. 581, §§40 and 59, is amended to read:

2. Women. Women who have been duly sentenced and committed to the custody ~~of the custody~~ of the department;

Sec. 42. 34-A MRSA §3403, sub-§3, as enacted by PL 1983, c. 581, §41, is reallocated to be 34-A MRSA §3403, sub-§4.

Sec. 43. 38 MRSA §1305, sub-§2, as amended by PL 1983, c. 11, and as repealed by PL 1983, c. 380, §2, is repealed.

PART B

Sec. 1. 5 MRSA §1727, as repealed by PL 1983, c. 349, §6 and as amended by PL 1983, c. 489, §6, is repealed.

Sec. 2. 9-B MRSA §217 is enacted to read:

§217. Annual reports to the Legislature

The superintendent shall report to the Legislature by January 15th of each year the applications received and any actions taken pursuant to chapters 35 and 101. The report shall include, but not be limited to, detailed information on the number, types and legal structures of all regulated financial institutions in the State, the locations of all offices and total deposits held by these institutions, the

steps taken or planned by nonstate financial institution holding companies that have received approval under chapter 101 for acquisition or establishment to meet the credit needs of consumers and small businesses and an analysis of the impact of applications approved under chapters 35 and 101 on the banking structure of the State and the credit needs of the state's citizens and businesses.

Sec. 3. 9-B MRSA §1020, as enacted by PL 1983, c. 597, §5, is repealed.

Sec. 4. 15 MRSA §2123, sub-§2, as amended by PL 1983, c. 235, §3, is further amended to read:

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

Sec. 5. 21 MRSA §1558, sub-§6, as enacted by PL 1983, c. 365, is amended to read:

6. Identification of contributions. Names and mailing addresses of contributors to the political action committee, the amount contributed by each donor and the date of the ~~following~~ contribution following registration of the committee under section 1553. The information required in this subsection shall be kept separate from the information required in section 1553, subsection 7.

Sec. 6. 21 MRSA §1565, sub-§3, as enacted by PL 1983, c. 365, is amended to read:

3. Registration. No political action committee may function in this State, unless it is registered in accordance with section 1553 or unless it is ~~accepted~~ excepted by the provisions thereof.

Sec. 7. 24-A MRSA §2843, sub-§3, ¶E, as enacted by PL 1983, c. 515, §6, is amended to read:

E. "Provider" means individuals included in ~~the 247 section 2303, subsection 2~~ section 2835, and a licensed physician with 3 years approved residency in psychiatry, an accredited public hospital or psychiatric hospital or a community agency licensed at the comprehensive service level by the department of Mental Health and Mental Retardation. All agency or institutional providers named in this paragraph shall assure that services are supervised by a psychiatrist or licensed psychologist.

Sec. 8. 32 MRSA §9607, first ¶, as amended by PL 1983, cc. 204, §15 and 468, §25, is repealed and the following enacted in its place:

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

Sec. 9. 37-A MRSA §56-A, as enacted by PL 1983, c. 516, §1, is reallocated to be 37-B MRSA §706.

Sec. 10. 37-A MRSA §62, 3rd ¶, as amended by PL 1983, c. 516, §2, is repealed.

Sec. 11. 37-A MRSA §124, sub-§1, as repealed and replaced by PL 1983, c. 472, §1, is repealed.

Sec. 12. 37-A MRSA §124, sub-§2, as amended by PL 1983, c. 472, §2, is repealed.

Sec. 13. 37-A MRSA §124, sub-§§4 and 5, as enacted by PL 1983, c. 472, §3, are reallocated to be 37-B MRSA §954, sub-§§4 and 5.

Sec. 14. 37-A MRSA §130, as enacted by PL 1983, c. 472, §4, is reallocated to be 37-B MRSA §960.

Sec. 15. 37-A MRSA §131, as enacted by PL 1983, c. 472, §5, is reallocated to be 37-B MRSA §961.

Sec. 16. 37-B MRSA c. 9, as enacted by PL 1983, c. 460, §3, is repealed.

Sec. 17. 37-B MRSA §704, as enacted by PL 1983, c. 460, §3, is amended by adding at the end a new paragraph to read:

The director shall not require any political subdivision to participate in any program of nuclear civil protection planning.

Sec. 18. 37-B MRSA §826, as enacted by PL 1983, c. 460, §3, is amended to read:

§826. Transfer of equipment

Subject to the approval of the Governor, the director may convey equipment, supplies, materials or funds by sale, lease or grant to any political subdivision of the State for civil emergency preparedness purposes. The conveyance shall be subject to the terms of the offer and any the applicable state rules

er and federal regulations of the State. These rules and regulations are not rules within the meaning of the Maine Administrative Procedure Act, Title 5, section 8002, subsection 9.

Sec. 19. 37-B MRSA §954, sub-§1, as enacted by PL 1983, c. 460, §3, is repealed and the following enacted in its place:

1. Created. There is created a Radiological Emergency Preparedness Committee composed of 7 voting members as listed in this subsection. The duties of the committee shall be purely advisory. Members from state agencies shall serve ex officio. The committee shall consist of:

A. The Director of Civil Emergency Preparedness, or his designee, who shall act as chairman;

B. The Director of Health Engineering, or his designee;

C. The Commissioner of Public Safety, or his designee;

D. Three public members, one designated by the Governor, one designated by the President of the Senate and one designated by the Speaker of the House of Representatives; and

E. The license holder for a particular nuclear power plant, or his designee, who shall serve on the committee for matters relating to emergency planning for that plant.

Sec. 20. 37-B MRSA §954, sub-§2, as enacted by PL 1983, c. 460, §3, is repealed and the following enacted in its place:

2. Annual review of plan. The committee shall, in conjunction with all municipalities and state agencies it requires to provide assistance, prepare an Emergency Radiological Response Plan deemed necessary to protect the public and property in the State from hazards or dangers from radiation, radioactive materials, nuclear materials or the occurrence of a radiological incident as a result of the presence of, release of or emissions from radioactive materials, radioactivity or nuclear materials in this State. The committee shall review and annually determine the adequacy of the plan. The plan shall include, but not be limited to, evacuation plans and the requirements for such programs as established by the Federal Emergency Management Agency and the United States Nuclear

Regulatory Commission. Any agency of state, county or local government may make requests and recommendations under this program to meet differing needs. This plan shall only apply to those hazards or dangers which arise from the peaceful use of nuclear materials.

The committee shall recommend to the Legislature on or before January 31, 1985, and annually thereafter, any appropriate legislative action relative to the plan. In the event of a division of opinions, all reports shall be submitted to the Legislature.

Sec. 21. 38 MRSA §1303-A, sub-§1, as amended by PL 1983, c. 432, §4 and as repealed and replaced by PL 1983, c. 467, §1, is repealed and the following enacted in its place:

1. Identification of hazardous waste. The board may adopt and amend rules identifying hazardous waste. It is the intent of the Legislature that the board shall identify as hazardous waste those substances which are so identified by the United States Environmental Protection Agency in proposed or final regulations. The Legislature also intends that the board may identify as hazardous waste, in accordance with paragraph B, other substances in addition to those identified by the United States Environmental Protection Agency. Further, the Legislature intends that a substance which has been identified as a hazardous waste by the board shall be removed from identification only by further rulemaking by the board. Hazardous waste may be identified as follows.

A. The board may identify any substance as a hazardous waste if that substance is identified as hazardous by particular substance, by characteristic, by chemical class or as a waste product of a specific industrial activity in proposed or final rules of the United States Environmental Protection Agency.

B. The board may identify any substance as a hazardous waste if the board, after evaluation based on existing data or data reasonably extrapolated from previously conducted studies using similar classes of substances or compounds under similar circumstances, has determined that the substance is an acute or chronic toxin causing significant potential adverse public health or environmental effects. An acute or chronic toxin may include the characteristics of:

- (1) Carcinogenicity;
- (2) Mutagenicity;
- (3) Teratogenicity; or
- (4) Infectiousness.

Rules adopted under this paragraph shall be submitted to the joint standing committee of the Legislature having jurisdiction over natural resources for review. These rules shall remain in effect until 90 days after adjournment of the next regular session of the Legislature unless adopted by legislative enactment.

C. Whenever the board proposes to adopt or amend rules identifying hazardous waste or removing hazardous waste from identification, it shall hold a public hearing.

Sec. 22. 39 MRSA §22, as repealed by PL 1983, c. 509, §1 and as amended by PL 1983, c. 551, §§3 and 4, is repealed.

Sec. 23. 39 MRSA §22-B, as enacted by PL 1983, c. 509, §2, is reallocated to be 39 MRSA §22-C.

Sec. 24. 39 MRSA §103-B, sub-§1, as amended by PL 1983, c. 643, §1, is further amended to read:

1. Procedure. An appeal shall be taken from the commission decision by filing a copy of the decision, order or agreement, with the division within 20 days after receipt of notice of the filing of the decision by the commission or commissioner.

Any party in interest may present copies of any order, decision or agreement to the clerk of the division.

The failure of an appellant who timely notifies the division of his desire to appeal to provide a copy of the decision, order or agreement appealed from shall not affect the jurisdiction of the division to determine the appeal on its merits unless the appellee shows substantial prejudice from that failure.

This section shall apply to cases now pending before the appellate division and to cases hereafter filed.

Sec. 25. Effective date. Section 24 of this Part shall take effect 90 days after adjournment of the Legislature.

Sec. 26. PL 1983, c. 632, Pt. B, §7 is amended to read:

Sec. 7. Effective date. ~~This~~ Sections 1 to 6 of ~~this~~ Part shall take effect on March 31, 1985, unless by that date the Governor has proclaimed that the Constitution of Maine has been amended to require that: Beginning with the property tax year 1984, all watercraft, as defined by the Legislature, shall be exempt from taxation as personal property; provided however, that certain watercraft, as defined by the Legislature, shall be subject to an excise tax to be collected and retained by the municipalities. If the Governor has not so proclaimed that date, ~~this~~ sections 1 to 6 of this Part ~~is~~ are repealed on March 31, 1985.

PART C

Sec. 1. 32 MRSA §1401, as amended by PL 1983, c. 413, §§53 and 54, is further amended to read:

§1401. Prearranged funerals or burial plans

All moneys paid during a person's lifetime to any individual, firm, association, partnership or corporation, by that person or by someone in his behalf under an agreement that services be performed or personal property be delivered in connection with the disposition of that person's body after his death shall be deposited by the payee within 30 days after receipt thereof in a separate account in a bank, trust company, credit union or savings institution in this State in the name of the payee as mortuary trustee for the person for whose benefit the payment was made and shall be held in that account together with interest if any thereon. Nothing in this section may be construed to prevent transfer of these funds to another such bank, trust company, credit union or savings institution by merger or consolidation or by operation of law.

Such funds may be withdrawn, if otherwise lawful, by the payee on written instructions of the person who originally paid the money or his legal representative or on the death of the person for whose benefit such funds were paid, in which latter event they shall be used in accordance with the agreement.

Such bank, trust company, credit union or savings institution shall be discharged from liability for payment of the funds in any such account upon presentation of a written consent to withdrawal signed by

the party who paid the funds or his legal representative and by the payee, or upon presentation of proof of death of such person for whose benefit such funds were paid. This section shall not apply to the sale of cemetery lots, crypts, niches, cemetery burial privileges; cemetery space or perpetual care.

Any person who violates this section is guilty of a Class E crime.

Sec. 2. 34-B MRSA §1204, sub-§2, ¶C, as enacted by PL 1983, c. 729, §7, is amended to read:

C. The commissioner shall appoint the following officials to serve at his pleasure:

- (1) Associate Commissioners;
- (2) Director, Bureau of Mental Health;
- (3) Superintendent, Augusta Mental Health Institute;
- (4) Superintendent, Bangor Mental Health Institute;
- (5) Director, Bureau of Mental Retardation;
- (6) Superintendent, Pineland Center;
- (7) Children's Services, Executive Director;
- (8) Director, Mental Retardation Facility;
- (9) Director, Elizabeth Levinson Center;
and
- (10) Assistant to the Commissioner for Public Information; and
- (11) Assistant to the Commissioner.

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

Effective April 24, 1984.
