

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWELFTH LEGISLATURE

FIRST REGULAR SESSION

December 5, 1984 to June 20, 1985

Chapters 1-384

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PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION

of the
ONE HUNDRED AND TWELFTH LEGISLATURE

1985

CHAPTER 21

H.P. 137 - L.D. 162

AN ACT to Create a Seamen's Memorial Day.

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

1 MRSA §123 is enacted to read:

§123. Seamen's Memorial Day

The 2nd Sunday in June shall be designated Seamen's Memorial Day and the Governor shall annually issue a proclamation inviting and urging the people of the State to observe the day with appropriate ceremonies and activities in honor of the women and men of the State who have been lost at sea.

Effective September 19, 1985.

CHAPTER 22

H.P. 222 - L.D. 256

AN ACT to Designate "Pertica quadrifaria" the Official Fossil of the State of Maine.

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

1 MRSA §216 is enacted to read:

§216. State fossil

"Pertica quadrifaria" shall be designated as the official fossil of the State of Maine.

Effective September 19, 1985.

CHAPTER 23

H.P. 543 - L.D. 755

AN ACT Clarifying the Laws Relating to
Fireworks.

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

Sec. 1. 8 MRSA c. 9, as amended, is repealed.

Sec. 2. 8 MRSA c. 9-A is enacted to read:

CHAPTER 9-A

FIREWORKS

§221. Definitions

As used in this chapter, the following words have the following meanings.

1. Fireworks. "Fireworks" means: Any combustible or explosive composition or substance; any combination of such compositions or substances; any other article, which was prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration or detonation, including blank cartridges or toy cannons in which explosives are used, the type of balloon which requires fire underneath to propel it, firecrackers, torpedoes, skyrocketes, roman candles, bombs, rockets, wheels, colored fires, fountains, mines, serpents or other fireworks of like construction; any fireworks containing any explosive or flammable compound; or any tablets or other device containing any explosive substance or flammable compound. The term "fireworks" as used in this chapter does not include toy pistols, toy canes, toy guns or other devices in which paper caps or plastic caps containing 25/100 grains or less of explosive compound are used, if they are constructed so that the hand cannot come in contact with the cap when in place for the explosion, or toy pistol paper caps or plastic caps which contain less than 20/100 grains of explosive mixture or sparklers that do not contain magnesium chlorates or perchlorates.

2. Sale or sell. "Sale" or "sell" means any transfer or delivery of fireworks to another for consideration.

3. Possession. "Possession" means the intentional or knowing possession of what the possessor knows or believes to be fireworks.

§222. Possession of fireworks

No person may possess or have under his control fireworks.

§223. Sale of fireworks

1. Sale of fireworks prohibited. No person may sell, possess with the intent to sell or offer for sale fireworks.

2. Class B crime if value exceeds \$5,000. It is a Class B crime to sell, possess with the intent to sell or offer for sale fireworks the value of which exceeds \$5,000.

3. Class C crime if value exceeds \$1,000. It is a Class C crime to sell, possess with the intent to sell or offer for sale fireworks the value of which exceeds \$1,000 but does not exceed \$5,000.

4. Class D crime if value is \$1,000 or less. It is a Class D crime to sell, possess with the intent to sell or offer for sale fireworks the value of which does not exceed \$1,000.

5. Value. "Value" is determined in accordance with Title 17-A, section 352, subsection 5.

§224. Storage and manufacture of fireworks

1. Storage. No person may store fireworks except in such buildings as may be permitted by the rules of the Commissioner of Public Safety outside the premises of a fireworks manufactory, if that building or other structure is located within 1,000 feet of any church, hospital, theatre, hall, place of assembly, workshop, factory or any inhabited building.

2. Certificate of public liability insurance required for manufacture. No person may manufacture fireworks without first furnishing the Commissioner of Public Safety, in an amount to be determined by him, a certificate of public liability insurance to cover the losses, damages or injuries to persons or property that might result.

§225. Transportation of fireworks

No person may transport fireworks in any motor vehicle or in any conveyance except as may be permitted by the rules promulgated by the Commissioner of Public Safety.

§226. Displays and exhibitions of fireworks

No person engaged in the business of displaying, exploding or exhibiting fireworks may, by himself or his agents, discharge, fire off, explode or display fireworks without first furnishing the Commissioner of Public Safety, in an amount to be determined by him, a certificate of public liability insurance to cover the losses, damages or injuries to persons or property that might result.

§227. Permits for displays; rules

All persons, municipalities, fair associations, amusement parks and other organizations or groups of individuals desiring to discharge, fire off, explode or display fireworks in accordance with section 228, subsection 2, paragraph B, shall apply in writing to the Commissioner of Public Safety for a permit at least 10 days in advance of the proposed date of the display. The Commissioner of Public Safety, upon receipt of that application, shall determine if the applicant is competent and if the proposed display will in other respects be in accordance with the law and any rules which may have been promulgated in this section. If the Commissioner of Public Safety finds that the applicant is competent and that the proposed display is in accordance with the law and all rules, he shall issue a permit, otherwise he shall refuse to issue a permit. The Commissioner of Public Safety shall make rules for the granting of the permits in this section and shall promulgate such rules relative to the supervised display of fireworks as will be conducive to public safety.

The following schedule of fees applies to permits and inspections required by this section and by rules promulgated in this section:

1. Permit to discharge fireworks. Permit to discharge, fire off or explode fireworks: Fifteen dollars per calendar year;

2. Site inspection. Inspection of fireworks display sites: Ten dollars; and

3. Display permit for specified period of time. Permit for supervised display of fireworks for period of time specified in permit: Twenty dollars.

§228. Application of provisions

1. Firecrackers and pyrotechnical ship or railway signals. Firecrackers and pyrotechnical ship or railway signals are included and classed as fire-

works, but sections 222, 224 and 225 do not apply to the storage of pyrotechnical ship or railway signals nor to the discharge, firing or exploding of the signals when used for the protection of life and property.

2. Exceptions. This chapter does not apply:

A. To any article named in this chapter to be shipped directly out of the State;

B. To the sale of any article named in this chapter for use by persons or organizations who have obtained from the Commissioner of Public Safety a permit to display the article or fireworks under section 227;

C. To the sale of flares, lanterns or fireworks for use by railroads, railways, boats, motor vehicles or other transportation agencies, or other activity lawfully permitted or required to use any or all of the articles named in this chapter for signal purposes, illumination or otherwise;

D. To the sale or use of blank cartridges for a duly licensed show or theatre or for signal or ceremonial purposes in athletics or sports;

E. To experiments at a factory for explosives;

F. To the sale of blank cartridges for use by the militia or any organization of war veterans or other organizations authorized by law to parade in public a color guard armed with firearms;

G. In teaching the use of firearms;

H. To the sale of shells for firearms, cartridges, gunpowder and explosives for the purpose of any legal use of firearms; or

I. To the sale to, and use of fireworks by, agricultural growers for the protection of crops, provided a permit has been obtained for this purpose from the Commissioner of Public Safety. The commissioner shall promulgate regulations for the protection of the public governing the purchase, use and storage of fireworks by agricultural growers. The regulations will include the size, type and explosive content of the fireworks, areas in which they may be used, and the season of the year during which a permit is valid. The

commissioner may charge a fee of not more than \$2 for the permit, which fee will be used to enforce this section. The fees will be credited to the Department of Public Safety and will not lapse but will remain a continuing, carrying balance.

§229. Violations

1. Criminal penalties. Any person who violates section 222, where the value of the fireworks possessed exceeds \$100, or section 224 or 225 is guilty of a Class E crime.

2. Civil violation. Any person who violates section 222 where the value of the fireworks possessed does not exceed \$100 commits a civil violation for which a forfeiture not to exceed \$50 may be adjudged.

§230. Appeals

Any person aggrieved by a decision of the Commissioner of Public Safety may appeal the decision to the Superior Court within 30 days. The court shall immediately, after notice and hearing, affirm or reverse the commissioner's decision. The finding of the court shall be final.

Effective September 19, 1985.

CHAPTER 24

H.P. 631 - L.D. 775

AN ACT to Deputize National Marine Fisheries Service Officers, United States Coast Guard Personnel and Law Enforcement Personnel of Other States as Department of Marine Resources Marine Patrol Officers and to Define Possession.

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

Sec. 1. 12 MRSA §6001, sub-§34-A is enacted to read:

34-A. Possession. "Possession" means to have in one's custody or control, either personally or by another who is under one's control.