

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND THIRTEENTH LEGISLATURE
FIRST REGULAR SESSION

December 3, 1986 to June 30, 1987

Chapters 1-542

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Twin City Printery
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1987

PUBLIC LAWS

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1652 or section 1655, whichever is applicable, is less than 1,000 pounds, the fine shall be waived. If the excess is less than 1,000 pounds plus 500 pounds multiplied by the number of axles in the axle group, the fine shall be reduced by 2/3. If the excess is less than 1,000 pounds plus 1,000 pounds multiplied by the number of axles in the axle group, the fine shall be reduced by 50%. If the axle excess is greater than those enumerated in this paragraph the fine schedule shall apply.

Sec. 2. 29 MRSA §1654, 8th ¶, as repealed and replaced by PL 1985, c. 812, Pt. B, §§2 and 9, is repealed and the following enacted in its place:

Notwithstanding any other paragraph in this section, for vehicles using the interstate system as defined in the Federal Highway Act of 1956, there shall be a minimum fine of \$20 and cost of court.

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

Effective May 12, 1987.

CHAPTER 109

H.P. 653 — L.D. 881

AN ACT to Amend the Experimental Vehicle Law.

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

23 MRSA §4206, sub-§9, as enacted by PL 1985, c. 741, is amended to read:

9. Experimental vehicle permits. The Commissioner of Transportation, with the advice of the Commissioner of Public Safety and the Director of Motor Vehicles, may establish a program providing for the issuance of temporary experimental vehicle permits on a discretionary basis, each for a period not exceeding 2 years, upon proper application in writing from a trucker representing a significant sector of the trucking industry. The permits are to provide for the operation and the evaluation of the operation of experimental vehicles which have a length, width, height, weight and other conditions beyond that specified in Title 29, over any nonlimited way or bridge maintained by the Department of Transportation. These permits shall carry no fee. Registration shall be assessed for the applicable road limit exclusive of general or special commodity permits, despite expected operation beyond these limits, in an experimental mode. Multistate experiments are to be encouraged. Registration in another state in the context of a regional multistate experiment will be honored without the necessity of acquiring a Maine registration. These permits shall only be granted within the context of a structured joint industry-government evaluation program, including preparatory off-road performance tests, strictly controlled operational testing on the highway system and

both in-process and final evaluation reports covering productivity, operating characteristics and safety. Additional reports may be required by the commissioner if deemed necessary during the experimental phase. The Commissioner of Transportation shall issue these permits on a limited basis and only if he judges that a significant potential exists for increased productivity without undue compromise in safety by the eventual legal general operation of the experimental vehicle, without permit, on the highway system. No commitment to that eventual operation is implied by the issuance of the temporary experimental vehicle permit. The Commissioner of Transportation shall ratify, at his discretion, all conditions of the experimental programs proposed, including, but not limited to, preparatory off-road vehicle tests, time limits, vehicle dimensions, axle and gross weight limits, routing, insurance and reporting provisions. The commissioner may terminate any evaluation at any time if in his judgment the operation of the vehicle poses an undue threat to public safety or the integrity of the highway system or if the conditions of the permit are violated.

The commissioner shall submit a report biennially to the joint standing committee of the Legislature having jurisdiction over transportation before the first regular session of each Legislature. This report shall discuss the progress of any experimental vehicle evaluations and contain recommendations, if any, for legislation leading to their eventual general use on the highway system.

Effective September 29, 1987.

CHAPTER 110

H.P. 1000 — L.D. 1346

AN ACT to Amend the Maine Tort Claims Act Relating to Personal Liability of Employees of a Governmental Entity.

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

14 MRSA §8103, sub-§3, as amended by PL 1985, c. 599, §2, is further amended to read:

3. Personal liability; employee of a governmental entity. Except as otherwise expressly provided by section 8111 or by any other law, statute, and notwithstanding the common law, the personal liability for the negligent acts or omissions of an employee of a governmental entity acting within the course and scope of his employment shall be personally liable for his negligent acts or omissions causing property damage, bodily injury or death in instances in which the governmental entity is immune under this section only subject to a limit of \$10,000 for any and all such claims arising out of a single occurrence and the employee shall not be liable for the amount in excess of that limit on any such claim claims.

Effective September 29, 1987.

CHAPTER 111

S.P. 266 — L.D. 747

AN ACT to Revise the Law Prohibiting the Use of Drugs in Animals Competing in Pulling Events.

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

Whereas, it is necessary to take action well before the summer fair season begins in 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:

7 MRSA §74, as amended by PL 1979, c. 541, Pt. A, §44, is repealed and the following enacted in its place:

§74. Certain substances prohibited

1. **Prohibition.** No person may feed, inject, insert or otherwise administer any drug or other substance, including depressants, stimulants, local anesthetics or sedatives, which may affect the conduct, actions, endurance, strength, speed or performance of any animal, to any animal entered in any pulling competition. The Commissioner of Agriculture, Food and Rural Resources may require that any such animal be tested for the detection of drugs or other substances before, during or after the competition.

A. No person who owns, trains, has custody of or is otherwise responsible for any animal entered into any pulling competition may refuse to secure or restrain or may interfere with the securing and restraining of any such animal as may be necessary for expeditious application of such tests or necessary identification. All tests shall be administered by an authorized agent of the commissioner.

B. If the result of any test conducted under this section indicates the presence of a drug or other substance described in this section, this fact shall be prima facie evidence in any civil action or administrative proceeding brought pursuant to subsection 3 or 4 that such a drug or other substance has been administered to the animal.

C. For purposes of this section, each animal to which any drug or other substance prohibited by this section

was administered and each occasion on which any drug or other substance was administered in violation of this section shall constitute a separate violation.

2. **Therapeutic drugs.** This section does not prohibit the administration to an animal of a drug, the use of which is required for treatment of an illness or condition unrelated to the performance of the animal in a pulling competition. The circumstances in which such a drug may be administered and the conditions of its administration shall be specified by rules adopted by the commissioner pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375. The rules shall limit to the greatest extent possible the potential that the animal's performance in a pulling competition would be affected by the administration of such a drug.

3. **Violation.** Any person who violates subsection 1 commits a civil violation for which the following forfeitures may be adjudged and collected by the commissioner in a civil action:

A. For the first violation, a forfeiture of not more than \$500; and

B. For each subsequent violation, a forfeiture of not more than \$1,000.

4. **Authority of the commissioner.** In addition to or in lieu of the civil action authorized by subsection 3, the commissioner may institute an administrative proceeding. If he does so, he shall give notice and an opportunity for hearing under the Maine Revised Statutes, Title 5, chapter 375, subchapter IV, on any alleged violation of subsection 1. If the person against whom the violation is alleged does not request a hearing or if, after a hearing, the commissioner finds a violation of subsection 1, the commissioner shall bar that person from competing in any pulling contest within the State for a period of 2 years and shall also bar the animal from competing in any pulling contest within the State for a period of one year.

5. **Authority of the commissioner to take immediate action.** Upon giving notice and opportunity for hearing under subsection 4, the commissioner shall immediately bar the person against whom the violation is alleged from competing in any pulling contest within the State. This prohibition shall remain in effect until the expiration of 30 days or until receipt of the commissioner's decision, whichever first occurs, exclusive of any delays resulting from continuances requested by the person against whom the violation is alleged.

6. **Authority of the commissioner to make rules.** The commissioner may adopt rules relating to the administration of tests, the care and custody of test samples and such other matters as may be necessary to carry out the purposes of this section.

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