

# 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

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**PUBLIC LAWS**

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evaluations, appeals and complaints relating to Maine residents only.

3. Confidentiality. Any information provided pursuant to this section shall not identify the names of patients.

Effective September 29, 1987.

## CHAPTER 169

H.P. 1144 — L.D. 1554

### AN ACT to Exempt Municipal Combination Snowplows and Dump Trucks from the Weight Limitations Imposed on Other Highway Vehicles.

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

29 MRSA §1757 is enacted to read:

#### §1757. Exemption

Any vehicle once modified for the purposes of snowplowing is exempt from the weight limits imposed by this chapter when equipped with a snowplow and wing or wings and engaged in snow plowing or ice control.

At all other times, the vehicles described in this section are exempt from section 1652, subsection 2, paragraph C.

Effective September 29, 1987.

## CHAPTER 170

S.P. 513 — L.D. 1555

### AN ACT Amending the Laws Relating to Private Security Guards.

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

Whereas, the Legislature anticipates labor strikes in the coming summer months which will involve the use of security guards and weapons; and

Whereas, legislation is urgently needed to better qualify both in-state and out-of-state security guards and deal with the problem of weapons used in strike situations; 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:

Sec. 1. 32 MRSA §9403, sub-§1-A is enacted to read:

1-A. Agent. "Agent" means a principal corporate officer, partner, owner or majority shareholder of a contract security company or a resident of the State who manages or supervises the security guard business of a resident or nonresident contract security company within the State. This definition does not apply in section 9412, subsection 2, wherein "agent" has the common dictionary definition indicated by its context.

Sec. 2. 32 MRSA §9403, sub-§§3-A to 3-J are enacted to read:

3-A. Dangerous substance. "Dangerous substance" means alcohol or any substance that is a schedule W, X, Y or Z drug under Title 17-A, chapter 45.

3-B. Drug abuser. "Drug abuser" means a person who uses any dangerous substance in violation of any law of the State.

3-C. Drug addict. "Drug addict" means a drug-dependent person who due to the use of a dangerous substance has developed such a tolerance to the substance that abrupt termination of the use of the substance would produce withdrawal symptoms.

3-D. Drug-dependent person. "Drug-dependent person" means a person who is unable to function effectively and whose inability to do so results from the use of a dangerous substance.

3-E. Employee. "Employee" means a natural person who performs one or more security guard functions under a contract of hire between the natural person and a contract security company or between the natural person and a proprietary security organization. A natural person who is an employee of a contract security company may not simultaneously be an employee of a proprietary security organization. This definition does not apply in section 9412, subsection 4, wherein "employee" has its common dictionary definition.

3-F. Firearm. "Firearm" has the same meaning as set forth in Title 17-A, section 2, subsection 12-A.

3-G. Formal charging instrument. "Formal charging instrument" means a complaint, indictment, information, juvenile petition or other formal written accusation against a person for some criminal or juvenile offense.

3-H. Fugitive from justice. "Fugitive from justice" has the same meaning as set forth in Title 15, section 201, subsection 4.

3-I. Government. "Government" has the same meaning as set forth in Title 17-A, section 2, subsection 13.

3-J. Law enforcement officer. "Law enforcement officer" has the same meaning as set forth in Title 17-A, section 2, subsection 17.

**Sec. 3.** 32 MRSA §9403, sub-§8-A is enacted to read:

8-A. Reckless or negligent conduct. "Reckless or negligent conduct" means that the applicant, either consciously disregarding or failing to be aware of a risk that his conduct would cause such a result, engaged in conduct which in fact created a substantial risk of either death, serious bodily injury, bodily injury or offensive physical contact to another human being or the taking of, or damage or destruction to, the property of another person or government, and the applicant's disregard or failure to be aware of that risk, when viewed in light of the nature and purpose of the applicant's conduct and the circumstances known to him, involved a deviation from the standard of conduct that a reasonable and prudent person would observe in the same situation.

**Sec. 4.** 32 MRSA §9403, sub-§9, ¶D, as enacted by PL 1981, c. 113, §2, is repealed.

**Sec. 5.** 32 MRSA §9403, sub-§10, as enacted by PL 1981, c. 113, §2, is amended to read:

10. Security system. "Security system" means equipment designed to detect or signal an unauthorized intrusion so that to which security guards are expected to respond.

**Sec. 6.** 32 MRSA §9404, sub-§2, ¶A, as enacted by PL 1981, c. 113, §2, is amended to read:

A. Any proprietary security organization or any employee or agent thereof;

**Sec. 7.** 32 MRSA §9405, sub-§1, as enacted by PL 1981, c. 113, §2, is repealed.

**Sec. 8.** 32 MRSA §9405, sub-§1-A is enacted to read:

1-A. Criteria for issuing license. The commissioner shall issue, upon written application, a license to be a contract security company to any person who has demonstrated good moral character and who meets the following requirements:

A. Is 18 years of age or older;

B. Is a citizen or resident alien of the United States;

C. Has not been dishonorably discharged from military service;

D. Has not been convicted of a crime punishable by one year or more imprisonment or, within the past 5

years, of any crime enumerated in section 9412;

E. Has not been adjudicated to have committed a juvenile offense involving conduct which, if committed by an adult, is punishable by one year or more imprisonment or, within the past 5 years, a juvenile offense involving conduct which, if committed by an adult, is a crime enumerated in section 9412;

F. Submits an application which contains the following, to be answered by the applicant:

(1) Full name;

(2) Full current address and addresses for the prior 5 years;

(3) The date and place of birth, height, weight and color of eyes;

(4) A record of previous issuances of, refusals to issue and renew, suspensions and revocations of a license to be a contract security company. The record of previous refusals to issue alone does not constitute cause for refusal and the record of previous refusals to renew and revocations alone constitutes cause for refusal only as provided in section 9411-A;

(5) The following questions.

(a) Is there a formal charging instrument now pending against you in this or any other jurisdiction for a crime which is punishable by one year or more imprisonment or for any other crime alleged to have been committed by you with the use of a dangerous weapon, as defined in Title 17-A, section 2, subsection 9, or of a firearm against another person?

(b) Is there a formal charging instrument now pending against you in this or any other jurisdiction for a juvenile offense which involves conduct which, if committed by an adult, would be punishable by one year or more of imprisonment or for any other juvenile offense alleged to have been committed by you with the use of a dangerous weapon, as defined in Title 17-A, section 2, subsection 9, or of a firearm against another person?

(c) Have you ever been convicted of a crime described in division (a) or adjudicated as having committed a juvenile offense as described in division (b)?

(d) Is there a formal charging instrument now pending against you in this jurisdiction for any crime enumerated in section 9412?

(e) Is there a formal charging instrument now pending against you in this jurisdiction for a juvenile offense which involves conduct which, if

committed by an adult, would be a crime enumerated in section 9412?

(f) Have you within the past 5 years been convicted of a crime described in division (d) or adjudicated as having committed a juvenile offense as described in division (e)?

(g) Are you a fugitive from justice?

(h) Are you a drug abuser, drug addict or drug-dependent person?

(i) Do you have a mental disorder which causes you to be potentially dangerous to yourself or others?

(j) Have you been adjudicated to be an incapacitated person pursuant to Title 18-A, article V, Parts 3 and 4, and not had that designation removed by an order under Title 18-A, section 5-307, subsection (b)?

(k) Have you been dishonorably discharged from the military forces within the past 5 years?

(l) Are you an illegal alien;

(6) A list of employees as of the date the applicant signs the application who will perform security guard functions within the State. This list shall identify each employee by his full name, full current address and addresses for the prior 5 years and his date and place of birth, height, weight and color of eyes. For each employee on this list who will perform security guard functions at the site of a labor dispute or strike, the applicant shall have previously investigated the background of the employee to ensure that the employee meets all of the requirements to be a security guard as contained in section 9410-A, subsection 1. If the employee meets all of the requirements to be a security guard, the applicant shall also submit a statement, signed by the applicant, stating that the applicant has conducted this background investigation and that the employee meets the requirements contained in section 9410-A, subsection 1; and

(7) A photograph of the applicant taken within 6 months of the date the applicant affixes his signature to the application; and

G. Does the following:

(1) At the request of the commissioner or his designee, takes whatever action is required of him by law to allow the commissioner or his designee to obtain from: Hospitals and mental institutions either within or outside of the State, limited to records of involuntary commitments; the courts; law enforcement agencies; and the military, information relevant to the following:

(a) The ascertainment of whether the information supplied on the application or any documents made a part of the application is true and correct;

(b) The ascertainment of whether each of the additional requirements of this section has been met; and

(c) Section 9411-A;

(2) If it becomes necessary to resolve any questions as to his identity, submits to having his fingerprints taken by the commissioner or his designee; and

(3) Submits the application fee in accordance with section 9407, subsection 1.

Sec. 9. 32 MRSA §9405, sub-§2, as enacted by PL 1981, c. 113, §2, is repealed.

Sec. 10. 32 MRSA §9405, sub-§§2-A, 2-B and 2-C are enacted to read:

2-A. Complete application; certification by applicant. The requirements set out in subsection 1-A constitute a complete application. By affixing his signature to the application, the applicant certifies the following:

A. That the statements he makes in the application and any documents he makes a part of the application are true and correct;

B. That he understands an affirmative answer to any of the questions in subsection 1-A, paragraph F, subparagraph (5), except the questions in divisions (a), (b), (d) and (e), is cause for refusal; and

C. That he understands any false statements made in the application or any document made a part of the application may result in prosecution as provided in section 9412, subsection 1, paragraph D.

2-B. Copy of laws furnished to applicant. A copy of this chapter and the definitions from other chapters which are used in this chapter shall be provided to every applicant.

2-C. Good moral character. The commissioner, in judging good moral character, shall make his determination in writing based solely upon information recorded by governmental entities within 5 years of receipt of the application, including, but not limited to, the following matters:

A. Information of record relative to incidents of abuse by the applicant of family or household members, provided pursuant to Title 19, section 770, subsection 1;

B. Information of record relative to 3 or more convictions of the applicant for crimes punishable by less than one year imprisonment or 3 or more adjudications of the applicant for juvenile offenses involving conduct

which, if committed by an adult, is punishable by less than one year imprisonment;

C. Information of record relative to 3 or more adjudications of the applicant for civil violations;

D. Information of record relative to license suspensions under section 9411-A; or

E. Information of record indicating that the applicant has engaged in reckless or negligent conduct.

Sec. 11. 32 MRSA §9405, sub-§4 is enacted to read:

4. Access to confidential records. Notwithstanding that certain records retained by governmental entities are by law made confidential, yet are necessary to the commissioner's determination of the applicant's good moral character and compliance with the additional requirements of this section and of section 9411-A, the following records shall be made available, at the request of the commissioner or his designee, for inspection by and dissemination to the commissioner or his designee:

A. The records pertaining to involuntary commitments to Augusta Mental Health Institute and Bangor Mental Health Institute;

B. The records compiled pursuant to Title 19, section 770, subsection 1;

C. Juvenile and adult crime records; and

D. Military records.

Sec. 12. 32 MRSA §9410-A is enacted to read:

§9410-A. Security guard qualifications

1. Qualifications to be a security guard. No natural person may be employed as a security guard by a contract security company unless the natural person meets the following minimum requirements:

A. Is 18 years of age or older;

B. Is a citizen or resident alien of the United States;

C. Has not been dishonorably discharged from military service within the last 5 years;

D. Has not been convicted of a crime punishable by one year or more of imprisonment or, within the past 5 years, any crime enumerated in section 9412;

E. Has not been adjudicated to have committed a juvenile offense involving conduct which, if committed by an adult, is punishable by one year or more of imprisonment or, within the past 5 years, a juvenile offense involving conduct which, if committed by an adult, is a crime enumerated in section 9412;

F. Does not have a combination of 3 or more convictions for crimes punishable by less than one year of imprisonment or adjudications for civil violations within the past 5 years;

G. Is not a fugitive from justice;

H. Is not a drug abuser, drug addict or drug-dependent person;

I. Is not potentially dangerous to himself or others as the result of a mental disorder;

J. Has not been adjudicated to be an incapacitated person pursuant to Title 18-A, article V, Parts 3 and 4, or if so adjudicated, has had that designation removed by an order under Title 18-A, section 5-307, subsection (b); and

K. At the request of the contract security company, the commissioner or his designee, takes whatever action is required of him by law to allow the contract security company, the commissioner or his designee to obtain from: Hospitals and mental institutions either within or outside the State, limited to records of involuntary commitments; the courts; law enforcement agencies; and the military, information relevant to whether the natural person meets the requirements set forth in paragraphs A to J.

2. Reporting new security guards to commissioner. A licensee shall notify the commissioner of all employees who will perform security guard functions in the State and who were not listed in the application for a contract security company license before the date that the employee begins to perform security guard functions in the State. The notice shall be made on forms prescribed by the commissioner. The forms shall contain, but not be limited to, the following information:

A. The employee's full name;

B. The employee's full current address and addresses for the prior 5 years; and

C. The employee's date and place of birth, height, weight and color of eyes.

3. Background investigation of security guards at site of labor dispute or strike. For each employee reported to the commissioner under subsection 2 who will perform security guard functions at the site of a labor dispute or strike, the licensee shall have previously investigated the background of the employee to ensure that the employee meets all of the requirements to be a security guard, as contained in subsection 1. The licensee shall also sign a statement accompanying the notice required by subsection 2, in which the licensee shall state that he has conducted this investigation and that the employee meets the requirements contained in subsection 1.

4. Background investigation by licensee of all other security guards. For all other employees reported to the commissioner under subsection 2, and for each employee on the list required by section 9405, subsection 1-A, paragraph F, subparagraph (6), for whom the licensee has not previously submitted a statement that the employee meets the requirements of subsection 1, the licensee shall investigate the background of the employee to ensure that the employee meets all of the requirements to be a security guard, as contained in subsection 1. Within 60 days of the date that the employee begins to perform security guard functions within the State, the licensee shall complete this background investigation and submit to the commissioner a statement, signed by the licensee, that the licensee has conducted the background investigation and that the employee meets the requirements of subsection 1. This statement must be submitted to the commissioner before an employee may wear, carry or use a firearm in the performance of security guard functions and before an employee may perform security guard functions at the site of a labor dispute or strike.

5. Access to confidential records. Notwithstanding that certain records retained by governmental entities are by law made confidential, yet are necessary to the commissioner's determination of the applicant's good moral character and compliance with the additional requirements of this section and of section 9411-A, the following records shall be made available, at the request of the commissioner or his designee, for inspection by and dissemination to the commissioner or his designee:

A. The records pertaining to involuntary commitments to Augusta Mental Health Institute and Bangor Mental Health Institute;

B. The records compiled pursuant to Title 19, section 770, subsection 1;

C. Juvenile and adult crime records; and

D. Military records.

Sec. 13. 32 MRSA §9411, as enacted by PL 1981, c. 113, §2, is repealed.

Sec. 14. 32 MRSA §9411-A is enacted to read:

§9411-A. Refusal to renew; suspension; revocation; reapplication

1. Refusal to renew; suspension; revocation. The commissioner may refuse to renew a license, after a hearing in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV. The Administrative Court may suspend or revoke the license of any person licensed under this chapter. The commissioner may refuse to renew a license and the Administrative Court may suspend or revoke a license on any one or more of the following grounds.

A. The application, any documents made a part of the application, any notice or any statement filed with the commissioner contained a material misstatement.

B. The licensee becomes ineligible to hold a license under this chapter. Ineligibility is determined on the basis of the criteria contained in section 9405.

C. The licensee fails to comply with the requirements of section 9405, subsection 1-A, paragraph F, subparagraph (6).

D. The licensee has knowingly employed as a security guard, or has knowingly kept as an employee, any natural person who does not meet the requirements of section 9410-A, subsection 1.

E. The licensee fails to comply with the requirements of section 9410-A, subsection 2, 3 or 4.

F. The licensee fails to comply with any of the rules promulgated by the commissioner under this chapter.

G. The licensee has knowingly encouraged or allowed any employee to violate section 9412, subsection 4, 5 or 6.

2. Reapplication. No person, otherwise eligible, whose license the commissioner has refused to renew or who has had a license revoked, is eligible for reapplication until the expiration of 5 years from the date of refusal to renew or revocation.

Sec. 15. 32 MRSA §9412, sub-§1, ¶¶C and D, as enacted by PL 1981, c. 113, §2, are amended to read:

C. To falsely represent that a person is or was in his employ as a licensee; or

D. To make any false statement or material omission in any application, any documents made a part of the application, any notice or any statement filed with the commissioner; or

Sec. 16. 32 MRSA §9412, sub-§1, ¶E is enacted to read:

E. To make any false statement or material omission relative to the requirements of section 9410-A, subsection 1, in applying for a position as a security guard with a contract security company.

Sec. 17. 32 MRSA §9412, sub-§2, as enacted by PL 1981, c. 113, §2, is amended to read:

2. Failure to return equipment; representation as peace officer. It is a Class D crime for any security guard knowingly to commit any of the following acts:

A. To fail to return immediately on demand, or within 7 days of termination of employment, any uniform,



badge, or other item of equipment issued to him by an employer;

B. To make any representation which suggests, or which would reasonably cause another person to believe, that he is a sworn peace officer of this State, any political subdivision thereof, or of any other state or of the Federal Government;

C. To wear or display any badge, insignia, device, shield, patch or pattern which indicates or suggests that he is a sworn peace officer, or which contains or includes the word "police" or the equivalent thereof, or is similar in wording to any law enforcement agency; or

D. To possess or utilize any vehicle or equipment displaying the words "police," "law enforcement officer," or the equivalent thereof, or have any sign, shield, marking, accessory or insignia that may indicate that the vehicle is a vehicle of a public law enforcement agency.

Paragraph A does not apply to any proprietary security organization or any employee or agent thereof.

Sec. 18. 32 MRSA §9412, sub-§§5 and 6 are enacted to read:

5. Dangerous weapons at labor disputes and strikes. It is a Class D crime for any person, including, but not limited to, security guards and persons involved in a labor dispute or strike, to be armed with a dangerous weapon, as defined in Title 17-A, section 2, subsection 9, at the site of a labor dispute or strike. A person holding a valid permit to carry a concealed firearm is not exempt from this subsection. A security guard is exempt from this subsection to the extent that federal laws, rules or regulations require the security guard to be armed with a dangerous weapon at the site of a labor dispute or strike.

6. Class E crimes. It is a Class E crime for any person licensed under this chapter or for any employee of such a person, to knowingly commit any of the following acts:

A. To perform or attempt to perform security guard functions at the site of a labor dispute or strike while not physically located on property leased, owned, possessed or rented by the person for whom the licensee is providing security guards.

Sec. 19. 32 MRSA §9418 is enacted to read:

§9418. Confidentiality of application and information collected by the commissioner

Notwithstanding Title 1, sections 401 to 410, all applications for a license to be a contract security company and any documents made a part of the application, refusals and any information of record collected by the

commissioner during the process of ascertaining whether an applicant is of good moral character and meets the additional requirements of sections 9405 and 9411-A, and all information of record collected by the commissioner during the process of ascertaining whether a natural person meets the requirements of section 9410-A, are confidential and may not be made available for public inspection or copying. The applicant or natural person may waive this confidentiality by written notice to the commissioner. All proceedings relating to the issuance of a license to be a contract security company are not public proceedings under Title 1, chapter 13, unless otherwise requested by the applicant.

The commissioner or his designee shall make a permanent record of each license to be a contract security company in a suitable book or file kept for that purpose. The record shall include a copy of the license and shall be available for public inspection. Upon a specific request, the commissioner or his designee shall provide a list of names and current addresses of security guards employed by licensed contract security companies.

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

Effective May 27, 1987.

## CHAPTER 171

H.P. 189 — L.D. 233

### AN ACT Concerning the Open Season on Bear.

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

12 MRSA §7451, sub-§1, ¶A, as repealed and replaced by PL 1981, c. 224, §1, is amended to read:

A. There shall be an open season on hunting bear from the first Monday preceding September 1st to November 30th annually.

Effective September 29, 1987.

## CHAPTER 172

H.P. 712 — L.D. 963

### AN ACT to Provide for Removal and Sale of Abandoned Motor Vehicles on Public Property.

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

Sec. 1. 29 MRSA §895-B, sub-§2-A is enacted to read: