

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

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PUBLIC LAWS

OF THE

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1987

Sec. 13. 32 MRSA §10010-A, first ¶, as enacted by PL 1985, c. 763, Pt. A, §96, is amended to read:

Pending To provide for the completion of the on-site installation of an underground oil or underground hazardous substance storage tank under the supervision of a designated representative of the Department of Environmental Protection, the Board of Underground Oil Storage Tank Installers may issue a provisional certificate valid for no more than 6 months after issuance to tank installers with less than 2 years' experience who have successfully completed the written examination requirements pursuant to Title 32, section 10010.

Sec. 14. 32 MRSA §10011, sub-§§1 and 2, as enacted by PL 1985, c. 496, Pt. A, §2, are amended to read:

1. Requirement fees. Only a person satisfying the requirements of section 10010, subsections 1 and 2, may apply for examination in such a manner as the board prescribes. The application shall be accompanied by the nonrefundable fee prescribed by section 10012. A person who fails either part of the applicable examination specified in section 10010, subsection 3 or 4, may apply for reexamination upon payment of the prescribed fee.

2. Content. The written examination shall test the applicant's knowledge of the skills and knowledge relating to storage tank installation and such other subjects as the board requires to determine the applicant's fitness to practice. The board shall approve an examination for underground oil storage tank installers and underground hazardous substance storage tank installers and establish standards for an acceptable performance.

Sec. 15. 32 MRSA §10012, sub-§2, as amended by PL 1985, c. 626, §1, is further amended to read:

2. Disposal of fees. All fees received by the board related to underground oil storage tank installers shall be paid to the Treasurer of State to be deposited into the Ground Water Oil Clean-up Fund and used for the purpose of carrying out all applicable provisions of this chapter. All fees received by the board related to underground hazardous substance storage tank installers shall be paid to the Treasurer of State to be deposited into the Hazardous Waste Fund and used for the purpose of carrying out all applicable provisions of this chapter. Any balance of fees in the respective accounts shall not lapse but shall be carried forward as a continuing account to be expended for the same purposes in the following fiscal years.

Sec. 16. 32 MRSA §10014, sub-§2, as enacted by PL 1985, c. 496, Pt. A, §2, is amended to read:

2. Inactive status. Upon request, the board shall grant inactive status to a certified person who does not practice or present himself as an underground oil tank installer or an underground hazardous substance storage tank installer and maintains any continuing competency requirements established by the board.

Sec. 17. 32 MRSA §10015, sub-§2, ¶B, as enacted by PL 1985, c. 496, Pt. A, §2, is amended to read:

B. Unprofessional conduct, including any gross negligence, incompetency or misconduct in the certified person's performance of the work of underground oil or underground hazardous substance storage tank installation or removal, or violation of any standard of professional behavior which has been established by the board;

Effective September 29, 1987.

CHAPTER 411

S.P. 626 — L.D. 1837

AN ACT to Establish the Bureau of Intergovernmental Drug Enforcement within the Department of Public Safety.

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

Sec. 1. 25 MRSA §2901, as amended by PL 1981, c. 98, §3, is further amended to read:

§2901. Department; commissioner

There is hereby created and established the Department of Public Safety to coordinate and efficiently manage the law enforcement and public safety responsibilities of the State of Maine, to consist of the Commissioner of Public Safety, hereafter in this chapter called "commissioner," who shall be appointed by the Governor, subject to review by the Joint Standing Committee on State Government and to confirmation by the Legislature, to serve at the pleasure of the Governor, and the following as heretofore created and established: The Bureau of State Police, the Bureau of Liquor Enforcement, the Office of the State Fire Marshal, the Maine Criminal Justice Academy, the Maine Highway Safety Committee and the Vehicle Equipment Safety Commission Bureau of Intergovernmental Drug Enforcement.

Sec. 2. 25 MRSA §2902, sub-§4, as amended by PL 1983, c. 812, §153, is further amended to read:

4. Maine Highway Safety Committee. The Maine Highway Safety Committee, as authorized by Title 5, section 12004, subsection 10, which shall be under the direction of the Commissioner of Public Safety. The committee shall consist of not more than 25 members selected by the Governor from state, civic and industrial organizations and individuals with interests relating to highway safety. The committee members shall serve at the pleasure of the Governor and shall be compensated in accordance with Title 5, chapter 379. The committee shall stimulate active support for highway safety measures and programs and shall advise the Department of Pub-

lic Safety regarding these issues; and

Sec. 3. 25 MRSA §2902, sub-§5, as amended by PL 1983, c. 812, §154, is repealed.

Sec. 4. 25 MRSA §2902, sub-§6 is enacted to read:

6. Bureau of Intergovernmental Drug Enforcement. The Bureau of Intergovernmental Drug Enforcement, which shall be under the direction of the Bureau of Intergovernmental Drug Enforcement.

Sec. 5. 25 MRSA c. 353 is enacted to read:

CHAPTER 353

INTERGOVERNMENTAL DRUG ENFORCEMENT ACT of 1987

§2951. Short title

This chapter shall be known and may be cited as the "Intergovernmental Drug Enforcement Act of 1987."

§2952. Definition.

For the purposes of this Act, unless the context otherwise indicates, the following terms have the following meanings.

1. Drug. "Drug" means scheduled drugs, controlled substances or illegal drugs as defined by the Maine Criminal Code, Title 17-A, chapter 45 or federal law.

§2953. Policy

The Legislature finds that the distribution of scheduled drugs into and within the State presents an unprecedented threat to the health and safety of this State. To meet this threat, this Act is established to develop a statewide drug enforcement program and strategy based upon principals of integration and unification at all levels of law enforcement including federal, state, county and municipal levels and including both prosecutorial as well as investigative agencies.

§2954. Intergovernmental Drug Enforcement Policy Board

In order to develop, coordinate and carry out a statewide drug enforcement program and strategy, there is established an Intergovernmental Drug Enforcement Policy Board which shall consist of the Attorney General; the Chief of the Maine State Police; the United States Attorney for the District of Maine; 2 other members appointed by the Governor for a term of 2 years, one of whom shall be a representative of municipal law enforcement and one of whom shall be a representative of the sheriffs of the respective counties; and the commissioner who shall serve ex officio. The board shall provide advice, consultation and direction for the drug law enforcement effort within the State. This effort shall

include the integration and coordination of investigative and prosecutorial functions in the State with respect to drug law enforcement. The board shall also make recommendations to the Legislature as it determines to be appropriate for the implementation of an effective drug law enforcement program.

The board, in addition to these responsibilities, with the commissioner, shall direct, coordinate and oversee the integration of law enforcement officers from county, municipal and all state law enforcement agencies, into the bureau.

§2955. Bureau of Intergovernmental Drug Enforcement

The commissioner, in conformity with the advice consultation and direction of the board, shall establish and operate within the Bureau of Intergovernmental Drug Enforcement such regional investigative task forces as he determines, in consultation with the board, are required for effective drug law enforcement throughout the State.

The investigative component of each task force shall be comprised of law enforcement officers drawn from municipal, county and state law enforcement agencies, who, during the period in which they serve in the task force, shall be placed in a leave of absence status by their employing law enforcement agencies and in the nonclassified positions within the bureau as established. All bureau investigative personnel shall act in accordance with such rules as may be promulgated by the commissioner and subject to policies and procedures established by the board. In determining the number, areas of responsibility and investigative complement of these task forces, the commissioner shall take into account geography, population, the need for service and the advice, consultation and direction provided by the board.

1. Director. The bureau shall be managed by a director who shall report to the commissioner. The director must be an experienced law enforcement officer. The director shall be appointed by the commissioner from a list of at least 3 persons recommended by the board and shall serve at the pleasure of the commissioner. Eligibility for this appointment shall not be dependent upon the parent law enforcement agency, if any, of the person selected. The director shall be compensated in a manner equivalent to that of other bureau directors within the Department of Public Safety. If the person selected is currently an employee of any state, county or local law enforcement agency, the person shall be placed in a leave of absence status by the person's employing agency and shall report directly to the commissioner and outside of any existing command structure of the person's employing agency. Notwithstanding any other provision of law, the person shall retain and continue to accrue seniority and retirement rights and benefits within the person's employing agency for the time in which the person serves as director.

2. Assistant director. The director of the bureau

shall be assisted by an assistant director. The assistant director must be an experienced law enforcement officer and may exercise any of the powers of the director as the director may delegate to him. The assistant director shall be appointed by and serve at the pleasure of the commissioner acting upon the recommendation of the board.

Eligibility for the selection shall not be dependent upon the parent law enforcement agency, if any, of the person selected. The assistant director shall be compensated in a manner equivalent to that of other assistant bureau directors within the Department of Public Safety. If the person selected is currently an employee of any state, county or local law enforcement agency, the person shall be placed in a leave of absence status by the person's employing agency and shall report directly to the director and outside of any existing command structure of the person's employing agency. Notwithstanding any other provision of law, the person shall retain and continue to accrue seniority and retirement rights and benefits within the person's employing agency for the time in which the person serves as assistant director.

3. Task force investigative supervisors. Each task force shall be supervised by a task force investigative supervisor. Each supervisor must be an experienced law enforcement officer appointed by the director with the concurrence of the commissioner and shall serve at the pleasure of the director. The appointment of supervisors shall not be dependent upon the parent law enforcement agency, if any, of the person selected. Supervisors shall be compensated from the budget of the bureau in a manner equivalent to that of a sergeant assigned to the Drug Enforcement Unit of the Maine State Police. If the person selected is currently an employee of any state, county or local law enforcement agency, the person shall be placed in a leave of absence status by the person's employing agency and shall report directly to the director or assistant director and outside of any existing command structure of the person's employing agency. Notwithstanding any other provision of law, the person shall retain and continue to accrue seniority and retirement rights and benefits within the person's employing agency for the time in which the person serves as supervisor.

4. Task force investigative agents. The investigative complement of each task force shall be comprised of task force investigative agents who shall be selected from municipal, county and state law enforcement agencies within the State. Agents shall be selected and appointed at the discretion of the director with the concurrence of the commissioner from among those officers nominated by the chief administrative officer of a prospective agent's employing agency. Agents shall serve at the pleasure of the director. Persons appointed shall receive compensation, paid from the budget of the bureau, equivalent to that of a detective in the Maine State Police assigned to the Drug Enforcement Unit with the additional credit given to seniority based upon law enforcement experience. All personnel selected as

agents, whether from a municipal, county or state law enforcement agency, shall be placed in a leave of absence status by the person's employing agency and shall report directly to their supervisor and outside of any existing command structure of the person's employing agency. Notwithstanding any other provisions of law, the person shall retain and continue to accrue seniority and retirement rights and benefits within the person's employing agency for the time in which the person serves as an agent.

5. Authority of bureau officers. The director, assistant director, supervisors and agents at the discretion of the commissioner shall be vested with the same powers and duties throughout the several counties of the State as sheriffs have in their respective counties to serve criminal processes, to investigate and prosecute violators of any law of this State and to arrest without warrant and detain persons found violating or attempting to violate any other penal law of the State until a warrant can be obtained. They shall have the same rights as sheriffs to require aid in executing the duties of their office.

6. Task force attorneys. The Attorney General, the United States Attorney for the District of Maine and the respective district attorneys may assign as many of their assistants and special assistants as they determine to be appropriate to each of the task forces. The attorneys shall be available to the supervisors for purposes of ongoing consultation and advice and shall be responsible for coordinating, with the supervisor, the prosecutorial and investigative priorities of the task force in conformity with the advice, consultation and direction provided by the board and the policies, practices and procedures of the bureau.

§2956. Authority of commissioner

1. Rules. Notwithstanding any other provisions of law, the commissioner may adopt rules as to policies and practices in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, respecting the administration of the bureau. The rules, practices and policies of the bureau shall be in conformity with state law and with the advice, consultation and direction provided by the board and shall accomplish the goal of an integrated drug enforcement effort. These rules, practices and policies may include:

- A. The qualifications, hiring, term of service and disciplinary standards for supervisors and agents;
- B. Protection as to financial and employment security for any law enforcement officer selected as any official of the bureau with respect to the person's position with any municipal, county or state law enforcement policy or political subdivision;
- C. Standard operating procedures for the bureau;
- D. Procurement procedures; or

E. Procedures for dissemination of records.

2. Grants and property. The commissioner may accept grants and property decreed forfeit by any court of competent jurisdiction.

3. Contracts or agreements. The commissioner may enter into contracts and agreements with municipal, county and state law enforcement agencies to accomplish the goal of the bureau and carry out the rules, policies and practices of the board.

§2957. Confidentiality

Notwithstanding any other provisions of law, the investigative records of the bureau shall be and are declared to be confidential and all meetings of the board, as well as meetings of the bureau shall not be subject to Title 1, sections 401 to 410.

Effective September 29, 1987.

CHAPTER 412

H.P. 1315 — L.D. 1794

AN ACT Dealing with the Authority of Harbor Masters.

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

Sec. 1. 38 MRSA §1, as amended by PL 1985, c. 531, §2 and as repealed and replaced by PL 1985, c. 692, §§1 and 4, is repealed and the following enacted in its place:

§1. Appointment; compensation

The municipal officers of a town, on request by any person desiring mooring privileges or regulation of mooring privileges for boats or vessels, shall appoint a harbor master for a term of not less than one year, who shall be subject to all the duties and liabilities of that office as prescribed by state law and regulations adopted by the municipal officers and municipal ordinances. If the harbor master refuses to perform these duties, he commits a civil violation for which a forfeiture of \$25 shall be adjudged, for the benefit of the town, for each intentional neglect or refusal to attend to the duties. The municipal officers may establish his compensation and, for cause by them declared in writing, after due notice to the officer and hearing, if requested, remove him and appoint another in his stead.

The municipal officers may prohibit a harbor master from making arrest or carrying a weapon. Any law enforcement officer vested with the authority to carry a weapon and make arrests has the authority to enforce this subchapter.

Sec. 2. 38 MRSA §2, as amended by PL 1965, c. 242, is further amended to read:

§2. Rules for channel lines; enforcement

The municipal officers of all maritime towns and plantations shall and the county commissioners in the case of maritime unorganized townships may make rules and regulations, with suitable provision for enforcement, for the keeping open of convenient channels for the passage of vessels in the harbors and waterways of the towns or townships for which they act, and shall may establish the boundary lines of such those channels and assign suitable portions of their harbors and other coastal and tidal waters within their jurisdiction for anchorages.

Such rules and regulations as may be made by such those municipal officers or county commissioners shall be enforced and carried out by the harbor master of said that town or unorganized township, who may appoint a deputy, to act in case of his absence or disability, his deputy, if any, or any other law enforcement officer of the State or any political subdivision thereof of the State.

The harbor master may appoint deputies who, under his direction, shall enforce and carry out the rules and regulations of this section.

Sec. 3. 38 MRSA §3 is repealed and the following enacted in its place:

§3. Mooring sites; harbor master compensation

In all harbors wherein channel lines have been established by the municipal officers, as provided in section 2, and in all other coastal and tidal waters and harbors where mooring rights of individuals are claimed to be invaded and protection is sought of the harbor master, he shall assign and indicate only to the master or owner of boats and vessels the location which they may occupy for mooring purposes and shall change the location of those moorings from time to time when the crowded condition of that harbor, the need to conform to section 6 or other conditions render the change desirable.

Whenever practicable, the harbor master shall assign mooring privileges in those waters where individuals own the shore rights to a parcel of land, are masters or owners of a boat or vessel and are complainants, and shall locate suitable mooring privileges therefor for boats and vessels, temporarily or permanently, as the case may be, fronting their land, if so requested, but not to encroach upon the natural channel or channels established by municipal officers; provided that not more than one mooring may be assigned to any shorefront parcel of land under this privilege. Notwithstanding section 11, persons who, prior to January 1, 1987, owned shore rights of at least 100 feet of frontage regardless of the size of the lot shall have mooring privileges assigned according to this section. The limitation of one mooring assigned under this privilege shall not prevent the owner of a shore front parcel from receiving additional mooring assignments under the allocation system for all other residents.

The municipal officers shall fix the compensation of the harbor master for those services rendered.