

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

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
Lewiston, Maine
1987

PUBLIC LAWS

OF THE

STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION
of the
ONE HUNDRED AND THIRTEENTH LEGISLATURE
1987

cated to the category of bonds providing funds for student loans shall be allocated to the Maine Educational Loan Marketing Corporation, which may further allocate that portion of the state ceiling to student loan bonds requiring an allocation in order to qualify as tax-exempt bonds.

9. Use of carryforward. In the event that any issuer has made a carryforward election under the United States Code, Title 26, Section 146(f), as amended, the issuer shall use, to the extent possible and consistent with the purpose for which the carryforward was elected, the carryforward for issues subject to the state ceiling prior to allocating any portion of the state ceiling for the applicable calendar year to the issue.

Sec. 5. 30 MRSA §4651, sub-§14, as enacted by PL 1985, c. 594, §9, is amended to read:

14. Allocation of federal ceilings. By rulemaking pursuant to Title 5, chapter 375, subchapter II, to establish a process that is different from the federal formula for allocating that portion of the ceiling on the issuance of certain tax-exempt bonds established by the United States Code, Title 26, which has been allocated to the state authority pursuant to Title 10, section 363, and may also limit the types of projects which are eligible to receive allocations or ~~carry-forward~~ carryforward designations from the state authority.

Sec. 6. 30 MRSA §5166-A, as enacted by PL 1985, c. 594, §12, is amended to read:

§5166-A. Allocation of state ceiling

By rulemaking pursuant to Title 5, chapter 375, subchapter II, the bank may establish a process for allocation and ~~carry forward~~ carryforward of that portion of the state ceiling on issuance of tax-exempt bonds allocated to the bank pursuant to Title 10, chapter 9.

Sec. 7. Allocation to the Treasurer of State. The \$20,000,000 of the state ceiling for calendar year 1988 is allocated to the Treasurer of State to be used in accordance with the Maine Revised Statutes, Title 10, section 363, subsection 5.

Sec. 8. Allocation to the Finance Authority of Maine. The \$58,000,000 of the state ceiling for the calendar year 1987 is allocated to the Finance Authority of Maine to be used in accordance with the Maine Revised Statutes, Title 10, section 363, subsection 6, provided that prior to any reallocation of this amount permitted under the Maine Revised Statutes, Title 10, section 363, this amount shall be used only for solid waste energy projects. Amounts previously allocated to the Finance Authority of Maine may be allocated by the authority to any bond issue for which the authority may issue allocations. The \$25,000,000 of the state ceiling for calendar year 1988 is allocated to the Finance Authority of Maine to be used in accordance with the Maine Revised Statutes, Title 10, section 363, subsection 6.

Sec. 9. Allocation to the Maine Municipal Bond Bank. The \$12,000,000 of the state ceiling for calendar year 1988 is allocated to the Maine Municipal Bond Bank to be used in accordance with the Maine Revised Statutes, Title 10, section 363, subsection 7.

Sec. 10. Allocation to the Maine Educational Loan Marketing Corporation. The \$60,000,000 of the state ceiling for calendar year 1987 is allocated to the Maine Educational Loan Marketing Corporation to be used in accordance with the Maine Revised Statutes, Title 10, section 363, subsection 8. No portion of the calendar year 1988 state ceiling is allocated to the Maine Educational Loan Marketing Corporation.

Sec. 11. Allocation to the Maine State Housing Authority. No portion of the state ceiling for calendar year 1988 is allocated to the Maine State Housing Authority.

Sec. 12. Unallocated state ceiling. The \$93,000,000 of the state ceiling for calendar year 1988 is unallocated and shall be reserved for future allocation in accordance with applicable law.

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

Effective June 24, 1987.

CHAPTER 414

S.P. 397 — L.D. 1216

AN ACT to Implement Certain Recommendations of the Judicial Council's Committee on the Collection of Fines.

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

Sec. 1. 4 MRSA §173-A, as amended by PL 1985, c. 481, Pt. A, §5, is repealed and the following enacted in its place:

§173-A. Costs taxable for the State in civil violation or traffic infraction proceedings

Costs in the amount of \$25 shall be automatically taxable for the State in civil violation and traffic infraction proceedings for failure to pay a fine imposed for the commission of a civil violation or traffic infraction within 30 days of entry of judgment.

This section applies to all judgments imposing fines which remain unpaid and which predate the effective date of this section.

Sec. 2. 14 MRSA c. 502-A is enacted to read:

CHAPTER 502-A

ENFORCEMENT OF FINES OWED TO THE STATE§3141. Scope and procedure

1. Applicability. The procedures established by this chapter apply to all monetary fines, however designated, imposed by a court in a civil violation or traffic infraction proceeding and shall be utilized, to the maximum extent possible, to obtain prompt and full payment of all such fines. The procedures established by this chapter may be used to collect any fine imposed as part of a sentence for a criminal conviction. The procedures established by this chapter shall be in addition to, and not in lieu of, those otherwise authorized by law.

2. Notice to defendant. At a defendant's initial appearance before a court in a civil violation or traffic infraction proceeding or in a criminal proceeding, the defendant shall be informed by the court that if he is adjudicated to have committed the traffic infraction or civil violation or convicted of the criminal offense and if a fine is imposed by the court, immediate payment of the fine in full is required.

3. Immediate payment. When a court has imposed a fine, as described in subsection 1, the imposition of such a fine constitutes an order to pay the full amount of the fine in accordance with this chapter. Following imposition of the fine, the court shall inform the defendant that full payment of the fine is due immediately and shall inquire of the defendant what arrangements he has made to comply with the court's order to pay the fine. Without utilizing the provisions of subsection 4, the court may allow the defendant a period of time, not to extend beyond the time of the close of the clerk's office on that day, within which to return to the court and tender payment of the fine. If the defendant fails to appear as directed, the court shall issue a civil order of arrest. The arrest order shall be carried out by the sheriff as a civil order of arrest is carried out under section 3135. If the underlying offense involves any violation of Title 29, the court shall also, upon the defendant's failure to appear, suspend the defendant's license or permit to operate motor vehicles in this State and the right to apply for or obtain a license or permit to operate a motor vehicle in this State or his motor vehicle registration.

If the defendant claims an inability to pay the fine, the court shall inquire into the defendant's ability to pay and shall make a determination of the defendant's financial ability to pay the fine. If the court finds that the defendant has the financial ability to make immediate payment of the fine in full, the court shall order him to pay the fine. Failure or refusal to pay as ordered by the court shall subject the defendant to the contempt procedures provided in section 3142.

4. Installment payments. If the court concludes that the defendant has the ability to pay the fine, but that requiring the defendant to make immediate payment in

full would cause a severe and undue hardship for the defendant and his dependents, the court may authorize payment of the fine by means of installment payments in accordance with this subsection. When a court authorizes payment of a fine by means of installment payments, it shall, without a separate disclosure hearing:

A. Determine the amount of any immediate partial payment which the defendant must pay;

B. Issue an order directing the defendant to make specified installment payments to the clerk of the court;

C. Establish a fixed date on which the defendant must make payment of the final installment of any fine to the clerk of the court; and

D. Require the defendant to surrender his license to operate a motor vehicle as security for the payment of the fine. Upon the surrender of the license, the defendant shall be given a temporary license containing a specific expiration date which shall be the date set by the court for the payment of the fine. Upon payment of the fine as ordered, the defendant shall be entitled to the return of the license, unless it is otherwise subject to suspension.

In fixing the amount of the installment payments, the court shall issue an order which will complete payment of the fine as promptly as possible without creating a severe and undue hardship for the defendant and his dependents.

5. Appointment of agent. Any defendant who has been authorized by the court to pay a fine by installments shall be considered to have irrevocably appointed the clerk of the court as his agent upon whom all papers affecting his liability may be served.

6. Ability to pay the fine. "Ability to pay" means that the resources of the defendant and his dependents, including all available income and resources, are sufficient to provide the defendant and his dependents with a reasonable subsistence compatible with health and decency.

§3142. Contempt hearing

Unless the defendant shows that his failure to pay a fine was not attributable to a willful refusal to obey the order or to a failure on his part to make a good faith effort to obtain the funds required for the payment, the court shall find the defendant in civil contempt and may punish him by such reasonable fine or imprisonment as the case requires. The defendant shall be allowed to purge himself of his contempt by complying with the court's order to pay.

§3143. Default judgments

If a person who has been summoned or ordered to

answer for a civil violation or a traffic infraction fails to appear, the court shall direct the clerk to send notice by a regular mail to appear to the person at the address appearing on the summons or order to appear.

The notice shall advise the person that he was summoned or ordered to answer for a civil violation or a traffic infraction and failed to appear on the date directed. The notice shall set a new date and time for the person's appearance to answer the civil violation or traffic infraction and shall inform the person that failure to appear on this occasion will result in the adjudication of the person having committed the offense and the imposition of a fine. Notice under this section shall be complete upon mailing.

Notwithstanding the Maine Rules of Civil Procedure, Rule 55, or the Maine District Court Rules of Civil Procedure, Rule 55, if a person who has been summoned or ordered to answer for a civil violation or a traffic infraction fails to appear, has been mailed notice as provided in this section and thereafter again fails to appear, the court, on its own motion, shall adjudicate the defendant to have committed the offense and shall impose a fine. In the case of an adjudication for a traffic infraction, the court shall immediately suspend the defendant's license or permit to operate motor vehicles in this State or the right to apply for or obtain a license or permit to operate motor vehicles in this State or the registration of motor vehicles registered by the defendant, in accordance with Title 29, section 2301-A. Relief from a default judgment entered pursuant to this section may be addressed to the court and may be granted in the court's discretion upon a finding that it will further the interest of justice.

§3144. Criminal failure to appear; cost of extradition

It is the intent of the Legislature that, when appropriate, the respective district attorney shall utilize Title 17-A, section 17, subsection 4, and prosecute defendants who fail to appear. Any costs of extradition of a defendant who has been charged with the offense of failure to appear shall be assessed against the defendant and shall be reimbursed to the extradition account in the appropriate prosecutorial district.

§3145. Appeal

A court order to pay a fine for a civil violation or a traffic infraction shall be stayed by the court upon request of the defendant if an appeal is taken and if the defendant deposits all of the fine with the clerk of the court. If, on appeal, the judgment is reversed, the clerk shall immediately refund to the defendant, or to such person as the defendant directs, any funds deposited to cover the defendant's fine. If the judgment is affirmed, the funds deposited shall be applied by the clerk in payment of the fine. The clerk shall immediately notify the defendant and the court that an application has been made and the fine paid in full.

§3146. Exemptions

The exemptions from attachment and execution specified in sections 4421 to 4426 do not apply to the collection of fines covered by this chapter.

§3147. Payment by credit card

The Judicial Department may implement a procedure for the payment of fines up to \$500 by use of major credit cards and may assess a reasonable fee upon the defendant to cover any administrative expenses incurred in connection with the use of credit cards as a method of paying fines.

Effective September 29, 1987.

CHAPTER 415

H.P. 150 — L.D. 191

AN ACT to Amend Certain Motor Vehicle Laws.

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

Sec. 1. 29 MRSA §1, sub-§1-E, as amended by PL 1985, c. 429, §6, is further amended to read:

1-E. Bus. "Bus" means every motor vehicle designed for carrying more than ~~14~~ 15 passengers, including the operator, and used for the transportation of passengers.

Sec. 2. 29 MRSA §1, sub-§5, as amended by PL 1981, c. 344, §2, is further amended to read:

5. Motor driven cycle. "Motor driven cycle" ~~shall mean~~ means every motorcycle, including every motor scooter, with a motor which produces ~~not to exceed 5~~ horsepower less than 150 cubic centimeters displacement or with 5-brake horsepower or less. "Motor driven cycle" does not include a motorized bicycle or tricycle.

Sec. 3. 29 MRSA §103, first ¶, as amended by PL 1977, c. 481, §4, is further amended to read:

Upon the presentation of an application for registration or title of a vehicle, the engine or serial number or identification number of which has been omitted, altered, removed or defaced, the Secretary of State shall assign and attach a special number. ~~Said Secretary of State shall issue a return card to be filled in by the operator of an inspection station, certifying that the number has been embossed, stamped or entered on said vehicle.~~ A record of the special number shall be maintained by the Secretary of State.

Sec. 4. 29 MRSA §192, first ¶, as amended by PL 1985, c. 559, §1, is further amended to read:

The Secretary of State is authorized to design and to