

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
Lewiston, Maine
1987

PUBLIC LAWS

OF THE

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or for the institution of seizure proceedings minor violations of this subchapter when he believed that the public interests would have been best served by a suitable notice of warning in writing.

§770. Rules for administration

The commissioner after reasonable notice and hearing may promulgate and enforce rules for the administration of this subchapter, in a manner consistent with the Maine Administrative Procedure Act, Title 5, chapter 375, and grant exemptions from specific requirements of this subchapter as, from time to time, may be required.

Sec. 2. Allocation. The following funds are allocated from Other Special Revenue to carry out the purposes of this Act.

	1987-88	1988-89
<u>AGRICULTURE, FOOD AND RURAL RESOURCES, DEPARTMENT OF</u>		
Bureau of Public Services		
All Other	\$1,000	\$1,000
Provides funds for increased sampling and testing of lime products.		

Sec. 3. Effective date. This subchapter shall take effect January 1, 1988.

Effective January 1, 1988.

CHAPTER 426

H.P. 1156 — L.D. 1571

AN ACT Relating to the Purchase of Alcoholic Beverages by Minors.

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

28-A MRSA §2051, sub-§2, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

2. Violation. Any minor who violates this section commits a civil violation for which a forfeiture shall be adjudged of not less than \$100 ~~or nor~~ more than \$300 for the first offense; not less than \$200 ~~or nor~~ more than \$500 for the 2nd offense, none of which may be suspended, except as provided in paragraph B; and \$500 for the 3rd and subsequent offenses, none of which may be suspended, except as provided in paragraph B.

A. When a person is adjudged to have committed his first offense under this section, the judge shall inform that person that the forfeitures for the 2nd and subsequent offenses are mandatory and cannot be suspended, except as provided in paragraph B. Failure to inform the first offender that subsequent forfeitures are mandatory is not a ground for suspension of any subsequent forfeiture.

B. The judge, as an alternative to or in addition to the civil forfeitures required by this subsection, may assign the minor to perform specified work for the benefit of the State, the municipality or other public entity or charitable institution.

Effective September 29, 1987.

CHAPTER 427

H.P. 682 — L.D. 923

AN ACT to Amend the Maine Tort Claims Act.

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

Sec. 1. 14 MRSA §8111, sub-§1, ¶¶B and C, as enacted by PL 1977, c. 2, §2, are amended to read:

B. The undertaking, or failure to undertake, any judicial or quasi-judicial act, including, but not limited to, the granting, granting with conditions, refusal to grant or revocation of any license, permit, order or other administrative approval or denial; ~~or~~

C. The performance or failure to exercise or perform a discretionary function or duty, whether or not the discretion is abused; and whether or not the statute, charter, ordinance, order, resolution, regulation or resolve under which the discretionary function or duty is performed is valid; or

Sec. 2. 14 MRSA §8111, sub-§1, ¶D is enacted to read:

D. An intentional act or omission within the course and scope of their employment and for which the governmental entity is not liable; provided that such immunity shall not exist in any case in which an employee's actions are found to have been in bad faith.

Sec. 3. 14 MRSA §8112, sub-§1, as repealed and replaced by PL 1977, c. 578, §4, is repealed and the following enacted in its place:

1. When governmental entity is not liable. A governmental entity, with the consent of the employee, shall assume the defense of and, in its discretion, may indemnify any employee against a claim which arises out of an act or omission occurring within the course or scope of his employment and for which the governmental entity is not liable.

If the defense of its employee will otherwise create a conflict of interest between the governmental entity and the employee, the governmental entity shall be liable for reasonable fees for the employee's attorney and for his court costs, except in the event that the employee is determined to be criminally liable for the acts or omissions in question.

CHAPTER 427

This subsection does not apply if the employee settles the claim without the consent of the governmental entity.

This subsection does not apply if notice is not required to have been filed as provided in section 8107, if the employee does not notify the governmental entity within 30 days after receiving actual written notice of the claim against him or within 15 days after the service of a summons and complaint upon him, and if the governmental entity is prejudiced thereby.

Sec. 4. 14 MRSA §8112, sub-§3, as enacted by PL 1977, c. 578, §4, is repealed and the following enacted in its place:

3. Act or omission outside course or scope of employment. When a governmental entity assumes the defense of an employee under subsection 1 or 2, the governmental entity may refuse to indemnify its employee if the court determines that the act or omission of the employee occurred outside the course or scope of his employment.

Sec. 5. 14 MRSA §8112, sub-§4, as enacted by PL 1977, c. 578, §4, is repealed.

Effective September 29, 1987.

CHAPTER 428

H.P. 1039 — L.D. 1397

AN ACT to Implement the Recommendations of the Social Services Transportation Review Committee.

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

Sec. 1. 23 MRSA §4209, sub-§§1 and 2, as amended by PL 1981, c. 493, §2, are further amended to read:

1. Geographic regions. The Department of Transportation shall divide the State into a number of geographic regions for regional distribution of state administered transportation funds. Upon designation of the geographic regions ~~and every year thereafter~~, a regional public transportation agency shall be selected from each region to formulate ~~an annual~~ a biennial regional operations plan. Selection shall be by the Department of Transportation with the consent of the Departments of Human Services and Mental Health and Mental Retardation. The Department of Transportation shall establish a schedule for submittal of the biennial regional operations plan and shall reference these plans in its biennial transportation improvement plan submitted to the Legislature.

2. Biennial regional operations plan. The ~~annual~~ biennial regional operations plan submitted by each regional public transportation agency shall provide for the following:

A. Maximum feasible coordination of funds among all

state agencies that sponsor transportation in the ~~district~~ region;

B. Development and maintenance of a permanent and effective public transportation system, with particular regard to low income, elderly and handicapped residents;

C. Participation of private transit operators in the service, to the greatest extent possible; and

D. Conformity with general operations requirements as may be prescribed by the commissioner.

In years in which no biennial plan is required, amendments to the effective operations may be submitted. Approval of each regional operations plan shall be by the Department of Transportation with the consent of the Departments of Human Services and Mental Health and Mental Retardation. Upon approval, all agencies, groups or organizations named to participate in the provision of service in accordance with a regional operations plan shall become eligible to receive funds administered by the Department of Transportation.

Sec. 2. 23 MRSA §4209, sub-§3, as amended by PL 1985, c. 174, Pt. E, is further amended to read:

3. State assistance. Within the limits of available funding, the department shall provide assistance as follows:

A. Planning and technical assistance, information transfer, capital and operations planning, performance monitoring and evaluation, quality assurance, accounting, assistance with management information systems and service reporting to a regional operations plan drafter or transportation provider and securing of provider compliance with the requirements of other state agencies in these areas;

A-1. Act as mediator and, if necessary, final arbiter of disputes between state agencies and transportation providers regarding service;

B. Capital assistance to transportation providers for up to 1/2 of the nonfederal share required by federal assistance programs;

C. Operating assistance to transportation providers in an amount up to 1/2 of the operating deficit incurred in fulfillment of the ~~annual~~ biennial regional operations plan; and

D. Notwithstanding any other provision of law and except as funds are necessary to carry out the object of this section, funds appropriated for public transportation shall not lapse at the end of a fiscal year, but shall be carried forward from year to year to be expended for the same purpose.

Sec. 3. 23 MRSA §4209, sub-§4, as amended by PL 1981, c. 493, §2, is further amended to read: