

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND THIRTEENTH LEGISLATURE

FIRST SPECIAL SESSION

October 9, 1987 to October 10, 1987

SECOND SPECIAL SESSION

October 21, 1987 to November 20, 1987

and the

SECOND REGULAR SESSION

January 6, 1988 to May 5, 1988

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
1988

PUBLIC LAWS

OF THE

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AS PASSED AT THE
FIRST AND SECOND SPECIAL SESSIONS
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1987

ing as required under section 3314, subsection 1, paragraph C-1, has not been made on parents who reside outside the State or whose whereabouts are unknown after a diligent search;

(2) That the Department of Human Services has:

(a) Received written notice of the hearing on temporary custody at least 10 days before the hearing, provided that the department may waive this 10-day requirement in writing; and

(b) Had an opportunity to be heard before any order of temporary custody;

(3) That notice under section 3314, subsection 1, paragraph C-1, has been served on the juvenile's legal custodian at least 10 days before any order of temporary custody to the Department of Human Services and that the legal custodian has had an opportunity to be heard before the issuance of a temporary order, provided that the juvenile's custodian may waive the 10-day notice requirement if the waiver is in writing and voluntarily and knowingly executed in court before a judge;

(4) That the court finds that either:

(a) The juvenile does not meet the criteria for detention; or

(b) It is not necessary or appropriate to detain the juvenile; and

(5) That the court finds by a preponderance of the evidence that:

(a) Reasonable efforts have been made to prevent or eliminate the need for removal of the juvenile from the juvenile's home;

(b) Continuation in the juvenile's home during the period required for service of notice under section 3314, subsection 1, paragraph C-1, would be contrary to the welfare of the juvenile; and

(c) Temporary custody is necessary to provide for the care and support of the juvenile during this period.

Any order of temporary custody terminates upon an order of disposition under section 3314, or automatically 2 months after issuance, whichever occurs first.

C. In scheduling investigations and hearings, the court shall give priority to proceedings concerning a juvenile who is in detention or who has otherwise been removed from the juvenile's home before an order of disposition has been made.

Sec. 5. 15 MRSA §3314, sub-§1, ¶C-1, as enacted by PL 1985, c. 439, §16, is amended to read:

C-1. The court may commit a juvenile to the custody of the Department of Human Services when the court has determined that reasonable efforts have been made to prevent or eliminate the need for removal of the juvenile from his home and that continuation therein would be contrary to the welfare of the juvenile. The court may not enter an order under this paragraph unless the parents have had notice and an opportunity to be heard at the dispositional hearing.

~~Notwithstanding any other provision of law, the court shall not commit a juvenile to the custody of the Department of Human Services until at least 10 days have elapsed from the date on which service pursuant to section 3304 was effected unless such notice has been served on the parents, custodians and the Department of Human Services in accordance with District Court civil rules at least 10 days prior to the dispositional hearing. A party may waive this time requirement if the waiver is written and voluntarily and knowingly executed in court before a judge.~~

The Department of Human Services shall provide for the care and placement of the juvenile as for other children in the department's custody pursuant to the Child and Family Services and Child Protection Act, Title 22, chapter 1071, subchapter VII.

Effective August 4, 1988.

CHAPTER 721

H.P. 1801 — L.D. 2465

AN ACT to Amend Maine's Domestic Relations Laws.

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

19 MRSA §752, sub-§12, as amended by PL 1987, c. 179, §3, is repealed and the following enacted in its place:

12. Modification of orders; compulsory process. Upon the motion of one or both of the parents, or any agency or person who has been granted parental rights and responsibilities or contact with respect to a child under this section, the court may alter its order concerning parental rights and responsibilities or contact with respect to a minor child as circumstances require. The parties shall be referred to mediation as under subsection 4.

The relocation, or intended relocation, of a child resident in this State to another state by a parent, when the other parent is a resident in this State and there exists an award of shared or allocated parental rights and responsibilities concerning the child, is a substantial change in circumstances.

In execution of the powers given it under this Title, the court may employ any compulsory process which it deems proper, by execution attachment or other effectual form, on which costs shall be taxed as in other actions.

Effective August 4, 1988.

CHAPTER 722

H.P. 1806 — L.D. 2472

AN ACT to Clarify the Obligations of Distributors, Dealers and Redemption Centers.

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

32 MRSA §1866, sub-§5 is enacted to read:

5. Obligation to pick up containers. A distributor has the obligation to pick up any empty, unbroken and reasonably clean beverage containers of the particular kind, size and brand sold by the distributor from dealers to whom that distributor has sold those beverages and from licensed redemption centers designated to serve those dealers pursuant to an order entered under section 1867. With respect to distributors who, within this State, sell beverages under a particular label exclusively to one dealer, which dealer offers those labeled beverages for sale at retail exclusively at its own establishments, the distributor shall have the obligation to pick up any empty, unbroken and reasonably clean beverage containers of the kind, size and brand sold by the distributor to the dealer only from those licensed redemption centers which serve the various establishments of the dealer, pursuant to an order entered under section 1867. A dealer who manufactures its own beverages for exclusive sale by that dealer at retail shall have the obligation of a distributor under this section. The commissioner may establish by rule, in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, criteria prescribing the manner in which distributors shall fulfill the obligations imposed by this subsection. The rules may establish a minimum number or value of containers below which a distributor shall not be required to respond to a request to pick up empty containers. Any rules promulgated under this subsection shall allocate the burdens associated with the handling, storage and transportation of empty containers so as not to create unreasonable financial or other hardship.

Effective August 4, 1988.

CHAPTER 723

H.P. 1514 — L.D. 2067

AN ACT to Provide Additional Resources to the Board of Pesticides Control.

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

Sec. 1. 7 MRSA §607, sub-§6, as repealed and replaced by PL 1987, c. 310, §1, is repealed and the following enacted in its place:

6. Registration fee; validity. The applicant desiring to register a pesticide shall pay an annual registration fee of \$85 in calendar year 1988 and thereafter for each pesticide registered for that applicant. Annual registration periods shall expire on December 31st of any one year or in a manner consistent with the Maine Administrative Procedure Act, Title 5, section 10002, as to license expiration, whichever is later.

Sec. 2. 22 MRSA §1471-C, sub-§§11-B and 11-C are enacted to read:

11-B. General use pesticide. "General use pesticide" means any pesticide which has been registered by the United States Environmental Protection Agency as evidenced by a registration number on the label and which is not a restricted use or limited use pesticide, as defined in this section. Pesticides restricted by the United States Environmental Protection Agency are so identified on the label. Pesticides restricted or limited by the Board of Pesticides Control are listed by the board.

11-C. General use pesticide dealer. "General use pesticide dealer" means any person who distributes general use pesticides.

Sec. 3. 22 MRSA §1471-C, sub-§13-A is enacted to read:

13-A. Household use pesticide product. "Household use pesticide product" means any general use pesticide product which contains no more than 3% active ingredients and which is applied undiluted by homeowners to control pests in and around the family dwelling and associated structures. For the purposes of this definition and section 1471-U, subsection 5, petroleum solvents shall not be considered active ingredients.

Sec. 4. 22 MRSA §1471-U is enacted to read:

§1471-U. General use pesticide dealers

1. License required. Unless exempted under subsection 5, no person may distribute general use pesticides without a license.

2. Issuance of license. The Board of Pesticides Control shall issue a license to distribute general use pesticides to any person upon payment of a fee of \$20 for a calendar year or any part of a calendar year. Any person licensed to distribute restricted use pesticides shall be considered licensed to distribute general use pesticides without any additional fee. All fees collected under this section shall be deposited in the Board of Pesticides Control Special Fund.