

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 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

STATE OF MAINE

AS PASSED AT THE
FIRST AND SECOND SPECIAL SESSIONS
and
SECOND REGULAR SESSION
of the
ONE HUNDRED AND THIRTEENTH LEGISLATURE
1987

lessee of land adjoining a great pond has made a diligent effort to locate the record owner or owners of the flowed land in question and has been unable to do so.

Sec. 3. 38 MRSA §391, as amended by PL 1983, c. 819, Pt. A, §62, is repealed.

Sec. 4. 38 MRSA §391-A is enacted to read:

§391-A. Prohibitions

1. Activities prohibited. Except as provided in subsection 3 and section 394, no person may perform or cause to be performed any of the following activities without first having obtained a permit from the Board of Environmental Protection:

A. Dredging or removing materials from below the normal high water line in a great pond;

B. Constructing or repairing any permanent structure below the normal high water line in a great pond;

C. Depositing any dredged spoil or fill below the normal high water line in a great pond or on the land adjacent to a great pond in such a manner that the material may fall or be washed into the great pond; or

D. Bulldozing or scraping on land adjacent to a great pond in such a manner that the material or soil may fall or be washed into a great pond.

Performing any action in violation of the terms or conditions of a permit issued by the board is also prohibited.

2. Permission of record owners. For purposes of this section, the written permission of the record owner or owners of flowed land shall be deemed sufficient right, title or interest to confer standing for submission of a permit application, provided that the letter of permission specifically identifies the activities being performed and the area that may be used for that purpose. The board may not refuse to accept a permit application for any prohibited activity due to the lack of evidence of sufficient right, title or interest if the owner or lessee of land adjoining a great pond has made a diligent effort to locate the record owner or owners of flowed land and has been unable to do so.

3. Application. This section does not apply to areas of the State within the jurisdiction of the Maine Land Use Regulation Commission under Title 12, chapter 206-A.

Effective August 4, 1988.

CHAPTER 772

H.P. 1535 — L.D. 2089

AN ACT Providing for Administrative Changes in the Tax Laws.

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

Sec. 1. 30 MRSA §4863, sub-§1, ¶C, as amended by PL 1987, c. 534, Pt. B, §§21 and 23, is repealed and the following enacted in its place:

C. The designation of captured assessed value of property within a tax increment financing district shall be subject to the following limitations.

(1) The Commissioner of Economic and Community Development shall promulgate any rules necessary to allocate or apportion the designation of captured assessed value of property within tax increment financing districts in accordance with these limitations.

(2) Fifteen percent of the project costs for the development program must be incurred within 9 months of the designation by the Commissioner of Economic and Community Development of the tax increment financing district. The development program must be completed within 5 years of the designation by the Commissioner of Economic and Community Development of the tax increment financing district.

Sec. 2. 30 MRSA §4864, sub-§1, as amended by PL 1985, c. 650, §5, is further amended to read:

1. Captured assessed value. The municipality may retain all or part of the tax increment of a development tax increment financing district for the purpose of financing the development program, ~~for purposes of calculating state aid for education under Title 20-A, effective for districts designated after December 31, 1986, only 75% of the captured assessed value within the tax increment financing district is excepted from the equalized just valuation of a municipality as defined in Title 36, section 305, subsection 1.~~ The amount of tax increment to be retained shall be determined by designating the amount of captured assessed value to be retained. At the time of adoption of a development program for a tax increment financing district, the governing body shall adopt a statement of the percentage of captured assessed value to be retained in accordance with the development program. Once adopted, the percentage may only be decreased in subsequent years, unless a new development program is adopted, or the present plan is amended or altered under section 4863. The municipal assessor shall certify the amount of the captured assessed value to the municipality each year.

Sec. 3. 36 MRSA §176, sub-§1, ¶E, as enacted by PL 1985, c. 691, §5, is amended to read:

E. "Tax" means a sales, use or, income or illegal drugs tax imposed under this Title, together with interest and penalties.

Sec. 4. 36 MRSA §177, sub-§2, as enacted by PL 1985, c. 691, §5, is amended to read:

2. Responsible individual. Each person required to collect taxes which are designated by subsection 1 as trust funds shall inform the State Tax Assessor, at the time an audit of that person's trust fund obligation is performed by the State Tax Assessor, of the name and position of the individual who generally is responsible for the control or management of that person's funds or finances and, if different, the individual who is specifically responsible for the collection and paying over of those trust funds. Any deficiency assessments of taxes which are designated by subsection 1 as trust funds shall be made jointly in the names of the person required to collect the taxes and of the designated responsible individual.

Sec. 5. 36 MRSA §177, sub-§5 is enacted to read:

5. Stay of running of period of limitation. The running of the period of limitations for assessment or collection of trust fund taxes against a responsible officer, director, member, agent or employee of a person who has collected those taxes shall be stayed for the period of time, plus 120 days, during which an assessment against that person is subject to administrative or judicial review or remains outstanding because that person is the subject of bankruptcy proceedings under the United States Code, Title 11.

Sec. 6. 36 MRSA §183 is enacted to read:

§183. Criminal offenses; statute of limitations

Notwithstanding Title 17-A, section 8, prosecution of any crime defined in this Title must be commenced within 6 years after it has been committed.

Sec. 7. 36 MRSA §186, as amended by PL 1985, c. 333, §§1 and 3, is further amended to read:

§186. Interest

Any person who fails to pay any tax imposed under this Title, except taxes imposed pursuant to chapter 105, on or before the last date prescribed for payment shall be liable for interest on the tax, calculated from that date. The State Tax Assessor shall establish annually, by regulation rule, establish the rate of interest which shall not exceed the highest conventional rate of interest charged for commercial unsecured loans by Maine banking institutions on the first business day of October preceding the calendar year as determined by the Treasurer of State under section 606, subsection 4. For pur-

poses of this section, the last date prescribed for payment of tax shall be determined without regard to any extension of time permitted for filing a return. A tax which is upheld on administrative or judicial review shall bear interest from the date on which payment would have been due in the absence of review. Any tax, interest or penalty imposed by this Title which has been erroneously refunded and which is recoverable by the State Tax Assessor shall bear interest at the above rate from the date of payment of the refund. Interest shall accrue automatically, without being assessed by the State Tax Assessor, and shall be recoverable by the State Tax Assessor in the same manner as if it were a tax assessed under this Title. If the failure to pay a tax when required is explained to the satisfaction of the State Tax Assessor, he may abate or waive the payment of all or any part of that interest.

Except as otherwise provided in this Title, and except for taxes imposed pursuant to chapter 105, interest, at the rate determined by the State Tax Assessor for underpayments pursuant to this section, shall be paid from the date of overpayment upon any overpayment of tax, interest or penalty on overpayments of tax from the date the return listing the overpayment was filed, or the payment was made, whichever is later.

Sec. 8. 36 MRSA 187-A is enacted to read:

§187-A. Preparer penalty

If any part of any understatement of liability with respect to any return or claim for refund is due to a willful attempt in any manner to understate the liability for a tax by a person who prepares those returns or claims for compensation, or whose employees do so, that person shall pay a penalty of \$500 with respect to each return or claim.

Sec. 9. 36 MRSA §383, as repealed and replaced by PL 1973, c. 695, §7, is amended to read:

§383. Assessors' annual return to State Tax Assessor

The municipal assessors and the assessors of primary assessing areas shall, at such times as the State Tax Assessor may require, make and return on blank lists which shall be seasonably furnished by the said State Tax Assessor for that purpose, all such information as to the assessment of property and collection of taxes as may be needed in the work of the State Tax Assessor, including annually, the land value, exclusive of buildings and all other improvements, and the valuation of each and every class of property assessed in their respective jurisdiction, with the total valuation and percentage of taxation, together with a statement to the best of their knowledge and belief of the ratio, or percentage of current just value, upon which the assessment is based, and itemized lists of property upon which the town has voted to affix a value for taxation purposes. These completed lists shall be returned to the State Tax Assessor no later than November 1st, annually, or 30 days after commitment, whichever is later.

Sec. 10. 36 MRSA §581-A, as amended by PL 1987, c. 497, §11, is further amended to read:

§581-A. Sale of portion of parcel of forest land

Sale of a portion of a parcel of forest land subject to taxation under this subchapter shall not affect the taxation under this subchapter of the resulting parcels, unless any is less than 10 forested acres in area. Each resulting parcel shall be taxed to the owners under this subchapter until ~~such~~ the parcel is withdrawn from taxation under this subchapter, in which case the penalties provided for in sections 579 and 581 shall apply only to the owner of ~~such~~ that parcel. If a parcel resulting from ~~such~~ that sale is less than 10 forested acres in area, ~~such~~ the parcel shall be considered as withdrawn from taxation under this subchapter as a result of ~~such~~ the sale and the penalty assessed against the owner of the resulting parcel of less than 10 forested acres.

Sec. 11. 36 MRSA §581-C, as enacted by PL 1981, c. 711, §5, is repealed.

Sec. 12. 36 MRSA §581-D, as enacted by PL 1983, c. 776, §1, is amended to read:

§581-D. Mineral lands subject to an excise tax

Any statutory or constitutional penalty imposed as a result of withdrawal or a change of use, whether imposed before or after January 1, 1984, shall be determined without regard to the presence of minerals, provided that when payment of the penalty is made or demanded, whichever occurs first, there is in effect a state excise tax which applies or would apply to the mining of those minerals.

Sec. 13. 36 MRSA §611, 3rd ¶, is amended to read:

The assessors shall assess a tax upon any such property and ~~such tax shall be due and payable 30 days from the date of assessment~~ in accordance with other property assessed for the same tax year, except that, if the tax is paid within 2 months of assessment, interest from the due date of taxes for the tax year involved does not apply.

Sec. 14. 36 MRSA §654, sub-§1, ¶E, as amended by PL 1983, c. 777, §2, is repealed and the following enacted in its place:

E. The residential real estate up to the just value of \$4,000 of inhabitants of Maine who are legally blind as determined by the Department of Human Services; and

Sec. 15. 36 MRSA §841, sub-§2, as amended by PL 1987, c. 70, is repealed and the following enacted in its place:

2. Infirmity or poverty. The municipal officers or the State Tax Assessor for the unorganized territory,

within 3 years from commitment, may, on their own knowledge or on written application therefor, make such abatements as they believe reasonable on the real and personal taxes on all persons who, by reason of infirmity or poverty, are in their judgment unable to contribute to the public charges. The municipal officers or the State Tax Assessor for the unorganized territory may extend the 3-year period within which they may make abatements under this subsection.

Municipal officers or the State Tax Assessor for the unorganized territory shall:

A. Provide that any person indicating an inability to pay all or part of taxes that have been assessed because of poverty or infirmity shall be informed of the right to make application under this subsection;

B. Assist individuals in making application for abatement;

C. Make available application forms for requesting an abatement based on poverty or infirmity and provide that those forms contain notice that a written decision shall be made within 30 days of the date of application;

D. Provide that persons are given the opportunity to apply for an abatement during normal business hours;

E. Provide that all applications, information submitted in support of the application, files and communications relating to an application for abatement and the determination on the application for abatement shall be confidential. Hearings and proceedings held pursuant to this subsection shall be in executive session;

F. Provide to any person applying for abatement under this subsection, notice in writing of their decision within 30 days of application; and

G. Provide that any decision made under this subsection shall include the specific reason or reasons for the decision and shall inform the applicant of the right to appeal and the procedure for requesting an appeal.

Sec. 16. 36 MRSA §841, sub-§5, as repealed and replaced by PL 1979, c. 73, is repealed and the following enacted in its place:

5. Certification; record. Whenever an abatement is made, other than by the State Tax Assessor, the abating authority shall certify it in writing to the collector, and that certificate shall discharge the collector from further obligation to collect the tax so abated. When the abatement is made, other than an abatement made under subsection 2, a record setting forth the name of the party or parties benefited, the amount of the abatement and the reasons for the abatement shall, within 30 days, be made and kept in suitable book form open to the pub-

lic at reasonable times. A report of the abatement shall be made to the municipality at its annual meeting or to the mayor and aldermen of cities by the first Monday in each March.

Sec. 17. 36 MRSa §842, as amended by PL 1985, c. 764, §16, is further amended to read:

§842. Notice of decision

The assessors, municipal officers, chief assessor or the State Tax Assessor, in the case of the unorganized territory, shall give to any person applying to them for an abatement of taxes notice in writing of their decision upon the application within 10 days after they take final action thereon. If the assessors, municipal officers, chief assessor or State Tax Assessor, before whom an application in writing for the abatement of a tax is pending, fails to give written notice of their decision within 60 days from the date of filing of the application, the application shall be deemed to have been denied, and the applicant may appeal as provided, unless the applicant shall in writing have consented to further delay. This section shall not apply to applications for abatement made under section 841, subsection 2.

Sec. 18. 36 MRSa §1112-A, as enacted by PL 1981, c. 711, §9, is repealed.

Sec. 19. 36 MRSa §1112-B, as enacted by PL 1983, c. 776, §3, is amended to read:

§1112-B. Mineral lands subject to an excise tax

Any statutory or constitutional penalty imposed as a result of withdrawal or a change of use, whether imposed before or after January 1, 1984, shall be determined without regard to the presence of minerals, provided that when payment of the penalty is made or demanded, whichever occurs first, there is in effect a state excise tax which applies or would apply to the mining of those minerals.

Sec. 20. 36 MRSa §1331, as amended by PL 1981, c. 706, §17, is further amended by adding at the end a new paragraph to read:

Interest shall accrue on supplemental assessments from October 1st of the year to which the property tax applies, except that the taxpayer has a 2-month period from the assessment of the supplemental tax during which all interest will be automatically waived if the tax is paid.

Sec. 21. 36 MRSa §1760, sub-§25, as amended by PL 1987, c. 497, §36, is repealed and the following enacted in its place:

25. Boats sold to nonresidents. Sales in this State to nonresidents of yachts and other pleasure boats and commercial vessels and boats actually registered for numbering, enrolled or documented under federal or for-

ign law in the appropriate customhouses or registry offices for location thereof or home ports outside the State, when such craft are either delivered outside the State or delivered in the State to be sailed or transported outside the State immediately upon delivery by the seller; and any sales to nonresidents, under contracts for the construction of any such craft to be so delivered, of materials to be incorporated; and any sales to nonresidents for the repair, alteration, refitting, reconstruction, overhaul or restoration of any such craft to be so delivered, of materials to be incorporated. Unless the craft is present in the State for more than 30 days during the 12-month period following its date of purchase or is registered in Maine without also being registered in another state or documented with a home port in Maine, within 12 months of the date of purchase, the purchaser shall be exempt from the use tax.

Sec. 22. 36 MRSa §1760, sub-§45, as repealed and replaced by PL 1985, c. 419, is repealed and the following enacted in its place:

45. Certain property purchased outside the State. Sales of property purchased and used by the present owner outside the State:

A. If the property is an automobile, as defined in Title 29, section 1, and if the owner was, at the time of purchase, a resident of the other state and either employed or registered to vote there;

A-1. If the property is a watercraft, as defined in chapter 112, which is registered outside the State by an owner who at the time of purchase was a resident of another state and the watercraft is present in the State not more than 30 days during the 12 months following its purchase; or

B. For more than 12 months in all other cases.

For purposes of this subsection, "use" does not include storage, but means actual utilization of the property for a purpose consistent with its design. Property, other than automobiles and watercraft, which is required to be registered for use in this State does not qualify for exemption unless it was registered by its present owner outside this State more than 12 months prior to its registration in this State.

Sec. 23. 36 MRSa §1814, sub-§3, as enacted by PL 1977, c. 316, §1, is amended to read:

3. Refund. Any such amount which has been paid by or collected from a retailer shall be refunded by the State Tax Assessor to the retailer in accordance with section 2011 only upon submission of proof to the satisfaction of the State Tax Assessor that the amount has been returned or credited to the person or persons from whom it was originally collected. In such cases, interest shall be paid by the State Tax Assessor only upon proof that interest was included in the repayment by the retailer to that person or persons.

Sec. 24. 36 MRS §1862, as amended by PL 1985, c. 783, §8, is further amended to read:

§1862. Taxes paid in other jurisdictions

The use tax provisions of chapters 211 to 225 shall not apply in with respect to the use, storage or consumption in this State of purchases ~~at retail sale~~ outside the State where the purchaser has paid a sales or use tax equal to or greater than the amount imposed by chapters 211 to 225 in another taxing jurisdiction, the proof of payment of the tax to be according to rules made by the State Tax Assessor. If the amount of tax paid in another taxing jurisdiction is not equal to or greater than the amount of tax imposed by chapters 211 to 225, then the purchaser shall pay to the State Tax Assessor an amount sufficient to make the tax paid in the other taxing jurisdiction and in this State equal to the amount imposed by chapters 211 to 225.

Sec. 25. 36 MRS §2011, first ¶, as amended by PL 1985, c. 691, §24, is further amended to read:

If the State Tax Assessor determines, upon written application by a taxpayer or during the course of an audit, that any tax has been paid more than once or has been erroneously or illegally collected or computed, he shall certify to the State Controller the amount collected in excess of that legally due, from whom it was collected or by whom paid, and that amount shall be credited by the State Tax Assessor on any taxes then due from the taxpayer and the balance refunded to the taxpayer or his successor, administrators, executors or assigns, but no such credit or refund may be allowed unless a written petition therefor, stating the grounds upon which refund is claimed, is filed with the State Tax Assessor or the overpayment is discovered on audit within 3 years of the date of overpayment. Interest, at the rate determined pursuant to section 186, shall be paid from the date ~~of overpayment on any balance refunded pursuant to this chapter, except that no interest may be paid with respect to the refunds provided by section 2013~~ the return listing the overpayment was filed, or the payment was made, whichever is later, on any balance refunded pursuant to this chapter, except that no interest may be paid with respect to the refunds provided by section 2013 and, in cases of excessive or erroneous collections specified in section 1814, interest shall be paid in accordance with section 1814, subsection 3. At the election of the State Tax Assessor, unless the taxpayer specifically requests a cash refund, the refund may be credited to the taxpayer's sales and use tax account, but, in the case of a credit, no further interest may accrue from the date of that election. Nothing shall may authorize the taxpayer, or anyone acting in his behalf, to apply for a refund of any amount assessed when administrative and judicial review under section 151 has been completed.

Sec. 26. 36 MRS §2858, sub-§4, as enacted by PL 1981, c. 711, §10, is repealed.

Sec. 27. 36 MRS §2864, as enacted by PL 1981, c. 711, §10, is repealed.

Sec. 28. 36 MRS §2903-B, as enacted by PL 1973, c. 613, §22, is amended to read:

§2903-B. Finding of fact

The Legislature hereby makes a finding of fact that the percentage relationship of "gasoline tax" paid by that segment of the nonhighway gasoline user, the snowmobile user, is not less than .5% of the total "gasoline tax" revenue, but certainly is more than the .5% referred to. Based on this legislative "finding of fact" there is set aside .5% of the total excise tax on internal combustion engine fuel sold or used within the State, but not including internal combustion fuel sold for use in the propulsion of aircraft ~~from~~. ~~From this .5% allocation, 10% shall be paid to the Treasurer of State to be made available to the Department of Inland Fisheries and Game Wildlife; this money to be expended for the purpose set forth in Title 12, section 1972 7824.~~ The remaining 90% of the .5% shall be credited to the Snowmobile Trail Fund of the Bureau of Parks and Recreation, established under Title 12, ~~chapter 304, section 1972 7824.~~ The State Tax Assessor shall certify to the State Controller ~~on or before by~~ the 15th day of each month the amounts to be credited under this section as of the close of the State Controller's records for the previous month.

Sec. 29. 36 MRS §2904, as amended by PL 1973, c. 585, §11, is further amended to read:

§2904. Distributors' certificates

Every distributor of internal combustion engine fuel in the State, except distributors described in section 2907, shall file an application for a certificate with the State Tax Assessor on forms prescribed and furnished by him, which shall contain the name under which ~~such~~ the distributor is transacting business within the State, the place or places of business, and location of distributing stations, and agencies of the distributor, the names and addresses of the several persons constituting the firm or partnership, and, if a corporation, its corporate name and the names and addresses of its principal officers and agents within the State. No such distributor shall may sell or distribute any such internal combustion engine fuel until ~~such~~ the certificate is furnished by the State Tax Assessor and displayed as required by this section. One copy of each ~~such~~ certificate, certified by the State Tax Assessor, shall be displayed in each place of business of ~~such~~ the distributor. The State Tax Assessor, having reasonable cause to believe that the distributor has ceased to do business or that he has violated any of the provisions of this chapter or of the rules ~~and regulations made thereunder~~ under this chapter, may on reasonable notice to the distributor suspend the distributor's certificate until satisfied to the contrary. In such a case, the distributor shall not act as a distributor until his certificate is restored by the State Tax Assessor either of his own initiative or at the request of the distributor and upon the State Tax Assessor being satisfied that cause for suspension no longer

exists or upon order of court. In case of such a suspension, all certificates shall at once be surrendered to the State Tax Assessor upon his request. Notices shall be sufficient if sent by mail, addressed to the distributor at the address designated in the certificate and appeals may be taken in the same manner as provided in Title 32, section 753, for appeals from decisions of the Bank Superintendent section 151. This section shall apply to importers and to exporters.

Sec. 30. 36 MRSA §3217, as amended by PL 1985, c. 127, §1, is further amended to read:

§3217. Additional violations

Any user, or any agent or employee of any user, who shall consume any fuel in a registered motor vehicle within the State, when that user is not the holder of an unexpired license as required by this chapter, or when that user has failed to file any report or pay tax, penalty or interest as required by this chapter and chapter 7, commits a Class E crime. Each day or part thereof during which any person shall consume any fuel in a registered motor vehicle within the State, when that user is not the holder of an unexpired license as required by this chapter, or when that user has failed to file any report or pay tax, interest or penalty as required by this chapter and chapter 7, shall constitute a separate violation within the meaning of this section. ~~The state police officer assigned to the Bureau of Taxation pursuant to section 2072 shall also assist in the enforcement of this chapter.~~

Sec. 31. 36 MRSA §3223 is enacted to read:

§3223. Enforcement

There shall be assigned to the Bureau of Taxation an officer of the State to assist in the enforcement of this chapter.

Sec. 32. 36 MRSA §3404, first ¶, as amended by PL 1979, c. 540, §45, is further amended to read:

Property subject to taxes as aforesaid, in whatever form of investment it may happen to be, shall be charged with a lien for all taxes and interest ~~thereon~~ which are or may become due on ~~such that~~ property; but ~~said the~~ lien shall not attach to any ~~real or~~ personal property after the same has been sold or disposed of for value by the personal representative or trustee. The lien charged by chapters 551 to 567 upon any real estate or separate parcel ~~thereof~~ of real estate may be discharged by the payment of all taxes and interest due and to become due upon ~~said the~~ real estate or separate parcel and the cost of recording the certificate mentioned. Upon payment thereof, the State Tax Assessor shall cause a certificate showing ~~such that~~ payment to be recorded in the registry of deeds in each county where ~~said the~~ real estate is located.

Sec. 33. 36 MRSA §4072, as enacted by PL 1981, c. 451, §7, is amended to read:

§4072. Lien for taxes

All property subject to taxes under this chapter, in whatever form of investment it may happen to be, is charged with a lien for all taxes, interest and penalties which are or may become due on that property. The lien does not attach to any ~~real or~~ personal property after the property has been sold or disposed of for value by the personal representative or trustee. Upon payment of those taxes, interest and penalties due under this chapter, or upon determination that no tax is due, the State Tax Assessor shall upon request execute a discharge of the tax lien for recording in the appropriate registry or registries of deeds.

Sec. 34. 36 MRSA §§4421 to 4432, as enacted by PL 1987, c. 343, §9, are repealed.

Sec. 35. 36 MRSA §§4433 to 4438 are enacted to read:

§4433. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Dealer. "Dealer" means a person who, in violation of state law, trafficks in scheduled drugs weighing more than 7 grams or amounting to 10 or more dosage units, or a person who trafficks in or furnishes more than 42 1/2 grams of marijuana.

2. Dosage unit. "Dosage unit" has the same meaning as that provided in Title 17-A, chapter 45.

3. Furnish. "Furnish" has the same meaning as that provided in Title 17-A, chapter 45.

4. Marijuana. "Marijuana" has the same meaning as that provided in Title 17-A, chapter 45.

5. Scheduled drug. "Scheduled drug" has the same meaning as that provided in Title 17-A, chapter 45.

6. Traffick. "Traffick" has the same meaning as that provided in Title 17-A, chapter 45.

§4434. Tax

An excise tax is imposed by this chapter on any convicted dealer based on the amount of marijuana or scheduled drug identified in the conviction. A tax shall be imposed at the following rates by the State Tax Assessor:

1. Marijuana by weight. On each gram or portion of a gram of marijuana, \$3.50;

2. Scheduled drugs by weight. On each gram of scheduled drug or portion of a gram, \$200; or

3. Scheduled drugs by dosage. On each 50 dosage units of a scheduled drug that is not sold by weight or portion of those dosage units, \$2,000.

The tax imposed by this chapter is due and payable 30 days after assessment by the State Tax Assessor.

§4435. Report of conviction

Any district attorney's office which prosecutes a dealer for trafficking in or furnishing marijuana or scheduled drugs, with respect to all or part of those scheduled drugs or marijuana referred to in subsection 1, shall report, upon conviction of the dealer, the conviction to the State Tax Assessor within 30 days of the conviction. The report shall contain such information as may be required by the State Tax Assessor.

§4436. Burden of proof

The tax and penalties assessed by the State Tax Assessor are presumed to be valid and correctly determined and assessed. The burden is upon the taxpayer to show their incorrectness or invalidity.

Sec. 36. 36 MRSA §5122, sub-§2, ¶C, as repealed and replaced by PL 1985, c. 506, Pt. A, §78, is amended to read:

C. Social security benefits and ~~tier-1~~ railroad retirement benefits paid by the United States, to the extent included in federal adjusted gross income; and

Sec. 37. 36 MRSA §5126, last ¶, as enacted by PL 1987, c. 504, §12, is amended to read:

For tax years beginning in 1987, or thereafter there-
after, an additional personal exemption is allowable to each individual who, pursuant to the United States Internal Revenue Code, Section 63(f), would, if claiming a standard deduction for the tax year, be entitled to the additional amount provided in either the first paragraph or the higher amount provided in 2nd the 3rd paragraph. An additional personal exemption is also allowable to each individual who, pursuant to the United States Internal Revenue Code, Section 63(f), would, if claiming a standard deduction for the tax year, be entitled to the additional amount provided in either the 2nd paragraph or the higher amount provided in the 3rd paragraph. For a tax year in which the taxpayer does not make a joint return with his spouse and if the spouse for the calendar year in which the taxable year of the taxpayer begins has no gross income and is not the dependent of another taxpayer, the taxpayer is entitled to claim any additional personal exemptions allowable to the spouse as provided by this section.

Sec. 38. 36 MRSA §5204, as amended by PL 1987, c. 504, §27, is further amended to read:

§5204. Lump-sum retirement plan distributions

In addition to any other tax imposed by this Part, a tax is hereby imposed for each taxable year on every taxpayer who, in accordance with the Code, Section 402(e)(4) (1), elects to compute a separate federal tax on a lump-

sum distribution from a retirement plan at the rate of 15% of the separate federal tax imposed on such the distribution.

Sec. 39. 36 MRSA §5215, sub-§2, ¶A, as repealed and replaced by PL 1987, c. 504, §31, is amended to read:

A. "Qualified federal credit" means, with respect to any taxable year, that portion of the credit allowed by the Code of 1954, as of December 31, 1985, Section 38 (b)(1), which is directly and solely attributable to qualified investment with a situs in this State.

Sec. 40. 36 MRSA §5218, as enacted by PL 1987, c. 504, §32, is amended to read:

§5218. Income tax credit for child care expenses

A resident individual shall be allowed a credit against the tax otherwise due under this Part in the amount of 16% of the federal tax credit allowable for child care expenses in tax year 1986; 20% of the federal tax credit allowable for child and dependent care expenses in tax year 1987; and 25% of the federal tax credit allowable for child and dependent care expenses thereafter. In no case may this credit reduce the Maine income tax to less than zero.

Sec. 41. 36 MRSA §5243, as amended by PL 1979, c. 541, Pt. A, §242, is further amended to read:

§5243. Report of change in federal taxable income

If the amount of a taxpayer's federal taxable income reported on his federal income tax return for any taxable year is changed or corrected by the United States Internal Revenue Service or other competent authority, or as the result of a renegotiation of a contract or sub-contract with the United States, the taxpayer shall report such a change or correction in federal taxable income within 90 days after the final determination of such the change, correction or renegotiation, or as otherwise required by the assessor, and shall concede the accuracy of such that determination or state wherein it is erroneous and shall file an amended Maine return reflecting the adjustments affecting Maine taxable income. Any taxpayer filing an amended federal income tax return shall also file within 90 days thereafter an amended return under this Part, and shall give such information as the assessor may require. The assessor may by regulation rule prescribe such exceptions to the requirements of this section as he deems appropriate.

Sec. 42. 36 MRSA §5278, sub-§4, as enacted by P&SL 1969, c. 154, §F, is repealed and the following enacted in its place:

4. Notice of change or correction of federal income. If a taxpayer is required by section 5243 to file an amended Maine return, a claim for credit or refund of any resulting overpayment of the tax shall be filed by the taxpayer within 2 years from the time the amended return was

required to be filed. The amount of the credit or refund shall not exceed the amount of the reduction in tax attributable to the federal amendment. This subsection shall not affect the time within which or the amount for which a claim for credit or refund may be filed apart from this subsection.

Sec. 43. 36 MRSA §6162-A, sub-§1, as enacted by PL 1987, c. 528, §2, is amended to read:

1. Age. For fiscal year 1987-88, individuals Individuals qualify under this program if they meet the age requirements for an elderly household under chapter 901 and its successors.

Effective August 4, 1988.

CHAPTER 773

S.P. 886 — L.D. 2298

AN ACT to Continue the Driver Education Evaluation Program.

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

Whereas, the Maine Revised Statutes, Title 5, section 12004, subsection 8, paragraph A, subparagraph 13-A, and Title 22, chapter 1602, are repealed on July 1, 1988; and

Whereas, because of this repeal, the Driver Education Evaluation Program which educates, evaluates and treats those who lose their licenses for operating under the influence of alcohol and other drugs will be terminated; and

Whereas, termination of the Driver Education Evaluation Program will eliminate state-administered client services designed especially for the first, multiple and youthful offender; 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. 22 MRSA §7201, sub-§1, as enacted by PL 1987, c. 536, §§2 and 11, is amended to read:

1. Alcohol or drug related motor vehicle incident. "Alcohol or drug related motor vehicle offense incident" means a conviction or administrative action resulting in the suspension of a motor vehicle operator's license for a violation under Title 29, section 1311-A; 1312-B; former

section 1312, subsection 10-A; former section 1312-B; former section 1312-C; or section 2241-G, subsection 2, paragraph B, subparagraph (2).

Sec. 2. 22 MRSA §7201, sub-§2-A is enacted to read:

2-A. Community-based service provider. "Community-based service provider" means a provider of either the treatment component or the evaluation component, or both, of the alcohol and other drug education, evaluation and treatment program certified under section 7205 or a Driver Education Evaluation Program approved program.

Sec. 3. 22 MRSA §7201, sub-§4, as enacted by PL 1987, c. 536, §§2 and 11, is amended to read:

4. Multiple offender. "Multiple offender" means a client who has more than one alcohol or drug related motor vehicle offense incident within a 6-year period.

Sec. 4. 22 MRSA §7203, sub-§3, ¶B, as enacted by PL 1987, c. 536, §§2 and 11, is amended to read:

B. A treatment program provided by a community-based service provider, if indicated, designed to address the client's specific alcohol or other drug problem and abuse, using a treatment plan based on the completion of treatment guidelines adopted by the department.

Sec. 5. 22 MRSA §7204, as enacted by PL 1987, c. 536, §§2 and 11, is repealed.

Sec. 6. 22 MRSA §7204-A is enacted to read:

§7204-A. Separation of evaluation and treatment functions

1. Prohibition. A Driver Education Evaluation Program private practitioner or a counselor employed by a substance abuse facility approved or licensed by the department providing services under this chapter may not provide both treatment services and evaluation services for the same individual participating in programs under this chapter. The practitioner or counselor providing evaluation services shall give a client the name of 3 practitioners or counselors who can provide treatment services, at least one of whom must not be employed by the same agency as the practitioner or counselor conducting the evaluation.

Sec. 7. 22 MRSA §7206, sub-§1, as enacted by PL 1987, c. 536, §§2 and 11, is amended to read:

1. First offense program. The department may charge a registration fee, not to exceed \$105, to clients for the education and assessment components of the program. This fee along with any unexpended balance as of July 1, 1988, shall be used to defray the cost of the program transferred to the General Fund. The client is responsible for the costs of the evaluation and treatment components. The department may waive all or part of the fee for clients who provide sufficient evidence of inability to pay.