

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

STATE OF MAINE

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

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Statutes, Title 5, section 12004, subsection 8, paragraph A, subparagraph 13-A, and Title 22, chapter 1602, are repealed on July 1, 1988; and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

Sec. 8. 22 MRSA §7206, sub-§2, as enacted by PL 1987, c. 536, §§2 and 11, is amended to read:

2. Multiple offender program. The fees and costs for the multiple offender program are as follows.

A. The department may charge a registration fee, not to exceed ~~\$\$\$0~~ \$350, to clients for the expenses of the intervention program, including the initial evaluation. 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.

B. The client is responsible for any costs associated with 2nd and subsequent evaluations or treatment which is not a part of the cost in paragraph A.

C. The department may waive all or part of the fee for clients who provide sufficient evidence of inability to pay.

Sec. 9. 29 MRSA §1312-B, sub-§3-A is enacted to read:

3-A. Instructions at time of sentencing. At the time of sentencing, the presiding judge shall provide the defendant with written instructions prepared by the Division of Driver Education Evaluation. The instructions shall be written in plain and readable language and at a minimum include the following:

A. An explanation of the circumstances under which the Secretary of State may suspend a driver's license;

B. An explanation of the different components in the process the defendant must go through to have a driver's license restored. The explanation shall include a description of the difference between those service components provided by state agencies and those provided by practitioners and counselors not employed by the State;

C. An explanation of the role of the Driver Education Evaluation Program Appeals Board and the circumstances under which the defendant has a right to make an appeal to the board;

D. An explanation of the differences between the procedures applicable to first offenders versus multiple offenders and adults versus those under 21 years of age;

E. An explanation of when the Secretary of State may stay a suspension and grant a work-restricted license or other restricted or provisional license; and

F. An explanation of the conditions an offender must meet to have a license restored or conditions under which the Secretary of State may restore a license.

Sec. 10. 29 MRSA §1312-D, sub-§10, as enacted by PL 1987, c. 536, §§7 and 11, is amended to read:

10. Work-restricted license. Upon the ~~recommendation of a treating counselor that~~ application of a person whose license or right to operate a motor vehicle has been suspended under section 1312-B, subsection 2, paragraph A or B, ~~be issued a restricted license for employment purposes;~~ the Secretary of State, with the advice of a treating counselor and to the extent not in conflict with federal law or federal grant criteria for highway safety programs, may stay the suspension during the statutory period and issue a work-restricted license, subject to whatever conditions, restrictions or terms which the ~~treating counselor recommends and~~ the Secretary of State deems advisable. Any restricted license or permit issued under this subsection shall be restricted to use for travel to and from employment.

The treating counselor may recommend that the Secretary of State revoke a restricted license or permit issued under this subsection if the counselor believes that the revocation is advisable, having in mind the safety of the public and the welfare of the person.

For the purposes of this subsection, "treating counselor" means a person licensed under Title 32 as a registered substance abuse counselor, psychiatrist, psychologist or social worker who is providing alcohol or drug treatment services to the person.

Sec. 11. PL 1987, c. 536, §11 is repealed.

Sec. 12. Sunset provision. The Maine Revised Statutes, Title 22, chapter 1602 is repealed on August 1, 1990.

Sec. 13. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

1988-89

HUMAN SERVICES, DEPARTMENT OF

Office of Alcoholism and Drug Abuse Prevention

Division of Driver Education Evaluation

Positions	(15)
Personal Services	\$432,588
All Other	556,566
Capital Expenditures	6,450

Total \$995,604

Sec. 14. Allocation. The following funds are allocated from Other Special Revenue to carry out the purposes of this Act.

1988-89

HUMAN SERVICES, DEPARTMENT OF

Division of Driver Education Evaluation

First Offender Program

Positions	(-16)
Personal Services	(\$424,791)
All Other	(256,949)
Capital Expenditures	(6,450)

Multiple Offender Program

Positions	(-4)
Personal Services	(88,743)
All Other	(250,000)

Driver Education Evaluation Program
Appeals Board

Personal Services	(15,000)
All Other	(12,500)

DEPARTMENT OF HUMAN SERVICES
TOTAL (\$1,054,433)

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

Effective April 26, 1988.

CHAPTER 774

S.P. 485 — L.D. 1462

AN ACT to Improve the Quality of Care in Long-Term Care Facilities by Establishing Intermediate Sanctions and Incentives for High Quality Care.

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

Sec. 1. 22 MRSA §47, as amended by PL 1973, c. 521, §3, is further amended to read:

§47. Penalties and jurisdiction; certificate of commissioner as evidence

Whoever hinders, obstructs or interferes with any officer, inspector or duly authorized agent of the department while in the performance of his duties shall be punished by a fine of not less than \$5 nor more than \$50, or by imprisonment for not less than 10 days nor more than 30 days. Any person who violates any order, rule or regulation of the department made for the protection of life or health under law shall be punished by a fine of not less than \$20 nor more than \$200, for each offense unless otherwise provided in section 42 this Title. Whoever violates any provision of this Title or willfully fails, neglects or refuses to perform any of the duties imposed upon him by this Title shall be punished by a fine of not more than \$500 or by imprisonment for not more than 6 months, unless specific penalties are elsewhere provided for. Any certificate of the commissioner in regard to the records of the department shall be admissible in evidence in all prosecutions under this Title.

Sec. 2. 22 MRSA §1821, as amended by PL 1967, c. 231, §6, is repealed.

Sec. 3. 22 MRSA §7702, as amended by PL 1987, c. 389, §1, is further amended to read:

§7702. Violation; penalty

Whoever violates any provision of this subtitle, except section 7801, subsection 1, paragraph A, shall be punished by a fine of not more than \$500 or by imprisonment for not more than 11 months, or by both, except that anyone violating sections 7703, 8305 and 8603 shall be punished only by a fine of not more than \$500.

Sec. 4. 22 MRSA c. 1666-B is enacted to read:

CHAPTER 1666-B

INTERMEDIATE SANCTIONS AND INCENTIVES FOR IMPROVING THE QUALITY OF CARE IN LONG-TERM CARE FACILITIES

§7941. Policy

It is the purpose of this chapter to authorize the Department of Human Services to impose intermediate sanctions in order to improve the quality of care in long-term care facilities and to establish programs to reward long-term care facilities that provide the highest quality care. These intermediate sanctions will also provide an alternative to taking action to close facilities, which may cause great distress to the residents of those facilities.

§7942. Definitions

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

1. **Department.** "Department" means the Department of Human Services.

2. **Directed plan of correction.** "Directed plan of correction" means a plan of correction issued by the department which directs a long-term care facility how to correct a deficiency or deficiencies of state licensing rules and when the correction must be made.

3. **Long-term care facility.** "Long-term care facility" means any boarding care facility subject to licensure pursuant to chapters 1663 and 1665, and any skilled nursing or intermediate care facility or unit subject to licensure pursuant to chapter 405, with the exception of adult foster homes.

4. **Person.** "Person" means any natural person, partnership, association or corporation or other entity, including any county, local or governmental unit.

5. **Plan of correction.** "Plan of correction" means a