

# 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.

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Twin City Printery  
Lewiston, Maine  
1988

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**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

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Sec. 2. 30 MRSA §202-A is enacted to read:

§202-A. Aroostook County

During 1988, notwithstanding section 202, if Aroostook County employs a full-time county administrator, the county commissioners may receive up to and including \$100 for each meeting attended for up to 52 meetings in the fiscal year. They shall receive no per diem compensation for any meetings in excess of 52 meetings. During 1989, notwithstanding section 202, county commissioners in Aroostook County shall also be entitled to the salary specified in section 2, in addition to the per meeting amount, regardless of whether that county has a full-time county administrator.

Sec. 3. 30 MRSA §202-B is enacted to read:

§202-B. York County

Notwithstanding section 202, county commissioners in York County shall be entitled to the salary specified in section 2, regardless of whether that county has a full-time county administrator.

**Emergency clause.** In view of the emergency cited in the preamble, this Act, except section 2, shall take effect when approved and shall be applied retroactively to January 1, 1988. Section 2 shall take effect January 1, 1989.

Effective April 26, 1988, unless otherwise indicated.

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## CHAPTER 781

S.P. 796 — L.D. 2093

### AN ACT to Create a Single Point of Contact for the Operators of Commercial Vehicles.

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

Sec. 1. 29 MRSA §55, first ¶, as amended by PL 1975, c. 771, §304, is further amended to read:

The Secretary of State shall collect all fees required for licensing and registering all vehicles and operators thereof and shall collect all permit fees pursuant to sections 1703, 2703 and 2704 and shall forthwith transmit the same to the Treasurer of State. He shall, from time to time as required by the Governor, make report of his doings and of the fees received from vehicle registrations, licenses issued and from other sources, with such recommendations as he may consider appropriate.

Sec. 2. 29 MRSA §244, sub-§4, as enacted by PL 1983, c. 94, Pt. B, §7, is amended to read:

4. **Rules.** The Commissioner of Transportation shall promulgate rules, not inconsistent with the provi-

sions of the United States Surface Transportation Assistance Act of 1982, Public Law 97-424, to ensure reasonable access to vehicles, as set forth in subsection 2, paragraphs C and D, between the Interstate Highway System and any other qualifying federal aid primary system highways, as designated by the Secretary of the United States Department of Transportation, and terminals, facilities for food, fuel, repairs and rest and points of loading and unloading for household goods carriers.

Any permits required pursuant to this subsection shall be issued by the Secretary of State with the advice and consent of the Commissioner of Transportation.

Sec. 3. 29 MRSA §1703, as amended by PL 1987, c. 52, is further amended to read:

§1703. Moving heavy objects over ways and bridges; jurisdiction; permits limited

Jurisdiction Pursuant to guidelines developed by the Department of Transportation, jurisdiction is vested in the ~~Department of Transportation~~ office of the Secretary of State, acting with the advice of the Commissioner of Transportation, to grant emergency permits upon proper application in writing to move objects having a length or width or height or weight greater than specified in this Title over any way or bridge maintained by the Department of Transportation. The fee for these permits shall be not less than \$3, nor more than \$15, to be determined on the basis of weight, height, length and width by the ~~Department of Transportation~~ Secretary of State with the advice of the Commissioner of Transportation. Like permits may be granted, for a reasonable fee, by county commissioners, municipal officers, superintendents of streets or other road officials having charge of the repair and maintenance of any other way or bridge. All vehicles granted emergency permits under this section, because the object to be moved is over the legal maximum weight, must first be registered or hold a short-term permit for the maximum legal gross weight allowed ~~with~~ for that vehicle.

The ~~department~~ Secretary of State may grant permits, covering stated periods of time not exceeding one year and upon proper application in writing, to move under its own power pneumatic tired equipment, not exceeding the legal weight limit, over ways and bridges maintained by the ~~department~~ Department of Transportation. The fee for such permit shall be based upon a rate of \$15 for each 30-day period covered by the permit.

Said ~~The~~ permits shall be issued to cover the emergency or purpose stated in the application and shall be limited as to the particular objects to be moved and the particular ways and bridges which may be used, but permits for stated periods of time may be issued for loads and suitable equipment employed upon public highway construction projects, United States Government projects or private construction of private ways, when such loads or equipment are operated within construc-

tion areas established by the ~~department~~ Department of Transportation.

Permits must be procured from the municipal officers of any town or city, in case the construction area encompasses ~~said that town or city,~~ said the permits to further provide that the contractor be responsible for damage to any roads which may be used in ~~said the~~ construction areas and may provide for withholding by the agency contracting for the work of final payment under any contract, or may provide for the furnishing of a bond by the contractor to guarantee suitable repair or payment of damages, the suitability of repairs or the amount of damage to be determined by the Department of Transportation on state maintained ways and bridges, otherwise by the municipal officers.

~~Said~~ The permits may be granted by the Department of Transportation or by the state engineer in charge of the construction contract and no further approval by the Department of Transportation shall be deemed necessary.

The permit for construction areas shall carry no fee and shall not come within the scope of ~~the first paragraph~~ of this section.

The Secretary of State, with the advice and consent of the Department of Transportation, in respect to state and state aid highways and bridges within city or compact village limits, and municipal officers in respect to all other ways and bridges within such city and compact village limits and the county commissioners in respect to county roads and bridges located in unorganized territory in ~~said the~~ county, may grant permits to operate vehicles having a gross weight exceeding the limit of gross weight prescribed in this Title, and all such permits may contain any special conditions or provisions which in the opinion of the grantors are necessary.

Escort vehicles required by permits issued in accordance with this section shall be equipped with warning lights and signs as required by the Secretary of State with the advice of the Department of Transportation. Only in the performance of the escort vehicle requirements of such a permit shall such warning lights be operated or the lettering on such signs be visible on a public way.

No State Police escort ~~shall~~ may be required except when any single or combination of vehicles exceeds 125 feet in length or 16 feet in width. ~~The Department of Transportation~~ Secretary of State when issuing permits for vehicles exceeding these dimensions, with the advice of the Department of Transportation, may require the owner or operator of the vehicle to be escorted by the State Police. The Department of Transportation Bureau of State Police shall establish a fee to be paid by the permittee ~~permittee~~ for these State Police escorts based on mileage and the number of officers assigned. All fees collected pursuant to this paragraph shall be used to defray the cost of services provided.

~~The~~ With the advice of the Commissioner of Transportation and the Chief of the State Police, the Secretary of State shall establish rules for the operation of escort vehicles in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375.

Permits shall not be granted unless the applicant provides reasonable assurance that all property taxes, sewage disposal service charges levied by a municipality or sewer district and drain or sewer assessments applicable to the mobile home, including those for the current tax year, have been paid or that the mobile home is exempt from such taxes.

Sec. 4. 29 MRSA §2702, as enacted by PL 1981, c. 469, §2, is amended to read:

#### §2702. Policy

The Legislature finds that an efficient and safe highway transportation system is essential to the economy of the State. It is the purpose of this chapter to provide for a safe, reliable and efficient motor carrier system by permitting greater entry into and competition within the for-hire transportation industry while promulgating requirements for the safe operation of all freight and passenger carriers in the State. The Legislature further finds that efficient regulation requires that safety requirements for these carriers be administered by the Bureau of State Police. Permits and identification devices shall be issued by the Secretary of State, who shall collect the appropriate fees to be deposited pursuant to section 2713.

Sec. 5. 29 MRSA §2703, first ¶, as amended by PL 1983, c. 234, §1, is repealed and the following enacted in its place:

In order that there may be proper supervision and control of the use of the highways of this State, every person, firm or corporation transporting freight, merchandise, household goods or passengers by motor vehicle for hire upon the public highways of this State between points within this State, between points without the State but passing through this State or between points within and points without the State, is required to obtain a permit for that operation from the Secretary of State. Application for these permits shall be made in the manner and form to be prescribed by the Secretary of State. These permits shall be issued upon compliance with these rules and upon payment of the required fees. An application for a permit shall be accompanied by a fee of \$25. No permit issued under this section may be transferred, except that, where the holder of a permit has become incorporated, the holder may transfer his permit to the corporation upon the payment of any transfer fee and the filing of written notice of intent to transfer with the Secretary of State. Every person, firm or corporation transporting passengers for hire shall be assessed an annual permit renewal fee of \$15.

Sec. 6. 29 MRSA §2704, as amended by PL 1983, c. 818, §30, is further amended to read:

§2704. Vehicle identification required

Each motor vehicle except motor vehicles, the primary purpose of which is to transport passengers for hire, transporting freight, merchandise or household goods and required to obtain an operating permit under this chapter shall at all times display identification to be prescribed and furnished by the ~~bureau~~ Secretary of State in accordance with rules promulgated by the ~~bureau~~ Secretary of State. The annual fee for the vehicle identification device is \$8 for each motor vehicle and \$2 shall be charged for each transfer of that identification. The ~~bureau~~ Secretary of State may refuse to furnish identification for any motor vehicle not registered in the name of the holder of a permit. The ~~bureau~~ Secretary of State may, in its his discretion, issue upon request telegraphic authority for transportation for hire by motor vehicles in this State pending issuance of proper vehicle identification devices. The telegraphic authority shall not exceed that already granted the requesting carrier by the United States Interstate Commerce Commission or the ~~bureau~~ Secretary of State and the cost of the telegraphic authority shall be borne by the requesting carrier.

Sec. 7. 29 MRSA §2706, as enacted by PL 1981, c. 469, §2, is repealed.

Sec. 8. 29 MRSA §2707, as amended by PL 1985, c. 812, Pt. C, §6, is further amended to read:

§2707. Rules

The ~~bureau~~ Bureau of State Police may make such rules as it deems necessary or advisable to ensure proper ~~administration and~~ enforcement of this chapter and to promote the safety of the operation of motor carriers over the highways. This authority includes the right to make rules relating to the length of duty of drivers. These rules shall conform as nearly as practicable to the standards set forth by the appropriate federal agencies pertaining to the duties of drivers operating motor vehicles in interstate commerce. The bureau may enter into and make cooperative agreements with the Interstate Commerce Commission and the United States Department of Transportation to enforce the laws and regulations of the United States and this State concerning highway transportation. ~~If For vehicles regulated under this chapter, if a conflict exists between the safety rules and other laws requiring safety equipment, insofar as the vehicles regulated by these safety rules, the safety rules will take precedent precedence.~~

The bureau may ask the Secretary of State to refuse to reissue any vehicle identification device issued under this chapter for any willful or continued violations of this chapter or of any rules promulgated by the bureau pursuant to the authority thereof or of any rules promulgated by the ~~Public Utilities Commission or~~ Department of Transportation and remaining in effect under this section. The bureau may file a complaint in the Administrative Court seeking revocation or suspension of an

operating permit. Notwithstanding Title 5, section 10051, the ~~bureau~~ Secretary of State may suspend a permit for lack of sufficient insurance. Any suspension shall continue until the ~~bureau~~ Secretary of State is satisfied that the carrier has obtained adequate insurance. It is the duty of the State Police, sheriffs and their deputies and all other peace officers to investigate any alleged violations of this chapter and any rules promulgated by the bureau pursuant to the authority thereof, or promulgated by the ~~Public Utilities Commission or~~ Department of Transportation and remaining in effect under this section, to prosecute violators of this chapter and those rules and otherwise to aid in the enforcement of the provisions thereof.

Sec. 9. 29 MRSA §2708, as amended by PL 1987, c. 499, §7, is repealed and the following enacted in its place:

§2708. Indemnity bonds

The Secretary of State shall not register any motor vehicle required to obtain an operating permit subject to this chapter nor issue a permit covering the operation of any such motor vehicle or vehicles, until the applicant for that permit has procured a good and sufficient insurance policy or indemnity bond, in such amount as the Secretary of State prescribes, having as surety, a surety company authorized to transact business in this State or 2 responsible individuals, which bond shall be approved by the Secretary of State, or a declaratory judgment issued by the Interstate Commerce Commission authorizing the motor carrier to self insure. The insurance policy or bond shall adequately provide for cargo insurance and for the collection of damages for which the holder of a permit may be liable by reason of the operation of any motor vehicle or vehicles subject to the operation of this chapter. Notwithstanding this section, any person, firm or corporation transporting logs or pulpwood, garbage, refuse, sludge, junk or unserviceable vehicles, manure, wood chips, bark or hogged fuel is not required to provide cargo insurance. Any person, firm or corporation transporting freight between points within this State and points without the State or between points without the State, but passing through this State, is not required to provide cargo insurance.

Sec. 10. 29 MRSA §2709, sub-§1-A, ¶B, as enacted by PL 1985, c. 812, Pt. C, §8, is amended to read:

B. While being used within the limits of a single city or town in which the vehicle is registered by the Secretary of State or in which the owner maintains a regular and established place of business, or within 15 miles, by highway in this State, of the point in that single city or town where the property is received or delivered, but no person, firm or corporation may operate, or cause to be operated, any motor vehicle for the transportation of property for hire beyond those limits without a permit as required by this chapter; nor may any such person, firm or corporation participate in the transportation of property originating or terminating beyond the limits without holding such a permit un-

less the property is delivered to or received from a carrier over the highways operating under a permit issued by the ~~bureau~~ Secretary of State or railway, railway express or water common carrier, but nothing in this section may prevent a carrier from delivering and picking up with his exempt motor vehicle, in a city or town where he has a terminal, freight and merchandise transported or to be transported over territory for which a permit is required; nothing in this paragraph permits the transportation of freight or merchandise for hire, by motor vehicle, under any circumstances by any person, firm or corporation beyond the 15-mile limit as prescribed unless the person, firm or corporation holds a permit ~~from the bureau~~ as required by this chapter;

**Sec. 11. 29 MRSA §2711**, as amended by PL 1987, c. 141, Pt. B, §29, is further amended to read:

§2711. Penalties and evidence

1. General penalty. Any person, firm or corporation, or any officer, agent or employee of any corporation, who violates, orders, authorizes or knowingly permits a violation of any of the provisions of this chapter, or any rule issued by the bureau or the Secretary of State pursuant to the authority of this chapter, or issued by the Public Utilities Commission and remaining in effect pursuant to this chapter, is guilty of a Class E crime.

If any such person, after being ordered to appear in court to answer any violation of this chapter or any rule issued by the bureau, the Secretary of State or by the Public Utilities Commission and remaining in effect pursuant to this chapter, fails to appear in court on the day specified, either in person or by counsel, the court shall notify the Secretary of State, who shall, pursuant to chapter 17, at the expiration of 10 days after mailing the person, postage prepaid, a notice of his intention to do so, suspend or revoke his license to operate any motor vehicle subject to regulation under this chapter, if licensed in this State, or suspend or revoke his right to operate any motor vehicle subject to regulation under this chapter, if licensed in this State, or suspend or revoke his right to operate any motor vehicle subject to regulation under this chapter in this State, and suspend or annul the registration of the motor vehicle operated or owned by that person so ordered to appear, if the motor vehicle is registered in this State, and the suspension, annulment or revocation shall continue in effect until that person appears in court as ordered.

If any carrier holding a permit ~~from the bureau~~ pursuant to this chapter has been required to appear in any court, through its appointed lawful agent or attorney, and fails to comply with or satisfy any lawful order or judgment of the court issued pursuant to this chapter, the court shall notify the ~~bureau~~, which Secretary of State, who shall immediately suspend the permit held by the carrier until such time as the carrier complies with or satisfies the order or judgment. ~~In the case of such failure by a carrier holding a certificate or a license issued un-~~

~~der chapter 25, the court shall notify the Department of Transportation, which shall immediately suspend the certificate or license until such time as the carrier complies with or satisfies the order or judgment.~~

2. Certificate. The certificate of the Chief of the State Police shall be received in any court of law in this State as prima facie evidence of the making or issuing by the bureau of any rule authorized by this chapter to be made or issued by the bureau. The certificate of the Secretary of State or his deputy, under seal of the State, shall be received in any court of law in this State or in any proceeding ~~before the bureau or the Department of Transportation~~ pursuant to this chapter as prima facie evidence of the issuance, suspension, revocation or restoration of any operator's license, or the issuance, suspension, annulment or restoration of any certificate of registration of any motor vehicle.

**Sec. 12. 29 MRSA §2712**, as enacted by PL 1981, c. 469, §2, is amended to read:

§2712. Agents for service of process

Each holder of a permit from the ~~bureau~~ Secretary of State under this chapter shall file with the ~~bureau~~ Secretary of State, in writing, an appointment of a resident of this State to be its true and lawful agent, representative or attorney upon whom all lawful processes may be served, and who may be required to appear in court on behalf of the carrier with the same legal force and validity as if the carrier were in court. The written assent of the resident agent, representative or attorney shall be filed with the ~~bureau~~ Secretary of State and shall be valid until revoked.

Should the carrier fail to file any appointment of a resident agent, representative or attorney as required, the ~~bureau~~ Secretary of State shall refuse to issue the permit or any renewal thereof held by the carrier until such time as the carrier files an appointment of resident agent, representative or attorney in compliance with this section.

**Sec. 13. Transfer of functions; transition.** The following transfer of functions and transition apply.

1. Functions transferred. This section provides for the transition in transferring the administrative functions and related rule-making authority for issuing overweight and oversize permits from the Department of Transportation to the Division of Motor Vehicles; and transferring the administrative functions and related rule-making authority for issuing operating authority permits for persons, firms or corporations transporting freight, merchandise, household goods or passengers by motor vehicle for hire from the Bureau of State Police to the Division of Motor Vehicles. This establishes the Division of Motor Vehicles, which already issues vehicle registrations and licenses for fuel use reporting, as a single point of contact for the administration of licensing and permitting of commercial vehicles.

2. Funds transferred. Notwithstanding the Maine Revised Statutes, Title 5, sections 1585 and 1586, all accrued expenditures, assets, liabilities, balances, appropriations or allocations, transfers, revenues or other available funds in any account or subdivision of an account of any unit of State Government related to a function transferred by this Act shall be transferred to the unit which receives the responsibility for that function.

3. Transfer of employee benefits. Any employees of any unit of State Government who may be transferred to the Department of the Secretary of State, Division of Motor Vehicles, shall be transferred with their accrued rights and benefits. The accrued fringe benefits, including vacation and sick leave, health and life insurance, and retirement shall remain with those persons.

4. Rules and procedures. All rules and procedures relating to the functions transferred by this Act currently in effect and in operation and which are in compliance with this Act shall remain in effect until rescinded or amended as provided by law.

5. Contracts and agreements. All contracts and agreements currently in effect with respect to any unit of State Government affected by this Act shall remain in effect until rescinded, terminated or modified as provided by law.

6. Equipment and property transferred. All equipment and property of the State used by employees and officials of any unit of State Government related to a function transferred by this Act shall be transferred to the unit which receives the responsibility for that function.

7. Organization and operation. Notwithstanding any other provision of law, any appointment and preparation work for the transfer of functions required by this Act may be made or may occur prior to the appropriate effective date of this Act, but shall not become binding or take effect until the appropriate effective date.

8. Financial order required. The Deputy Secretary of State, the Commissioner of Public Safety and the Commissioner of Transportation shall jointly prepare a financial order to transfer the necessary funds, positions, equipment and property to implement this Act. They shall submit that order to the Budget Office in a timely manner so that the transfer can be carried out on July 1, 1989.

Sec. 14. Allocation. The following funds are allocated from the Highway Fund to carry out the purposes of this Act.

All Other	35,000
Capital Expenditures	3,750
Total	\$52,789

Provides funds for a branch chief supervisor position and anticipated office rental expenses to assist in the proposed transition period.

Sec. 15. Effective date. This Act shall take effect July 1, 1989, except that section 13, subsections 7 and 8 and section 14 shall take effect February 1, 1989.

Effective July 1, 1989, unless otherwise indicated.

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## CHAPTER 782

S.P. 936 — L.D. 2469

### AN ACT to Promote Greater Workplace Safety.

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

Sec. 1. 5 MRSA §4572, as amended by PL 1987, c. 559, Pt. B, §2, is further amended to read:

§4572. Unlawful employment discrimination

1. Unlawful employment. It shall be unlawful employment discrimination, in violation of this Act, except where based on a bona fide occupational qualification:

A. For any employer to fail or refuse to hire or otherwise discriminate against any applicant for employment because of race or color, sex, physical or mental handicap, religion, ancestry or national origin or age, or because of the applicant's previous assertion of a claim or right under Title 39, or because of previous actions taken by the applicant which are protected under Title 26, chapter 7, subchapter V-B, or because of any such reason to discharge an employee or discriminate with respect to hire, tenure, promotion, transfer, compensation, terms, conditions or privileges of employment, or any other matter directly or indirectly related to employment, or in recruiting of individuals for employment or in hiring them, to utilize any employment agency which such employer knows, or has reasonable cause to know, discriminates against individuals because of their race or color, sex, physical or mental handicap, religion, age, ancestry or national origin, or their previous assertion of a claim or right under Title 39, or because of previous actions which are protected under Title 26, chapter 7, subchapter V-B;

(1) This paragraph does not apply to discrimination against any individual after hiring because of that individual's previous or subsequent assertion of a claim or right under Title 39. Such discrimination is governed by Title 39, section 111;

1988-89

SECRETARY OF STATE, DEPARTMENT OF THE

Administration — Motor Vehicles

Positions	(1)
Personal Services	\$14,039