

# 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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tinguishing marks on any registration plate attached to a vehicle which was assigned to that vehicle by the Secretary of State. Vehicle registration plates shall always be properly displayed.

Whoever violates this section is guilty of a Class E crime.

Sec. 21. 29 MRSA §2243-A, first ¶, as amended by PL 1987, c. 79, §§3 and 7, is further amended to read:

Notwithstanding any other provisions of this Title, the Secretary of State, in concurrence with the Commissioner of Transportation, is authorized to enter into reciprocal agreements or plans on behalf of the State of Maine with the appropriate authorities of any of the states of the United States, the District of Columbia or any state or province of any country providing for the registration of vehicles on any apportionment or allocation basis and may, in the exercise of this authority, enter into and become a member of the International Registration Plan with an entry date of January 1, 1990.

Sec. 22. 29 MRSA §2507-A, sub-§1, ¶B is enacted to read:

B. Fleets of 5 or more vehicles with a common registration expiration month may continue to have an uncommon inspection and registration expiration. The effective date of this paragraph shall be April 1, 1989.

Sec. 23. 29 MRSA §2508-A is enacted to read:

§2508-A. Enforcement of an uncommon expiration of inspection and registration certificates

The owner or operator of a vehicle operated with a valid certificate of inspection and a valid registration certificate which have uncommon expiration dates in violation of section 2502, subsection 3, shall not be issued a summons to court but shall be issued a warning in a form to be designated by the Chief of the Maine State Police. This warning shall state that the owner or operator shall within 2 business days therefrom cause the vehicle to be inspected in accordance with this chapter. Failure to comply with the provisions of a warning issued pursuant to this section is a violation punishable in accordance with section 2521. The effective date of this section shall be April 1, 1989.

Sec. 24. Public Law 1987, c. 397, §10 is amended to read as follows:

Sec. 10. Effective date. The effective date of this Act is July 1, 1988 April 1, 1989.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved, except that sections 5 to 13 shall take effect July 1, 1988, and section 21 shall take effect January 1, 1989.

Effective April 27, 1988, unless otherwise indicated.

## CHAPTER 790

H.P. 1748 — L.D. 2397

### AN ACT to Require Licensure of Certain Railroad Personnel.

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

Whereas, in order for the Board of Licensure of Railroad Personnel to have time to establish licensing procedures and for individuals required under this Act to obtain licenses to have time to pass the requirements by December 15, 1988, the board needs to be appointed and start to work as soon as possible; 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. 5 MRSA §12004, sub-§1, ¶A, sub-¶(34-A) is enacted to read:

(34-A)	<u>Board of Licensure of Railroad Personnel</u>	<u>Expenses Only</u>	<u>32 MRSA §4145</u>
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Sec. 2. 32 MRSA c. 60 is enacted to read:

#### CHAPTER 60

#### RAILROAD PERSONNEL

#### SUBCHAPTER I

#### GENERAL PROVISIONS

#### §4140. Declaration of purpose

The purpose of this chapter is to provide for the safety of property, railroad workers and the general public by requiring certain railroad personnel to demonstrate adequate training and competency.

#### §4141. Definitions

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

1. Applicant. "Applicant" means the individual who wishes to act as a brakeman, carman, conductor, flagman, locomotive operator or train dispatcher.

2. Board. "Board" means the Board of Licensure of Railroad Personnel.

3. Commissioner. "Commissioner" means the Commissioner of Professional and Financial Regulation.

4. Department. "Department" means the Department of Professional and Financial Regulation.

5. Railroad personnel. For the purposes of this chapter, an individual is acting as one of the following personnel if that individual performs the duties of that personnel classification, without regard to the individual's actual job title.

A. "Carman" means a person who inspects railroad cars for compliance with the standards of the Federal Railroad Administration and certifies or withholds certification of the suitability of a car for service.

B. "Conductor" means a person who is responsible for all movements of a train including the consist of a train and the location of cars on the train, who keeps and implements all work orders for operation of the train and who is responsible for manifests showing the cargo of the train.

C. "Locomotive operator" means a person who operates a locomotive by controlling the locomotive throttle and who is responsible for signaling the train's approach to a rail-highway crossing.

D. "Train dispatcher" means a person who controls the operation of all train activity on track within a given territory.

## SUBCHAPTER II

### BOARD OF LICENSURE OF RAILROAD PERSONNEL

§4145. Board of licensure; appointment; vacancies; removal; compensation

1. Establishment and membership. The Board of Licensure of Railroad Personnel, as established by Title 5, chapter 379, shall be within the department and shall be composed of 9 members, one of whom shall be the Commissioner of Labor or the Commissioner of Labor's representative, one of whom shall be a state railroad inspector and 7 of whom shall be appointed by the Governor.

Two of the members appointed by the Governor shall represent railroad labor, 2 shall represent railroad management and 3 shall be representatives of the general public.

2. Terms of appointment. Members appointed by the Governor shall be appointed for terms of 3 years. To the first board established under this chapter, the Governor shall appoint 2 board members for terms of one year, 3 for terms of 2 years and 2 for terms of 3 years. No member may serve for more than 2 consecutive 3-year terms.

Any appointive member of the board may be removed from office for cause by the Governor.

3. Compensation. The members of the board shall be compensated according to the provisions of Title 5, chapter 379, provided that expenses do not exceed the fees collected by the board. If the fees to be collected under this chapter are insufficient to pay the expenses provided by this section, the board members shall be entitled to a pro rata payment in any years in which those fees are insufficient.

4. Vacancies. Any vacancy on the board caused by death, resignation or removal of any member shall be filled by the appointment of a person, with the same qualifications as the board member being replaced, to hold office during the unexpired term of the member whose place is being filled.

5. Chairman. Annually, in the month of January, the members of the board shall choose one of their members to act as chairman.

#### §4146. Administrative provisions

1. Employees. The commissioner may appoint, subject to the Civil Service Law, such employees as may be necessary to carry out this chapter. Any person so employed shall be located in the department and under the administrative and supervisory direction of the commissioner.

2. Meetings. The board shall hold regular meetings semi-annually and such other meetings as it determines necessary. The board shall keep correct records of all its proceedings and is authorized to make rules necessary for carrying out this chapter and to provide for reciprocity of licensing with similar boards of other states which maintain standards at least equal to this State.

3. Budget. The board shall submit to the commissioner its budgetary requirements in the same manner as provided in Title 5, section 1665.

#### §4147. Board of licensure; powers and duties

1. Powers. The board shall administer and enforce this chapter and evaluate the qualifications of applicants for licensing. The board may examine witnesses and administer oaths and shall investigate or cause to be investigated any complaints made to it or any cases of noncompliance with or violation of this chapter.

2. Rules. The board may adopt, in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, rules relating to qualifications of personnel to carry out the policy of this chapter, including, but not limited to, rules relating to licensing and establishment of adequate standards of training for persons licensed to act as carmen, conductors, locomotive operators or train dispatchers on any railroad operating in the State.

3. Hearings. Hearings may be conducted by the board to assist with investigations, to determine whether grounds exist for suspension, revocation or denial of a license or as otherwise deemed necessary to fulfill its responsibilities under this chapter. Hearings shall be conducted in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV, to the extent applicable.

4. Records. The board shall keep such records and minutes as are necessary to the ordinary dispatch of its functions.

5. Contracts. The board may enter into contracts to carry out its responsibilities under this chapter.

6. Reports. No later than August 1st of each year, the board shall submit to the commissioner, for the preceding fiscal year, its annual report of its operations together with such comments and recommendations as the commissioner determines essential.

### SUBCHAPTER III

#### LICENSE

##### §4148. License required; issuance

1. License required. Licenses shall be required as follows.

A. No person may act as a carman, conductor, locomotive operator or train dispatcher in the operation of a railroad unless licensed by the board to do so.

B. No railroad company may allow a person to act as a carman, conductor, locomotive operator or train dispatcher unless licensed by the board to do so.

2. Penalties. Penalties shall be as follows.

A. Any person who acts as a carman, conductor, locomotive operator or train dispatcher and who is not licensed to do so is guilty of a Class D crime.

B. Any railroad company which allows any person to act as a carman, conductor, locomotive operator or train dispatcher who is not licensed to do so is guilty of a Class D crime.

3. Application; qualifications. The board shall issue a license to any person who files a sworn or attested application for a license and who meets the following qualifications:

A. Passage of an examination approved by the board, covering the rules of operation of the railroad for whom that person is employed;

B. Successful completion of classroom and shop instruction approved by the board in the skills which the position requires;

C. Successful completion of a training program approved by the board, which provides actual or simulated experience in the job for which the person seeks licensure; and

D. Such other requirements as may be necessary to assure the safety of property, railroad workers and the general public. Those requirements shall be established by the board through rulemaking pursuant to Title 5, chapter 375.

4. License. Any person who receives a license of authority to act as a carman, conductor, locomotive operator or train dispatcher shall have the license available for inspection any time that person is performing the duties allowed by the license.

5. Term of license. License terms are as follows.

A. A license shall be for 2 years and expire on December 31st or on such other date as the commissioner determines. Notice of expiration shall be mailed to each licensee's last known address at least 30 days in advance of the expiration of the license. The notice must include any requests for information necessary for renewal.

Licenses may be renewed up to 90 days after the date of expiration upon payment of a late fee of \$10 in addition to the renewal fee. Any person who submits an application for renewal more than 90 days after the licensing renewal date shall be subject to all requirements governing new applicants under this chapter.

B. Each license renewal must be accompanied by evidence of continuing education or other requirements as established in rule by the board.

C. The board shall adopt rules establishing requirements for a temporary license within the scope of this chapter.

##### §4149. Disciplinary actions

1. Complaints. The board may order an investigation of a complaint on its own motion or on written complaint filed with it regarding noncompliance with or violation of any section of this chapter or of any rules adopted by the board.

2. Disciplinary actions; grounds. The board may suspend or revoke a license pursuant to Title 5, section 10004. In addition, the board may refuse to renew or the Administrative Court may revoke, suspend or refuse to renew any license issued under this chapter on any of the following grounds:

A. The practice of any fraud or deceit in obtaining a license;

B. Any negligence, incompetency or misconduct in the performance of the work for which the licensee is licensed; or

C. Violation of this chapter or of any rule of the board.

3. Reinstatement. The board, for reasons it determines sufficient, may reinstate any person whose license has been revoked, providing 6 or more members of the board vote in favor of that reissuance.

§4150. Fees

1. Amount. Application fees for licenses or renewals may be established by the board in amounts which are reasonable and necessary, but not to exceed \$200.

2. Multiple licenses. The board may waive part or all of a fee or establish a special fee for individuals receiving more than one license.

3. Deposit of fees. All fees received by the board shall be paid to the Treasurer of State and deposited into the General Fund.

**Sec. 3. Report.** The board shall report to the joint standing committee of the Legislature having jurisdiction over business legislation no later than February 15, 1989, on the necessity and desirability of licensing brake-men, flagmen or other railroad personnel deemed necessary to be licensed by the board.

**Sec. 4. Appropriation.** The following funds are appropriated from the General Fund to carry out the purposes of this Act.

1988-89

PROFESSIONAL AND BUSINESS REGULATION, DEPARTMENT OF

Board of Licensure of Railroad Personnel

Positions	(1)
Personal Services	\$20,000
All Other	8,000

Total \$28,000

**Emergency clause.** In view of the emergency cited in the preamble, this Act shall take effect when approved, except that the Maine Revised Statutes, Title 32, section 4148, subsections 1 and 2, shall take effect on December 15, 1988.

Effective April 28, 1988, unless otherwise indicated.

**CHAPTER 791**

H.P. 1746 — L.D. 2395

**AN ACT to Strengthen the Drunk Driving Laws.**

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

**Sec. 1. 15 MRSA §152,** as amended by PL 1979, c. 663, §87, is further amended to read:

§152. Fresh pursuit defined

The term "fresh pursuit" as used in this chapter includes fresh pursuit as defined by the common law, and the pursuit of a person who has committed a crime punishable by a maximum term of imprisonment equal to or exceeding one year or, who is reasonably suspected of having committed such a crime or who is reasonably suspected of operating a motor vehicle while under the influence of intoxicating liquor or drugs. It shall include the pursuit of a person suspected of having committed a supposed crime punishable by a maximum term of imprisonment equal to or exceeding one year, though no such crime has actually been committed, if there is reasonable ground for believing that such a crime has been committed. Fresh pursuit as used herein in this chapter shall not necessarily imply instant pursuit, but pursuit without unreasonable delay.

**Sec. 2. 15 MRSA §154,** as amended by PL 1979, c. 663, §88, is further amended to read:

§154. Arrest; exception

Any member of a duly organized state, county or municipal police unit of another state of the United States, who enters this State in fresh pursuit and continues within this State in such fresh pursuit of a person in order to arrest him on the ground that he is believed to have committed, in such other state, a crime punishable by a maximum term of imprisonment equal to or exceeding one year or to have operated a motor vehicle while under the influence of intoxicating liquor or drugs in such other state, shall have the same authority to arrest and hold such person in custody as has any member of any duly organized state, county or municipal police unit of this State to arrest and hold in custody a person on the ground that he is believed to have committed such a crime or operated a motor vehicle while under the influence of intoxicating liquor or drugs in this State. This section shall not be construed so as to make unlawful any arrest in this State which would otherwise be lawful.

**Sec. 3. 16 MRSA §357,** as amended by PL 1973, c. 788, §66, is further amended by adding at the end a new paragraph to read:

Notwithstanding this section, the result of a laboratory or any other test kept by a hospital or other medical facility, which reflects blood-alcohol concentration, shall not be excluded as evidence in a criminal or civil proceeding by reason of any claim of confidentiality or privilege and may be admitted provided that the result is relevant and reliable evidence if the proceeding is one in which the operator of a motor vehicle or watercraft is alleged to have operated under the influence of intoxicating liquor or drugs, and the court is satisfied that probable cause exists to believe that the operator committed the offense charged.