

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND FOURTEENTH LEGISLATURE
FIRST REGULAR SESSION

December 7, 1988 to July 1, 1989

Chapters 1 - 502

THE GENERAL EFFECTIVE DATE FOR
NON-EMERGENCY LAWS IS
SEPTEMBER 30, 1989

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Company
Augusta, Maine
1989

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION

of the
ONE HUNDRED AND FOURTEENTH LEGISLATURE

1989

§1661-A. Gasoline stations to provide services for handicapped drivers

Every full-service gasoline station offering self-service pumping at a lesser cost shall require an attendant employed by the station to dispense gasoline to any motor vehicle properly displaying a handicapped placard or special designating plates issued under Title 29, section 252, when the person to whom the placard or plates have been issued is the operator of the vehicle, the service is requested, the operator has a driver's license designated with a code H, restricted to special equipment, and there is no nonhandicapped adult in the motor vehicle.

Sec. 2. 10 MRSA §1661-B is enacted to read:

§1661-B. Requirement for gasoline stations to post prices of fuels sold

1. Posting required. A retail seller of fuel to be used by vehicles on public highways shall post the price on each pump of the fuel available at that pump by a sign no less than 64 square inches and in a manner that is clearly visible to a driver approaching the pump. On multi-grade pumps, the posted price shall be for the lowest priced unleaded regular gasoline. The sign should indicate the difference in price for full-service, mini-service and self-service if more than one grade of service is available at that pump.

2. Enforcement. Any person, firm, partnership or corporation who violates any of the provisions of this section commits a civil violation for which a civil forfeiture of not more than \$100 for the first offense and not more than \$500 for each subsequent offense shall be adjudged. Enforcement of this section shall be by the Commissioner of Agriculture, Food and Rural Resources pursuant to Title 7, section 14.

See title page for effective date.

CHAPTER 84

S.P. 233 - L.D. 563

An Act to Amend the Occupational License Disqualification Law

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

Sec. 1. 5 MRSA §5301, as repealed and replaced by PL 1977, c. 287, §1, is amended to read:

§5301. Eligibility for occupational license, registration or permit

1. Effect of criminal history record information respecting certain convictions. Subject to subsection 2 and sections 5302 and 5303, in determining eligibility for the granting of any occupational license, registration or permit issued by the State, the appropriate State licensing agency

may take into consideration criminal history record information from Maine or elsewhere relating to certain convictions which have not been set aside or for which a full and free pardon has not been granted, but the existence of such information shall not operate as an automatic bar to being licensed, registered or permitted to practice any profession, trade or occupation.

2. Criminal history record information which may be considered. A licensing agency may use in connection with an application for an occupational license, registration or permit criminal history record information pertaining to the following:

A. Convictions for which incarceration for less than one year may be imposed and which involve dishonesty or false statement;

B. Convictions for which incarceration for less than one year may be imposed and which directly relate to the trade or occupation for which the license or permit is sought;

C. Convictions for which no incarceration can be imposed and which directly relate to the trade or occupation for which the license or permit is sought; ~~and~~

D. Convictions for which incarceration for one year or more may be imposed; or

E. Convictions for which incarceration for less than one year may be imposed and which involve sexual misconduct by an applicant or licensee of the Board of Registration in Medicine, the Board of Osteopathic Examination and Registration, the Board of Dental Examiners, the State Board of Examiners of Psychologists, the State Board of Social Worker Licensure, the Board of Chiropractic Examination and Registration, the State Board of Examiners in Physical Therapy and the State Board of Nursing.

Sec. 2. 5 MRSA §5302, as amended by PL 1977, c. 287, §§2 and 3, is further amended to read:

§5302. Denial, suspension, revocation or other discipline of licensees because of criminal record

1. Reasons for disciplinary action. Licensing agencies may refuse to grant or renew, or may suspend, revoke or take other disciplinary action against any occupational license, registration or permit on the basis of the criminal history record information relating to convictions denominated in section 5301, subsection 2, but only if the licensing agency determines that the applicant, licensee, registrant or permit holder so convicted has not been sufficiently rehabilitated to warrant the public trust. The applicant, licensee, registrant or permit holder shall bear the burden of proof that there exists sufficient rehabilitation to warrant the public trust.

2. Reasons to be stated in writing. The licensing agency shall explicitly state in writing the reasons for a

decision which prohibits the applicant, licensee, registrant or permit holder from practicing the profession, trade or occupation if such that decision is based in whole or in part on conviction of any crime described in section 5301, subsection 2. For purposes of subsection 1, paragraph B, successful completion of probation or parole supervision, or final discharge from any term of imprisonment without any subsequent conviction, shall constitute a rebuttable presumption of sufficient rehabilitation.

Sec. 3. 5 MRSA §5303, as enacted by PL 1975, c. 150, is repealed and the following enacted in its place:

§5303. Time limit on consideration of prior criminal conviction

1. Three-year limits. Except as set forth in this subsection and subsection 2, the procedures outlined in sections 5301 and 5302 for the consideration of prior criminal conviction as an element of fitness to practice a licensed profession, trade or occupation shall apply within 3 years of the applicant's or licensee's final discharge, if any, from the correctional system. Beyond the 3-year period, ex-offender applicants or licensees with no additional convictions are to be considered in the same manner as applicants or licensees possessing no prior criminal record for the purposes of licensing decisions. There is no time limitation for consideration of an applicant's or licensee's conduct which gave rise to the criminal conviction if that conduct is otherwise a ground for disciplinary action against a licensee.

2. Ten-year limits. For applicants to and licensees and registrants of the Board of Registration in Medicine, the Board of Osteopathic Examination and Registration, the Board of Dental Examiners, the State Board of Examiners of Psychologists, the State Board of Social Worker Licensure, the State Board of Nursing, the Board of Chiropractic Examination and Registration, and the State Board of Examiners in Physical Therapy, the following shall apply.

A. The procedures outlined in sections 5301 and 5302 for the consideration of prior criminal conviction as an element of fitness to practice a licensed profession, trade or occupation shall apply within 10 years of the applicant's or licensee's final discharge, if any, from the correctional system.

B. Beyond the 10-year period, ex-offender applicants or licensees with no additional convictions shall be considered in the same manner as applicants or licensees possessing no prior criminal record for the purposes of licensing decisions.

C. There is no time limitation for consideration of a registrant's, an applicant's or licensee's conduct which gave rise to the criminal conviction if that conduct is otherwise a ground for disciplinary action.

See title page for effective date.

CHAPTER 85

H.P. 31 - L.D. 31

An Act to Amend the Real Estate Licensure Laws

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

Whereas, recent legislation changed the requirements for a real estate license; and

Whereas, this same legislation allowed persons who had completed all requirements for licensure by July 1, 1988, to be licensed under the former provisions; and

Whereas, through a misunderstanding some of these people completed their requirements but did not make application; and

Whereas, these people are currently not eligible to practice real estate; 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:

38 MRSA §13239, sub-§5, as enacted by PL 1987, c. 395, Pt. A, §212, is amended to read:

5. Applications processed. All license applications shall be processed according to the laws in effect on the date the application is received by the commission. License applications shall be processed according to former chapter 59 if the applicant has satisfactorily completed all requirements of that chapter by July 1, 1988. This deadline may be extended by the commission to July 1, 1989, for an applicant who has completed all requirements except for filing the license application, upon a showing of good cause for failure to meet the deadline of July 1, 1988.

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

Effective May 3, 1989.

CHAPTER 86

H.P. 568 - L.D. 772

An Act to Provide a Penalty on Delinquent Public Utilities

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