

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
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1989

age or older on that date and who is the recipient of a retirement allowance under the normal method of payment, the surviving spouse who is the named beneficiary at the date of retirement shall become entitled to 1/2 of the amount being paid at the time of ~~his~~ the member's death which payment shall continue for the remainder of ~~his~~ the spouse's lifetime.

Upon the death of a former member who was in service as a judge prior to December 1, 1984, and who is 50 years of age or older on that date and who becomes the recipient of a disability retirement allowance, ~~his~~ the surviving spouse who is the named beneficiary shall become entitled to 1/2 the amount that ~~he~~ the member would have been entitled to as a service retirement allowance under the normal method of payment as of the date of ~~his~~ the member's death.

Sec. 35. 4 MRSA §1360 is enacted to read:

§1360. Remarriage after retirement

If a retiree who is the recipient of a reduced regular retirement allowance under section 1357, subsection 2, paragraph B, C or D remarries after the retiree's spouse dies, the following provisions apply.

1. Election of benefit for new spouse. The retiree may elect to have the reduced retirement benefit paid under the same option to the new spouse after the retiree's death instead of continuing the original reduced retirement allowance to the retiree during the retiree's lifetime, under the following conditions:

A. The original spouse must have been the sole beneficiary of the reduced retirement allowance under section 1357, subsection 2, paragraph B, C or D; and

B. The retiree must have been married to the new spouse for at least 6 months.

2. Time and manner of election. The retiree may make the election at any time after the death of the original spouse and remarriage to the new spouse by:

A. Sending a written request to the executive director; and

B. Submitting evidence of the death of the former spouse and date of marriage to the new spouse.

3. Amount of benefit. The amount of the benefit payable under the option elected shall be the actuarial equivalent, at the date of the beginning of payment of benefits under this section, of the amount of reduced retirement allowance the retiree has been receiving.

4. Effective date of coverage of new spouse. The effective date of the designation of the new spouse as the retiree's new beneficiary shall be the date the request is received or 6 months after the date of remarriage, whichever comes later. The retiree's retirement allowance shall be

adjusted on the first day of the month following the effective date of the new designation of beneficiary.

See title page for effective date.

CHAPTER 134

H.P. 677 - L.D. 928

An Act Concerning Subpermitting of Moose Hunting Licenses

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

12 MRSA §7463-A, sub-§4, as amended by PL 1987, c. 742, §9, is further amended to read:

4. Hunting permits. The commissioner may issue up to 1,000 moose hunting permits annually and may establish the number of moose hunting permits to be issued for each moose hunting zone. No more than 10% of the moose hunting permits may be issued to nonresident and alien hunters. A person whose application is selected may purchase a moose hunting permit upon presentation of proof that ~~he~~ the person possesses:

A. A valid Maine hunting license, if ~~he~~ the person is a resident of the State; or

B. A valid Maine big game hunting license, if ~~he~~ the person is a nonresident or alien.

The fee for a moose hunting permit is \$25 for residents and \$200 for nonresidents and aliens. At the time the permit is obtained, the permittee may designate a subpermittee to hunt with ~~him~~ the permittee. The permittee may choose not to designate a subpermittee and hunt alone, but a subpermittee must always be in the presence of the permittee while hunting moose. That presence must be unaided by visual or audio enhancement devices, including binoculars and citizen band radios. The permittee who has designated a subpermittee may rescind the original designation and designate a different person. The permittee may change the subpermittee only once. An application to change the subpermittee designation must be received by the department at least 5 business days prior to the first day of the moose season. While hunting moose, each nonresident or alien hunter shall be in possession of a valid Maine nonresident or alien big game hunting license, whichever is applicable.

See title page for effective date.

CHAPTER 135

H.P. 134 - L.D. 178

An Act to Establish Rules for the Use of Dynamite and Explosives

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

25 MRSA §2441, as amended by PL 1983, c. 785, §7, is further amended to read:

§2441. Explosives or inflammables; rules

The Commissioner of Public Safety shall make, amend or rescind, after public hearing ~~thereon~~, notice of which has been duly advertised in the state paper, reasonable rules ~~and regulations~~ for the use of explosives; and the keeping, possession, storage, handling, dispensing or transporting from place to place in the State of all gunpowder, petroleum, coal oils, burning fluids, ~~naphtha~~ naphtha, benzine and all other explosives and illuminating substances which ~~such~~ the commissioner believes dangerous to the lives or safety of citizens.

This section shall not apply to the storage in underground tanks of petroleum, coal oils, burning fluids, ~~naphtha~~ naphtha, benzines and other hazardous substances, materials or waste which are regulated by the Department of Environmental Protection under Title 38.

This section shall not apply to the purchase, sale, transportation or storage of smokeless powder in amounts not in excess of 15 pounds, or primers not in excess of 1,000 in number.

~~Such~~ The rules ~~and regulations~~ shall become effective when reviewed by the Attorney General for form and legality and approved in writing by the Commissioner of Public Safety and when a certified copy ~~thereof~~ of the rules has been filed with the Secretary of State. Any person aggrieved by any ~~such rule or regulation~~ or the reasonableness of ~~same~~ a rule, or any act or order of the Commissioner of Public Safety in enforcing any ~~such rule or regulation~~, may appeal to the Superior Court ~~by filing a complaint therefor and the~~ The court shall fix a time and place of hearing and cause notice ~~thereof~~ to be given to the commissioner and, after the hearing, the court may affirm or reverse the rule, ~~regulation~~, act or order of the commissioner ~~and the~~ The decision of the court shall be final.

~~Said~~ The commissioner may waive the requirements of any ~~such rules or regulations~~ rule to cover any special circumstances, conditions or localities.

The following schedule of fees shall apply to all inspections and permits required by rule ~~and regulation~~ under this section:

1. **Inspection of explosive magazines.** Inspection of explosive magazines: \$10 to include any permit issued;
2. **Inspection of vehicle used to transport explosives.** Inspection of vehicle used to transport explosives: \$10 to include any permit issued; and
3. **Inspection of flammable liquid storage facility.** Inspection of flammable liquid storage facility: \$10 to include any permit issued.

No person ~~shall~~ may use explosives, nor keep or transport any such article explosive or flammable substance in any quantity or manner, except as prescribed in such regulations the rules, unless waived by the commissioner as provided, ~~under a penalty~~ . Any person who violates this section commits a civil violation for which a forfeiture of not less than \$20 \$100 nor more than \$100, \$500 may be adjudged for each offense. All such ~~articles~~ substances may be seized by any peace officer and forfeited; and, within 20 days after such seizure, may be libeled according to law. Cities and towns may make and enforce reasonable ordinances or by-laws, not inconsistent with ~~said~~ these rules ~~and regulations~~.

See title page for effective date.

CHAPTER 136

S.P. 163 - L.D. 320

An Act to Increase the License Fees for Hospitals and Long-term Care Facilities

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

Sec. 1. 22 MRSA §1811, as amended by PL 1967, c. 231, §1, is further amended to read:

§1811. License required; definitions

No person, partnership, association or corporation, nor any state, county or local governmental units, ~~shall~~ may establish, conduct or maintain in the State any hospital, sanatorium, convalescent home, rest home, nursing home or other institution for the hospitalization or nursing care of human beings without first obtaining a license therefor. Hospital, sanatorium, convalescent home, rest home, nursing home and other related institution, within the meaning of this chapter, ~~shall mean~~ means any institution, place, building or agency in which any accommodation is maintained, furnished or offered for the hospitalization of the sick or injured or care of any aged or infirm persons requiring or receiving chronic or convalescent care. Nothing in this chapter ~~shall~~ may apply to hotels or other similar places that furnish only board and room, or either, to their guests or to such homes for the aged or blind as may be subject to licensing under any other law.

Sec. 2. 22 MRSA §1813, as amended by PL 1967, c. 231, §3, is further amended to read:

§1813. Existing hospitals must obtain licenses

No person, partnership, association or corporation, nor any state, county or local governmental units may continue to operate an existing hospital, sanatorium, convalescent home, rest home or nursing home, nor open a hospital, sanatorium, convalescent home, rest home or nursing home unless ~~such~~ that operation shall have been approved and regularly licensed by the State.