

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

35-A MRSA §7304 is enacted to read:

§7304. Limitation on commission's authority to order competitive bidding

The commission shall issue no order and promulgate no rule that limits the full exercise of bargaining rights available to management and any union representing labor under the National Labor Relations Act, Public Law 1935, No. 198; United States Code, Title 29, Section 151 et seq. over the issue of who has the right to perform construction work on telephone facilities. Nothing in this section may be construed to imply a requirement that work must be contracted out or must be performed exclusively by the company's own work force; any such determination is to be left to bargaining between the parties. In addition, nothing in this section may limit the ability of the commission to establish reasonable rates for consumers.

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

Effective June 22, 1989.

CHAPTER 445

H.P. 970 - L.D. 1348

An Act to Protect Children from Illegal Tobacco Sales

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

Sec. 1. 15 MRSA §3103, sub-§1, ¶C-1 is enacted to read:

C-1. Offenses involving cigarettes or tobacco products, as provided in Title 22, section 1579 and offenses involving cigarettes as provided in Title 22, section 1629;

Sec. 2. 15 MRSA §3103, sub-§1, ¶D, as amended by PL 1981, c. 679, §3, is further amended to read:

D. If a juvenile is adjudicated to have committed an action described in paragraph B, ~~or C;~~ or C-1 willful refusal to pay a resulting fine or willful violation of the terms of a resulting probation;

Sec. 3. 15 MRSA §3105-A, sub-§2, ¶C, as repealed and replaced by PL 1987, c. 769, Pt. A, §54, is amended to read:

C. A prosecution for conduct specified in section 3103, subsection 1, paragraph B, C, C-1, D, E or F shall be commenced within one year after it is committed.

Sec. 4. 15 MRSA §3201, sub-§3, as enacted by PL 1979, c. 681, §8, is amended to read:

3. Enforcement of other juvenile crimes. A law enforcement officer who has probable cause to believe that a juvenile crime, as defined by section 3103, subsection 1, ~~paragraphs paragraph B, or C; or C-1~~ has been committed may request that the juvenile provide the officer with reasonably credible evidence of ~~his~~ the juvenile's name, address and age. The evidence may consist of oral representations by the juvenile. If the juvenile furnishes the officer with evidence of ~~his~~ the juvenile's name, address and age and the evidence does not appear to be reasonably credible, the officer shall attempt to verify the evidence as quickly as is reasonably possible. During the period the verification is being attempted, the officer may require the juvenile to remain ~~in his presence~~ present for a period not to exceed 2 hours.

After informing the juvenile of the provisions of this subsection, the officer may arrest the juvenile for a crime defined in section 3103, subsection 1, paragraph B, ~~or C; or C-1~~ if the juvenile intentionally refuses to furnish any evidence of ~~his~~ the juvenile's name, address and age, or if, after attempting to verify the evidence as provided for in this subsection, the officer has probable cause to believe that the juvenile has intentionally failed to provide reasonably credible evidence of ~~his~~ the juvenile's name, address and age.

Sec. 5. 15 MRSA §3307, sub-§2, ¶B, as amended by PL 1981, c. 361, is further amended to read:

B. The general public shall be excluded from all other juvenile hearings and proceedings, except that a juvenile charged with a juvenile crime that would constitute murder or a Class A, Class B or Class C offense and with a juvenile crime that would constitute a juvenile's first Class D offense or Class E offense or with conduct described in section 3103, subsection 1, paragraph B, C, C-1, D or E, arising from the same underlying transaction may elect to have all charges adjudicated in one hearing, and, where a juvenile does so elect, the general public shall not be excluded from that hearing.

Sec. 6. 15 MRSA §3314, sub-§1, ¶G, as repealed and replaced by PL 1979, c. 681, §30, is amended to read:

G. Except for a violation of section 3103, subsection 1, paragraph D, the court may impose a fine, subject to Title 17-A, sections 1301 to 1305. For the purpose of this section, juvenile offenses defined in section 3103, subsection 1, paragraphs B, ~~and C,~~ and C-1, shall be deemed Class E crimes.

Sec. 7. 17-A MRSA §554, sub-§2, ¶A, as enacted by PL 1975, c. 499, §1, is amended to read:

A. The defendant was the parent, foster parent, guardian or other similar person responsible for the long-term general care and welfare of a child under the age of 16 who furnished such child cigarettes, tobacco or a reasonable amount of intoxicating liquor in the actor's home and presence; or

Sec. 8. 22 MRSA §1579, as enacted by PL 1983, c. 239, is repealed and the following enacted in its place:

§1579. Prohibition

1. Sale and distribution; penalty. No person may knowingly sell, furnish, give away or offer to sell, furnish or give away cigarettes or any other tobacco product to any person under the age of 18 years. No person in the business of selling or otherwise distributing cigarettes or other tobacco products for profit nor an employee or agent of such a person may, in the course of that person's business, distribute free any cigarette or other tobacco product to any person under the age of 18 years in any place, including, but not limited to, a public way or sidewalk, public park or playground, public school or other public building, or an entranceway, lobby, hall or other common area of a private building, shopping center or mall.

Any person who violates this subsection commits a civil violation for which a forfeiture of not less than \$10 nor more than \$100 shall be adjudged for any one offense. Any person who employs a person who violates this subsection commits a civil violation for which a forfeiture of not less than \$100 nor more than \$1,000 shall be adjudged. In all cases of violations the court shall impose a forfeiture which shall not be suspended, except pursuant to Title 15, section 3314.

It is an affirmative defense to prosecution under this subsection that the defendant was the parent, foster parent, guardian or other similar person responsible for the long-term general care and welfare of the person under the age of 18 years who furnished that person with cigarettes or any other tobacco product in the defendant's home for use in the defendant's home. It is an affirmative defense to prosecution under this subsection that the defendant sold cigarettes or any other tobacco product to a person under the age of 18 years who furnished fraudulent proof of age.

2. Prohibition; purchase by minors; penalty. It shall be unlawful for any person under the age of 18 years to purchase cigarettes or any other tobacco product.

Any person who violates this subsection commits a civil violation for which a forfeiture of not less than \$10 nor more than \$50 may be adjudged for each violation. The judge, as an alternative to or in addition to the civil forfeitures permitted by this subsection, may assign the violator to perform specified work for the benefit of the State, the municipality or other public entity or a charitable institution.

3. Display of prohibition against sales to minors. All dealers and distributors of tobacco products shall post notice of this section prohibiting tobacco sales to persons under the age of 18 years. Notices shall be publicly and conspicuously displayed in the dealers' or distributors' places of business in letters at least 3/8 inches high. Signs required by this section may be provided at cost by the Bureau of Liquor Enforcement. Any person who violates this subsection commits a civil violation for which a forfeiture of not less than \$50 nor more than \$200 may be adjudged for any one offense.

Sec. 9. 22 MRSA §1628, sub-§2, as enacted by PL 1987, c. 127, is amended to read:

2. Violation. It is unlawful for any person, firm or corporation to knowingly distribute or sell cigarettes by the use of a vending machine to minors or in a location other than a location that is ~~generally supervised~~ at all times under direct supervision by an adult during the hours the machine is accessible.

Sec. 10. 22 MRSA c. 265-C is enacted to read:

CHAPTER 265-C

SALE OF UNPACKAGED CIGARETTES

§1629. Sale of unpackaged cigarettes

1. Prohibition. No person may sell cigarettes except in the original, sealed package in which they were placed by the manufacturer nor may any person sell cigarettes in smaller quantities than placed in the package by the manufacturer.

2. Penalty. Any person who violates this section commits a civil violation for which a forfeiture of not less than \$10 nor more than \$100 shall be adjudged. Any person who employs a person who violates this subsection commits a civil violation for which a forfeiture of not less than \$100 nor more than \$1,000 shall be adjudged. In all cases of violations the court shall impose a forfeiture which shall not be suspended, except pursuant to Title 15, section 3314.

See title page for effective date.

CHAPTER 446

H.P. 1092 - L.D. 1525

An Act to Increase the Penalty for Destruction of Law Enforcement Canines

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

Sec. 1. 17 MRSA §1014, as enacted by PL 1987, c. 383, §4, is repealed.

Sec. 2. 17-A MRSA §752-B is enacted to read:

§752-B. Unlawful interference with law enforcement dogs

1. A person is guilty of unlawful interference with a law enforcement dog if that person intentionally or knowingly:

A. Kills, mutilates or permanently disables any dog which that person knows or reasonably should have known is certified for law enforcement use; or