

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

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
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2. Persons tested. Indicate whether those employers are testing applicants or employees, or both;

3. Random or arbitrary testing. Indicate those employers whose substance abuse testing policies permit random or arbitrary testing under section 684, subsection 3, and describe the employment positions subject to such random or arbitrary testing;

4. Results. Provide statistical data relating to the reports received from employers indicating the number of substance abuse tests administered by those employers in the previous calendar year and the results of those tests; and

5. Description. Briefly describe the general scope and practice of workplace substance abuse testing in the State.

Sec. 2. Transition. No employer may commence a workplace substance abuse testing program after the effective date of this Act until January 1, 1990. All workplace substance abuse testing programs in existence on the effective date of this Act may continue operation until January 1, 1990. All workplace substance abuse testing programs must comply fully with this Act and rules adopted under this Act on January 1, 1990.

Sec. 3. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

| | 1989-90 | 1990-91 |
|---|----------|----------|
| HUMAN SERVICES, DEPARTMENT OF | | |
| Bureau of Health | | |
| Positions | (1) | (1) |
| Personal Services | \$18,483 | \$25,050 |
| All Other | 2,000 | 5,216 |
| Capital Expenditures | 1,000 | |
| Provides funds for a Chemist II position to establish rules and monitor substance abuse testing procedures. | | |
| DEPARTMENT OF HUMAN SERVICES TOTAL | \$21,483 | \$30,266 |

See title page for effective date.

CHAPTER 537

H.P. 949 - L.D. 1317

An Act to Change the Method of Approving Equivalent Instruction in Home Schools

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

Whereas, this Act provides a method of approving home schools so that students attending those schools may

meet the compulsory education requirements of state law; and

Whereas, it is desirable that this method of approval be available in time to approve schools for the 1989-90 school year; and

Whereas, the application process for the school year must begin immediately to permit time for approval before the start of the 1989-90 school year; 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:

20-A MRSA §5001-A, sub-§3, ¶A, as enacted by PL 1983, c. 806, §49, is repealed and the following enacted in its place:

A. Equivalent instruction alternatives are as follows.

(1) A person shall be excused from attending a public day school if the person obtains equivalent instruction in:

(a) A private school approved for attendance purposes pursuant to section 2901;

(b) A private school recognized by the department as providing equivalent instruction;

(c) A manner approved by the commissioner pursuant to subparagraph (3); or

(d) Any other manner arranged for by the school board and approved by the commissioner.

(2) A student shall be credited with attendance at a private school only if a certificate showing the name, residence and attendance of the person at the school, signed by the person or persons in charge of the school, has been filed with the school officials of the administrative unit in which the student resides.

(3) A person who wishes to obtain approval of equivalent instruction under rules established by the commissioner for equivalent instruction through home instruction shall simultaneously submit a completed application for approval to the local board and to the commissioner. The local board shall provide for review of the application. The purpose of local review shall only be to facilitate coop-

eration between local educators and students receiving equivalent instruction and to permit local boards and educators to provide initial review of the application for completion of information required by state rules. Within 30 days of receipt of the application, the local board shall submit its comments on the completeness of the application to the commissioner. Within 30 days of receipt of local comments, the commissioner, using state criteria established by rule, shall decide whether to approve the equivalent instruction application. If the commissioner denies the application, the applicant may, within 30 days of receiving the denial, amend and re-submit the application directly to the commissioner. The commissioner shall make a decision within 30 days of receiving the amended application. If the amended application is approved, the applicant shall send a copy of the amended application to the local board for information purposes.

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

Effective July 7, 1989.

CHAPTER 538

H.P. 924 - L.D. 1290

An Act to Increase the Punishment for Trafficking in and Possession of Cocaine

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

Sec. 1. 17-A MRSA §1105, sub-§1, ¶¶A and B, as enacted by PL 1987, c. 535, §3, are amended to read:

A. In violation of section 1103, 1104 or 1106, ~~he~~ the person trafficks with or furnishes to a child, in fact, under 18 years of age a scheduled drug; ~~or~~

B. ~~He~~ The person violates section 1103, 1104 or 1106, and, at the time of the offense, ~~he~~ has been convicted of any offense under this chapter punishable by a term of imprisonment of more than one year, or under any law of the United States or of another state relating to scheduled drugs, as defined in this chapter, and punishable by a term of imprisonment of more than one year. For purposes of this paragraph, a person shall have been convicted of an offense on the date the judgment of conviction was entered by the trial court.; or

Sec. 2. 17-A MRSA §1105, sub-§1, ¶C is enacted to read:

C. A person violates section 1103 or 1106, and, at the time of the offense, the person trafficks in or furnishes cocaine in a quantity of 112 grams or more.

Sec. 3. 17-A MRSA §1107, sub-§2, ¶¶B and C, as repealed and replaced by PL 1977, c. 649, §6, are amended to read:

B. A Class D crime if the drug is a schedule W drug other than heroin (diacetylmorphine) or a schedule X drug; ~~or~~

C. A Class E crime if the drug is a schedule Y drug.; or

Sec. 4. 17-A MRSA §1107, sub-§2, ¶D is enacted to read:

D. A Class B crime if the drug is cocaine and the quantity possessed is more than 14 grams.

See title page for effective date.

CHAPTER 539

S.P. 84 - L.D. 84

An Act to Amend the Laws Governing the Operation of a Watercraft While Under the Influence

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

Sec. 1. 12 MRSA §7801, sub-§9, as amended by PL 1981, c. 698, §74, is repealed and the following enacted in its place:

9. Operating watercraft while under the influence or with excessive blood-alcohol level. A person is guilty of a criminal violation if that person operates or attempts to operate any watercraft:

A. While under the influence of intoxicating liquor or drugs or a combination of liquor and drugs; or

B. While having 0.08% or more by weight of alcohol in that person's blood.

Sec. 2. 12 MRSA §7801, sub-§9-A is enacted to read:

9-A. Failure to comply with duty to submit. A person is guilty of failure to comply with the duty to submit to and complete a blood-alcohol test under section 7802 if that person refuses to submit to or fails to complete a blood-alcohol test when requested to do so by a law enforcement officer:

A. Who has probable cause to believe that the person operated or attempted to operate a watercraft while under the influence of intoxicating liquor; or