

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

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

August 21, 1989 to August 22, 1989

and

SECOND REGULAR SESSION

January 3, 1990 to April 14, 1990

THE GENERAL EFFECTIVE DATE FOR
NON-EMERGENCY LAWS IS
July 14, 1990

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
1990

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST SPECIAL SESSION

of the

ONE HUNDRED AND FOURTEENTH LEGISLATURE

August 21, 1989 to August 22, 1989

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved, except that Part J, sections 3 and 6 shall be effective for tax years beginning on or after January 1, 1989, and Part J, sections 1, 2, 4 and 5 shall take effect on April 26, 1987.

Effective August 23, 1989, unless otherwise indicated.

CHAPTER 597

S.P. 682 - L.D. 1801

An Act Concerning Operator Licenses Held by Persons 15 Years of Age

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

Whereas, recent legislation affecting the ability of 15-year-old persons to obtain and hold motor vehicle operator licenses will take effect September 30, 1989; and

Whereas, that legislation needs to be amended to permit present 15-year-old license applicants to receive and retain their operating privileges; 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:

29 MRSA §538, as amended by PL 1989, c. 513, §3, is further amended by adding at the end a new paragraph to read:

The Secretary of State may issue a license to those individuals 15 years of age who have filed an application for an instruction permit or driver's license with the Secretary of State on or before September 29, 1989. This paragraph shall be repealed October 1, 1990.

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

Effective August 23, 1989.

CHAPTER 598

S.P. 684 - L.D. 1803

An Act Establishing the Higher Education Students Financial Assistance Board

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

Whereas, the Legislature recently enacted Public Law 1989, chapter 559, "An Act to Provide Comprehensive, Consolidated Student Financial Assistance Services," which established a program within the Finance Authority of Maine to administer a comprehensive, consolidated system of student financial assistance programs and created the Student Financial Aid Transition Advisory Committee to provide the Legislature with advice on implementation of the program; and

Whereas, this legislation will establish the Higher Education Students Financial Assistance Board within the Finance Authority of Maine, facilitating the nomination of members to the board and permitting the commencement of a nationwide search for a director of the newly created Division of Higher Education Students Financial Assistance; and

Whereas, the transition committee has recommended this legislation as necessary to ensure the smooth transition described in Public Law 1989, chapter 559 and provide the necessary leadership at an early date, prior to the development and implementation of all the legislation necessary to accomplish the transition; 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-I, sub-§18-A is enacted to read:

<u>18-A. Education:</u>	<u>Higher Education</u>	<u>Legislative</u>	<u>10 MRSA</u>
<u>Financial Aid</u>	<u>Students Finan-</u>	<u>Per Diem for</u>	<u>§1014</u>
	<u>cial Assistance</u>	<u>Gubernatorial</u>	
	<u>Board</u>	<u>Appointees</u>	
		<u>Only</u>	

Sec. 2. 10 MRSA §964, sub-§2, ¶¶C and D, as enacted by PL 1989, c. 552, §5, are amended to read:

- C. The Division of Lending; ~~and~~
- D. The Division of Finance; ~~and~~

Sec. 3. 10 MRSA §964, sub-§2, ¶E is enacted to read:

E. The Division of Higher Education Students Financial Assistance.

Sec. 4. 10 MRSA §965, first ¶, as amended by PL 1987, c. 403, §1, is further amended to read:

There shall be ~~43~~ 15 voting members of the authority as follows.

Sec. 5. 10 MRSA §965, sub-§1, as amended by PL 1989, c. 559, §§5 to 7, is further amended to read:

1. Selected board members. ~~Four~~ Six members of the authority shall consist of:

A. Two veterans who shall be selected by the Governor from the at-large members of the Maine Veterans' Small Business Loan Board;

B. Two members who shall be selected by the Governor from the public members of the Natural Resources Resource Financing and Marketing Board; and

C. Two members who shall be selected by the Governor from the ~~public appointed~~ appointed members of the ~~board established to advise the authority on the administration of student financial assistance programs~~ Higher Education Students Financial Assistance Board.

Sec. 6. 10 MRSA §972, sub-§1, as amended by PL 1989, c. 552, §7, is further amended to read:

1. Employ directors. In accordance with procedures of the authority, employ the directors of the divisions established by the authority. During the selection process, the authority or its designee, the chief executive officer, shall consult with the Natural Resources ~~Resource~~ Resource Financing and Marketing Board concerning the appointment of a director of the Division of Natural Resources Financing and Marketing and with the Higher Education Students Financial Assistance Board concerning the appointment of a director of the Division of Higher Education Students Financial Assistance. The directors shall serve at the pleasure of the chief executive officer;

Sec. 7. 10 MRSA §973, as repealed and replaced by PL 1985, c. 344, §22, is amended to read:

§973. Conflicts of interest

Notwithstanding Title 5, section 18, subsection 1, paragraph B, each member of the authority, each member of the Natural Resource Financing and Marketing Board, each member of the Maine Veterans' Small Business Loan Board, each member of the Higher Education Students Financial Assistance Board and each employee, contractor, agent or other representative of the authority is deemed an "executive employee" solely for purposes of Title 5, section 18, and for no other purpose, provided that the chief executive officer shall in addition be deemed an executive employee for purposes of Title 5, section 19. In addition, Title 17, section 3104, shall be applicable, in accordance with its provisions, to all such representatives of the authority.

Sec. 8. 10 MRSA c. 110, sub-c. I-D is enacted to read:

SUBCHAPTER I-D

HIGHER EDUCATION STUDENTS FINANCIAL ASSISTANCE

§1016. Higher Education Students Financial Assistance Board

1. Membership of board. The Higher Education Students Financial Assistance Board shall consist of 7 voting members. One member shall be the Commissioner of Educational and Cultural Services or the commissioner's designee who shall be a person in a major policy-influencing position. Six members shall be appointed by the Governor subject to review by the joint standing committee of the Legislature having jurisdiction over educational matters and subject to confirmation by the Legislature. The gubernatorial appointees shall consist of the following.

A. One member shall be a trustee, director, officer or employee of an institution of higher education in the State.

B. One member shall be a member of a statewide organization representing the chief executive officers of public and private post-secondary institutions in the State.

C. One member shall be a student financial aid administrator at a post-secondary institution in the State.

D. One member shall be a guidance counselor at a high school in the State.

E. One member shall be a representative of a state financial institution that is active in student lending.

F. One member shall represent the interests of students, parents and other members of the public who use the programs.

With respect to the appointees specified in paragraphs A and B, one shall be from an institution not owned or operated by the State or any of its political subdivisions and one shall be from a public institution of post-secondary education.

2. Conflict of interest. No member may be deemed to have a conflict of interest or the appearance of a conflict of interest pursuant to Title 5, section 18, solely because of that member's use of the programs of or association with a post-secondary educational institution, high school or financial institution, provided that no member participates in an official capacity with respect to any matter which has an effect, on that member or on the institution with which that member is associated, that is unique and distinct from the effect on the general public or persons engaged in similar professions, trades, businesses or employment or associated with similar institutions.

3. Term of office. Except for the initially appointed members, members shall serve 4-year staggered terms and shall serve until a successor is appointed and qualified.

A. Of the 6 members of the board first appointed, 2 shall serve for terms expiring June 30, 1991, 2 shall serve for terms expiring June 30, 1992, and 2 shall serve for terms expiring June 30, 1993. All the initial appointments shall be effective no later than January 15, 1990.

B. A member of the board shall be eligible to serve not more than 2 full consecutive terms, provided that terms expiring on or before June 30, 1993, are not considered full terms. All full terms shall expire on June 30th of the 4th year of the term.

C. Any member of the board may be removed by the Governor for cause.

4. Organization. Each year the board shall elect from among its members a chair, vice-chair and any other officers it requires. The board shall meet at the call of the chair or at the request of 3 of its members. Five members shall constitute a quorum and no official action of the board may be taken unless supported by at least 4 members of the board.

5. Compensation. Each member of the board shall be compensated by the authority in accordance with Title 5, chapter 379, following approval of expenses by the chief executive officer.

6. Policies. The Higher Education Students Financial Assistance Board shall, from time to time, recommend to the members of the authority the adoption, amendment or repeal of rules, policies or administrative procedures for carrying out this subchapter.

Sec. 9. Transition provision. Prior to the appointment and qualification of at least 5 members of the Higher Education Students Financial Assistance Board, hiring of a director of the Division of Higher Education Students Financial Assistance of the Finance Authority of Maine may be done by the chief executive officer of the Finance Authority of Maine in consultation with the Student Financial Aid Transition Advisory Committee established by Public Law 1989, chapter 559. Subsequent legislation pursuant to Public Law 1989, chapter 559 will further provide protection for the jobs and benefits of current employees of the Department of Educational and Cultural Services, Bureau of School Management, Division of Higher Education Services, who are transferred to the Finance Authority of Maine.

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

Effective August 23, 1989.

CHAPTER 599

S.P. 685 - L.D. 1806

An Act Providing for the Immediate Enforcement of Laws Governing the Operation of a Watercraft While Under the Influence

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

Whereas, it is necessary that this legislation be enacted as an emergency so that the law can take effect during the present recreational season; 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. 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

B. When the person was the operator of a watercraft involved in a watercraft accident which results in the death of any person, as provided in section 7912, subsection 11.

Sec. 3. 12 MRSA §7802 is enacted to read: