

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

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ONE HUNDRED AND FOURTEENTH LEGISLATURE

August 21, 1989 to August 22, 1989

charged with either of the juvenile ~~crime~~ crimes defined in section 3103, subsection 1, paragraph E or F.

Sec. 8. 15 MRSA §3314, sub-§3, as enacted by PL 1981, c. 679, §9, is repealed and the following enacted in its place:

3. Disposition for violation of section 3103, subsection 1, paragraph E or F. When a juvenile has been adjudicated as having committed the juvenile crime under section 3103, subsection 1, paragraph E or F, the court may impose any of the dispositional alternatives contained in subsection 1. Any incarceration which is imposed may be part of a disposition pursuant to subsection 1, paragraph F or H. Any incarceration in a county jail shall be in a county jail designated by the Department of Corrections as a place for the secure detention of juveniles.

A. For an adjudication under section 3103, subsection 1, paragraph F, the juvenile's license or permit to operate a motor vehicle, right to operate a motor vehicle or right to apply for or obtain a license shall be suspended by the court for a period of 180 days. The period of suspension shall not be suspended by the court. The court shall give notice of the suspension and take physical custody of an operator's license or permit as provided in Title 29, section 2241-H. The court shall immediately transmit a certified abstract of the suspension to the Secretary of State. A further suspension may be imposed by the Secretary of State pursuant to Title 29, section 1312-D, subsection 1-A.

Sec. 9. Report. The Commissioner of Inland Fisheries and Wildlife shall report to the Legislature on the effectiveness of the law governing the operation of a watercraft while under the influence by February 1, 1991.

Sec. 10. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

	1989-90	1990-91
MARINE RESOURCES, DEPARTMENT OF		
Bureau of Marine Patrol		
All Other	\$2,000	\$3,000
Provides funds for anticipated breath test kits, blood test kits and required laboratory analyses.		

Sec. 11. Allocation. The following funds are allocated from funds dedicated to the Department of Inland Fisheries and Wildlife to carry out the purposes of this Act.

	1989-90	1990-91
INLAND FISHERIES AND WILDLIFE, DEPARTMENT OF		

**Enforcement Operations -
Inland Fisheries and Wildlife**

All Other	\$5,550	\$6,750
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Provides funds for anticipated breath test kits, blood test kits and required analyses. In addition, this allocation provides funds for anticipated classroom costs and travel expenses associated with the training for the required breath-alcohol test.

Sec. 12. PL 1989, c. 539 is repealed.

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

Effective August 23, 1989.

CHAPTER 600

S.P. 687 - L.D. 1808

An Act Concerning Errors and Inconsistencies in the Laws of Maine

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

Whereas, Acts of this and previous Legislatures have resulted in certain technical errors and inconsistencies in the laws of Maine; and

Whereas, these errors and inconsistencies create uncertainties and confusion in interpreting legislative intent; and

Whereas, it is vitally necessary that these uncertainties and this confusion be resolved in order to prevent any injustice or hardship to the citizens of Maine; 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:

PART A

Sec. 1. 4 MRSA §951, as amended by PL 1989, c. 501, Pt. L, §1, is further amended to read:

§951. Seal; authority to administer oaths

A notary public ~~shall constantly~~ may keep a seal of office, whereon is engraven the notary public's name and the words "Notary Public" and "Maine" or its abbreviation "Me.," with the arms of state or such other device as the notary public chooses. When authorized by the laws of this State or of any other state or country to do any official act, the notary public may administer any oath necessary to the completion or validity thereof.

Sec. 2. 17-A MRSA §1105, sub-§1, ¶B, as amended by PL 1989, c. 305; c. 333, §1; c. 383, §1; and c. 538, §1, is repealed and the following enacted in its place:

B. The person violates section 1103, 1104 or 1106, and, at the time of the offense, the person 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, of another state or of a foreign country 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;

Sec. 3. Effective date. The section of this Act that repeals and replaces the Maine Revised Statutes, Title 17-A, section 1105, subsection 1, paragraph B shall take effect September 30, 1989.

Sec. 4. 17-A MRSA §1105, sub-§1, ¶C, as enacted by PL 1989, c. 333, §2; c. 383, §2; and c. 538, §2, is repealed and the following enacted in its place:

C. A person violates section 1103, 1104 or 1106, and, at the time of the offense, the person uses, carries, possesses or is armed with a firearm;

Sec. 5. 17-A MRSA §1105, sub-§1, ¶¶D and E are enacted to read:

D. 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; or

E. A person violates section 1103, and, at the time of the offense, the person is on a school bus or on or within 1,000 feet of the real property comprising a private or public elementary or secondary school. For purposes of this paragraph, "school bus" has the same meaning as set forth in Title 29, section 2011, subsection 2.

Sec. 6. Effective date. The sections of this Act that repeal and replace the Maine Revised Statutes, Title 17-A, section 1105, subsection 1, paragraph C and enact paragraphs D and E shall take effect September 30, 1989.

Sec. 7. 17-A MRSA §1106, sub-§3, as amended by PL 1989, c. 253 and c. 344, §2, is repealed and the following enacted in its place:

3. A person shall be presumed to be unlawfully furnishing a scheduled drug if that person intentionally or knowingly possesses more than 1 1/4 ounces of marijuana, 7 grams or more of cocaine or 2 grams or more of heroin.

Sec. 8. Effective date. The section of this Act that repeals and replaces the Maine Revised Statutes, Title 17-A, section 1106, subsection 3 shall take effect September 30, 1989.

Sec. 9. 23 MRSA §4207, sub-§3, as repealed by PL 1989, c. 398, §4, and as amended by PL 1989, c. 501, Pt. P, §28, is repealed.

Sec. 10. Effective date. That section of this Act which repeals the Maine Revised Statutes, Title 23, section 4207, subsection 3 is effective September 30, 1989.

Sec. 11. 23 MRSA §7105, sub-§3, as enacted by PL 1989, c. 398, §7, is amended to read:

3. Purchase or lease of certain railroad lines. The Department of Transportation may purchase or lease, under such terms and conditions as the department and the owners of the railroad may agree and hold for the State, railroad lines or any part of a railroad line or any other property located in the State, owned or otherwise lawfully controlled by the any railroad when, in the judgment of the department, the purchase or lease of those railroad lines or property is necessary to protect the public interest. ~~The department may purchase or lease the right-of-way only of any line or lines which it shall hold and manage for future transportation use or it may purchase or lease the railroad line intact, including track, track appurtenances, ties, bridges, station houses and other necessary structures.~~

A. ~~On~~ Before dismantling any track that results in a cessation of rail service upon all or part of a railroad line, or offering any railroad property for sale, or upon the abandonment of service along all or a portion of a railroad line, the department shall be given the first option to lease or purchase, on just and reasonable terms, the railroad's rights-of-way along the abandoned portion of the railroad line, any part of the railroad line or other property. In the event that a lease is negotiated for the rights-of-way, the department shall consult with municipal officials and officers in the municipalities affected by the abandonment of service along the line to determine the need for preserving the rights-of-way along the abandoned portion of the line for rail transportation. If the department finds that the welfare of the State would be significantly and adversely affected by the loss of the line for railroad transportation purposes, the department shall seek to negotiate the purchase of the abandoned portion

of the line. In making this determination, the department shall consider, among other criteria deemed significant by the department, future economic development activities and opportunities in the area served by the abandoned railroad service. In addition, the department shall consult with the Department of Economic and Community Development and the State Planning Office in making the determination required in this section.

The department shall, in good faith, seek to lease the railroad rights-of-way until it finds that the preservation of the rights-of-way is not necessary for the welfare of the State or until the voters of the State approve or disapprove, at a statewide election, the issue of bonds to purchase the rights-of-way along the abandoned portion of the line.

Nothing in this paragraph may require the department to lease or purchase the railroad rights-of-way to an entire railroad line or any portion of the line for which railroad service has been abandoned if the railroad corporation owner does not intend to sell, lease or in any other way dispose of the rights-of-way by which railroad service could be easily restored along the abandoned service portion of the line.

B. The abandonment of service shall not mean or infer that the rights-of-way on a railroad line have been abandoned. In the event that the railroad, any person, firm or corporation, or any agency shows interest in the eventual restoration of service, the rights-of-way shall not be deemed abandoned.

Since it is in the best interest of the State to retain the rights-of-way intact, this paragraph shall apply to all existing and future rights-of-way created prior to or following ~~the effective date of this section~~ September 30, 1989, as amended.

C. Whenever the department acquires railroad lines, to hold and to manage for future railroad uses, those lines shall not be considered abandoned for railroad purposes. The commissioner shall periodically review the need to hold those lines for future railroad uses.

Sec. 12. Effective date. That section of this Act which amends the Maine Revised Statutes, Title 23, section 7105, subsection 3 is effective September 30, 1989.

Sec. 13. PL 1989, c. 7, Pt. J, first 4 lines are repealed and the following enacted in their place:

Additional appropriations from the General Fund. There are appropriated from the General Fund for the fiscal year ending June 30, 1989, the following sums.

1988-89

Sec. 14. PL 1989, c. 35, §1 is repealed.

Sec. 15. PL 1989, c. 85, first line after the enacting clause is repealed and the following enacted in its place:

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

Sec. 16. Effective date. The section of this Act that amends Public Law 1989, chapter 85, shall take effect retroactively to May 3, 1989.

Sec. 17. PL 1989, c. 492, first 2 lines after the enacting clause are repealed and the following enacted in their place:

28-A MRSA §456, sub-§§1 and 3, as enacted by PL 1987, c. 45, Pt. A, §4, are amended to read:

Sec. 18. Effective date. That section of this Act which amends Public Law 1989, chapter 492 shall take effect September 30, 1989.

Sec. 19. PL 1989, c. 497, §15 is repealed and the following enacted in its place:

Sec. 15. Application. Section 12 shall be applied retroactively to April 21, 1988.

Sec. 20. PL 1989, c. 501, Pt. L, §6 is repealed.

Sec. 21. PL 1989, c. 501, Pt. L, §6-A is enacted to read:

Sec. 6-A. 11 MRSA §9-407, sub-§(2), as amended by PL 1981, c. 279, §4, is further amended to read:

(2) Upon the written request of any person, the filing officer shall issue ~~his~~ a certificate of information, in such form as the Secretary of State may approve, showing whether there is on file on the date and hour stated therein any presently effective financing statement naming a particular debtor and any statement of assignment thereof and if there is, giving the date and hour of filing of each such statement and the names and addresses of each secured party therein. The uniform fee for a certificate shall be ~~\$5~~ \$10 for the first page of that certificate, plus 50¢ for each additional page. Upon request the filing officer shall furnish a copy of any filed financing statement, continuation statement, termination statement, statement of assignment or statement of release for a fee of ~~\$1~~ \$2 and if any such statement consists of more than 3 pages, an additional fee of 50¢ for the 4th and each succeeding page.

Notwithstanding this subsection, if the filing officer is a municipal clerk or a register of deeds, ~~his~~ issuance of the certificate of information is discretionary.

Upon reasonable request and within the existing ability of the office of the Secretary of State to respond, the filing officer shall furnish to any municipal clerk, without charge and for municipal purposes only, a copy of any filed

financing statement, continuation statement, termination statement, statement of assignment or statement of release.

Sec. 22. Effective date. The section of this Act that repeals and replaces Public Law 1989, chapter 501, Part L, section 6, shall take effect retroactively to June 30, 1989.

PART B

Sec. 1. 5 MRSA §12002, sub-§3, as enacted by PL 1983, c. 812, §39, is amended to read:

3. Legislative per diem. "Legislative per diem" means the per diem authorized by Title 3, section 2, that is paid to Legislators for every day's attendance at ~~special sessions of the Legislature~~ meetings held when the Legislature is not in daily session. For the purpose of this subsection, "legislative per diem" does not mean the compensation authorized by Title 3, section 2, that is paid to Legislators for every day's attendance at special sessions of the Legislature.

Sec. 2. 20-A MRSA §15603, sub-§22, ¶E, as amended by PL 1987, c. 767, §3, is further amended to read:

E. The cost of tuition, books, fees and transportation for courses taken at post-secondary institutions under chapter 208; ~~and~~

Sec. 3. 20-A MRSA §15603, sub-§22, ¶F, as amended by PL 1989, c. 414, §24, is further amended to read:

F. Starting in 1990-91 for expenditures in base year 1988-89, the cost of child care services as specified in section 6651, subsections 3 and 6; ~~and~~

Sec. 4. 20-A MRSA §15603, sub-§22, ¶G is enacted to read:

G. Special education costs which are the costs of educational services provided to students who are temporarily unable to participate in regular school programs. Students who may be included are pregnant students, hospitalized students or those confined to their homes for illness or injury, students involved in substance abuse programs within hospital settings or in residential rehabilitation facilities licensed by the Department of Human Services, Office of Alcoholism and Drug Abuse Prevention, for less than 6 weeks duration or students suffering from other temporary conditions which prohibit their attendance at school. Students served under this paragraph shall not be counted as exceptional students for federal reporting purposes.

Sec. 5. Resolve 1989, c. 38, first resolve ¶, last ¶ is amended to read:

Insofar as it is not inconsistent with this resolve, the conduct of the referendum, commission membership, charter amendments, submission to voters and judicial review shall be as set forth in the Maine Revised Statutes, Title 30-A, chapter 11, subchapter II. Nomination petitions must be delivered to the registrar for certification by 5 p.m. on September 13, 1989. The nomination petitions must be filed in the office of the Secretary of State by 5 p.m. on September 20, 1989.

Sec. 6. PL 1989, c. 209 is repealed.

Sec. 7. PL 1989, c. 457, §9 is repealed and the following enacted in its place:

Sec. 9. Effective date. Sections 1, 2 and 8 shall take effect October 1, 1989. Sections 3 to 7 shall take effect November 7, 1989.

Sec. 8. Effective date. That section of this Act that amends Public Law 1989, chapter 457, section 9 shall take effect October 1, 1989.

Sec. 9. PL 1989, c. 501, Pt. O, §22 is amended to read:

Sec. 22. Effective date. Sections 1 to 6 shall take effect on June 30, 1989. Sections 7, 9, 10, 11, 12, 13, 14, 15, 16 and 17 shall take effect on December 3, 1990.

Sec. 10. Effective date. That section of this Act which amends Public Law 1989, chapter 501, Part O, section 22 is effective June 30, 1989.

Sec. 11. PL 1989, c. 555, §24 is repealed and the following enacted in its place:

Sec. 24. Effective date. Sections 11 and 12 of this Act are effective January 1, 1990. Sections 20 and 21 of this Act are effective July 1, 1991.

Sec. 12. P&SL 1989, c. 75, §5 is amended to read:

Sec. 5. Disbursement of bond proceeds. The proceeds of the bonds set out in section 6 shall be expended under the direction and supervision of the ~~Commissioner of Environmental Protection~~ Executive Director of the Maine Waste Management Agency.

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

Effective August 23, 1989, unless otherwise indicated.