

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
SECOND REGULAR SESSION

of the
ONE HUNDRED AND FOURTEENTH LEGISLATURE

January 3, 1990 to April 14, 1990

CHAPTER 720

S.P. 816 - L.D. 2080

An Act to Require That Certain 3rd-party Prescription Drug Programs Be Subject to the Provisions of the Appropriate Preferred Provider Arrangement Act

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

Sec. 1. 32 MRSA §13773, as enacted by PL 1987, c. 710, §5, is amended to read:

§13773. Notice

No ~~A~~ 3rd-party prescription program may not be instituted in this State until the program provider has filed written notice of the provisions of the program has been filed with the Superintendent of Insurance and the Board of Commissioners of the Profession of Pharmacy and given written notice to all pharmacies ~~which that~~ are located within the counties covered by the program at least 30 days prior to the commencement of the program. In the case of chain or branch pharmacies, the notice ~~shall~~ must be given to the main office or headquarters. These pharmacies shall have 30 days from the date of notice to enroll in the program.

Sec. 2. 32 MRSA §13777, as enacted by PL 1987, c. 710, §5, is amended to read:

§13777. Exceptions

This Act does not apply to any medical assistance or public health programs administered by the Department of Human Services, including, but not limited to, the Medicaid program and the Low Cost Drug Program; to any employee benefit plan that is subject to the Employee Retirement Income Security Act of 1974, 29 United States Code, Section 1001, et seq.; and to any 3rd-party prescription programs administered in accordance with and subject to the limitations of the Nonprofit Service Organizations Preferred Provider Arrangement Act of 1985, Title 24, chapter 19, subchapter II, or the Preferred Provider Arrangement Act of 1986, Title 24-A, chapter 32.

Sec. 3. Allocation. The following funds are allocated from Other Special Revenue funds to carry out the purposes of this Act.

1990-91

PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF

Bureau of Insurance

All Other \$5,000

Provides funds for additional preferred provider hearings.

See title page for effective date.

CHAPTER 721

H.P. 1472 - L.D. 2057

An Act to Increase the Effectiveness of the Handicapped Parking Laws

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

Sec. 1. 20-A MRSA §8702, as amended by PL 1989, c. 179, §2, is further amended to read:

§8702. Curriculum

A driver education course offered in accordance with section 8701 shall meet the curriculum requirements prescribed by the commissioner, include both classroom instruction and practice driving and be approved by the commissioner. The requirements prescribed by the commissioner shall be no less rigorous than any similar requirements prescribed by the Board of Commercial Driver Education and the requirements of Title 32, section 9602, subsection 6. No state subsidy, state reimbursement for expenditures on adult education programs or state reimbursement for adult vocational education programs may be paid with respect to any driver education course that has not been approved by the commissioner. At the request of the commissioner, the Board of Commercial Driver Education may assist the commissioner in performing the commissioner's duties under this chapter.

Sec. 2. 23 MRSA §4208, as amended by PL 1981, c. 292, is further amended by adding at the end a new paragraph to read:

The course must include the instruction described in Title 32, section 9602, subsection 6.

Sec. 3. 32 MRSA §9602, sub-§6 is enacted to read:

6. Required instruction. Every commercial driver education school must inform its students of the existence and the practical purpose of handicapped parking laws and ordinances.

See title page for effective date.

CHAPTER 722

H.P. 1382 - L.D. 1913

An Act to Make Improvements in the Operation of the Judicial Department of the State

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

Whereas, this legislation is necessary in order to clarify the responsibility for providing and paying for the security of the courts and the safety of the public with regard to prisoners; 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. 4 MRSA §25, first ¶, as enacted by PL 1977, c. 705, §1, is amended to read:

The Judicial Department shall, each quarter, reimburse each county for ~~the salaries and expenses of bailiffs and other court and jury officers~~ those reasonable costs related to salaries and expenses as agreed upon between the Judicial Department and the respective county that have been paid by that county during the previous quarter. The reimbursement shall be for the number of officers requested to serve the court either in that county or another by the Judicial Department, ~~provided that the Judicial Department shall consult with the sheriff in each county as to the level of security which is necessary.~~

Sec. 2. 4 MRSA §112, as repealed and replaced by PL 1977, c. 114, §2, is amended to read:

§112. Sheriff or deputy to attend court

The sheriff of each of the counties, when requested, shall attend the Superior Court thereof or the Supreme Judicial Court when either court is in session in that county or ~~he~~ the sheriff shall specially designate a deputy, approved by the court, so to attend. When court is adjourned, actions brought shall be entered by the clerk and they, with all actions on the docket, shall be continued to the next court day.

Sec. 3. 4 MRSA §173, sub-§4, as amended by PL 1989, c. 89, is further amended to read:

4. Distribution of fees and fines. All law enforcement officers appearing for a scheduled trial in District Court at times other than their regular working hours, at the order of a prosecuting official and whether or not they are called upon to give testimony, shall be compensated out of the General Fund on an hourly basis equal to that established by the State for their range and step level.

The court officer required to be present at an arraignment may be an officer other than the arresting officer, provided that the municipality has designated the officer to handle the arraignment caseload of that municipality.

In addition, one or more municipalities may designate either a municipal law enforcement officer or a county law enforcement officer to represent the municipalities at arraignments on a rotating schedule.

The court shall pay any municipality a flat fee of \$20 for each day or part thereof that a municipal law enforcement officer, designated by the municipality as its court officer, is required to be physically present in a District Court in order to adequately handle such municipality's caseload. In addition, the court shall pay any municipality a flat fee of \$20 per day for every day or part thereof, but no more than \$20 for any one day, such municipality loses the services of one or more law enforcement officers because the officer or officers are performing some act authorized or required by a ~~District Court~~ Maine Rule of Criminal Procedure or is a witness in a criminal or traffic infraction case within the jurisdiction of the District Court. A municipality shall be deemed to have lost the services of a law enforcement officer when the officer, who normally performs duties of patrolling or maintaining order, is physically unable to perform those duties of patrolling and maintaining order for the municipality.

The sheriffs of the several counties shall designate and furnish deputy sheriffs to serve as bailiffs in each division of the District Court within their counties, if so requested by the Chief Judge. A deputy sheriff designated as bailiff must be approved by the resident judge and may not serve as a court officer for any law enforcement agency.

Compensation for ~~such service~~ reasonable and necessary expenses, as agreed to by the parties, shall be paid by the District Court.

In those municipalities where a police officer has been furnished heretofore to serve as a bailiff, the Chief Judge may continue to authorize the use of a police officer as a bailiff and the municipality shall be compensated therefor by the District Court. A person now appointed to serve as bailiff may not serve as court officer for a municipal police department, as provided in this subsection.

Sec. 4. 14 MRSA §5545, 2nd ¶, as amended by PL 1981, c. 493, §101, is further amended to read:

Whenever, under this section or under any other section in this chapter, a court issues a writ of habeas corpus ordering before it a prisoner confined in any penal or correctional institution under the control of the Department of Mental Health and Mental Retardation or the Department of Corrections, or confined in any county jail, its order as to the transportation of the prisoner to and from the court shall be directed to the sheriff of the county in which the court is located. It shall be the responsibility of the sheriff or any one or more of ~~his~~ the sheriff's authorized deputies pursuant to any such order to safely transport a prisoner to and from the court and to provide safe and secure custody of the prisoner during the proceedings, as directed by the court. At the time of removal of a prisoner from an institution, the transporting officer shall leave with the head ~~thereof~~ of the insti-

return an attested copy of the order of the court, and upon return of the prisoner shall note ~~such~~ that return on ~~such~~ the copy. This paragraph as it relates to the responsibility for transportation shall be applicable to the transportation of prisoners transferred from the county jail to the State Prison under Title 15, section 453, and to transfers from the county jail to any other county jail or to a state correctional facility under Title 34 30-A, section 4046 1656.

Sec. 5. 30-A MRSA §421, sub-§11, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106; and as amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §88, 10, is repealed.

Sec. 6. 30-A MRSA §1504, as amended by PL 1989, c. 6; c. 9, §2; c. 104, Pt. C, §88, 10; and c. 146, is further amended to read:

§1504. Sheriff to return list of prisoners at each criminal session of court

Every ~~jailer~~ sheriff shall return a list of prisoners in custody to the Superior Court for a county on the first business day of every month, and afterwards a list of all committed during the session, certifying the cause for which and the person by whom committed, and shall have the calendar of prisoners in court for its inspection. The ~~jailer~~ sheriff shall also provide lists of prisoners in custody to the Superior Court or to a District Court upon receipt of a request for an additional or updated list. The sheriff shall also provide for the transportation of prisoners to and from the District Court or Superior Court and ensure the safe custody of prisoners while they may be present during any court proceeding as directed by the court. If the jailer fails to do so, the court may impose a reasonable fine.

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

Effective March 23, 1990.

CHAPTER 723

H.P. 1347 - L.D. 1864

An Act Allowing Day Care Centers to Use Cloth Diapers

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

22 MRSA §8302, sub-§3 is enacted to read:

3. Approval of laundering services. The rules must allow the use of cloth diapers in a day care facility if the facility employs a diaper laundering service. The rules must require that the diaper laundering service be

endorsed by a national accrediting organization and must specify the type of diaper covers that must be used.

See title page for effective date.

CHAPTER 724

H.P. 1669 - L.D. 2310

An Act to Amend the Maine Liability Risk Retention Act

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

Sec. 1. 24-A MRSA §6097, as enacted by PL 1987, c. 481, §3, is amended to read:

§6097. Purchasing groups; exemption from certain laws relating to the group purchase of insurance

Any purchasing group meeting the criteria established under the provisions of the federal Liability Risk Retention Amendments of 1986 is exempt from any law of this State relating to the creation of groups for the purchase of insurance, prohibition of group purchasing or any law that discriminates against a purchasing group or its members. In addition, an insurer is exempt from any law of this State which prohibits providing, or offering to provide, to a purchasing group or its members advantages based on their loss and expense experience not afforded to other persons with respect to rates, policy forms, coverages or other matters. A purchasing group and any insurer that provides coverage to a purchasing group with Maine members is subject to all other applicable laws of this State including, but not limited to, chapters 25, 27 and 39.

Sec. 2. 24-A MRSA §6099, sub-§1, as enacted by PL 1987, c. 481, §3, is amended to read:

1. Purchase from risk retention group; insurer; licensed agent or broker. A purchasing group may purchase insurance from a risk retention group that is chartered in a state or, in the case of product liability or completed operations liability coverage, that qualifies under section 6093, ~~section subsection~~ 13, paragraph C, subparagraph (2); from an insurer admitted in this State ~~in which the purchasing group is located;~~ or from a licensed agent or broker acting pursuant to the surplus lines laws and regulations of ~~that state~~ this State.

See title page for effective date.

CHAPTER 725

H.P. 1360 - L.D. 1877

An Act to Amend the Maine Human Rights Act to Prohibit Educational Discrimination on the Basis of National Origin