

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

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

Sec. 1. 5 MRSA §4601, as amended by PL 1987, c. 478, §3, is further amended to read:

§4601. Right to freedom from discrimination in education

The opportunity for an individual at an educational institution to participate in all educational, counseling, vocational guidance programs and all apprenticeship and on-the-job training programs without discrimination because of sex ~~or~~, a physical or mental handicap, or national origin, is recognized and declared to be a civil right.

Sec. 2. 5 MRSA §4602, sub-§3 is enacted to read:

3. Unlawful educational discrimination on the basis of national origin. It is unlawful educational discrimination in violation of this Act, on the basis of national origin, to:

A. Exclude a person from participation in, deny a person the benefits of, or subject a person to, discrimination in any academic, extracurricular, research, occupational training or other program or activity;

B. Deny admission to the institution or program or to fail to provide equal access to and information about an institution or program through recruitment; or

C. Deny financial assistance availability and opportunity.

See title page for effective date.

CHAPTER 726

H.P. 1626 - L.D. 2248

An Act to Discourage Public Competition with Private Enterprise

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

Sec. 1. 30-A MRSA §3501, sub-§1, 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, §§8 and 10, is further amended to read:

1. District. "District" or "transit district" includes:

A. A district created by vote of a single municipality;

B. A district created by vote of a group of municipalities;

C. A municipality voting to provide mass transportation service without the creation of a district; and

D. A regional transportation corporation, except that sections 3510, 3512 and 3517 do not apply to a regional transportation corporation.

Sec. 2. 30-A MRSA §3502, 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, §§8 and 10, is further amended to read:

§3502. Formation; powers

1. Formation. By vote of its legislative body, any municipality may by itself, or in cooperation with one or more other municipalities, form a transit district for the purposes provided in this chapter.

A. Municipalities not in the same geographic public transportation region must gain approval from the Department of Transportation before forming a transit district under this section.

B. With the consent of the Department of Transportation and of the municipal officers of any municipality not included in a transit district, a transit district may provide transportation services within that municipality.

2. General powers; area of service. The district formed under subsection 1 is a body politic and corporate, and may sue, be sued, plead and be impleaded, adopt a name, adopt and alter a common seal and do all things necessary to furnish motor vehicle mass transportation within that district, including charter service, for public purposes in the interest of the health, safety, comfort and convenience of the inhabitants of the municipality or municipalities comprising the district.

3. Incidental rights. All incidental powers, rights and privileges necessary to accomplish the main objective set forth in this chapter are granted to a district created. Such a district is subject to the jurisdiction of the Public Utilities Commission only to the extent provided in this chapter.

4. Prohibition. Except for the following items, a transit district may not sell, rent or lease goods or services to any entity other than the State, a municipality, quasi-municipal corporation or transit district, unless those goods or services are essential to the purchaser and are not available from another source:

A. Advertising space on vehicles owned by the transit district;

B. Existing vacant office or storage space owned by the transit district; and

C. Used equipment not originally purchased for resale.

Transit districts subject to regulation by the Public Utilities Commission under Title 35-A, Part 5, are exempt from this subsection.

5. Penalty. Any transit district violating subsection 4, is subject to a civil penalty of not more than \$5,000, payable to the State, and recoverable in a civil action.

See title page for effective date.

CHAPTER 727

H.P. 1329 - L.D. 1846

An Act to Require Mitigation for Land Use Violations within the Shoreland Zone

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

Sec. 1. 30-A MRSA §4452, sub-§3, as enacted by PL 1989, c. 104, Pt. A, §45 and Pt. C, §10, is amended to read:

3. Civil penalties. The following provisions apply to violations of the laws and ordinances set forth in subsection 5. All Except for paragraph H, monetary penalties may be assessed on a per-day basis and are civil penalties.

A. The minimum penalty for starting construction or undertaking a land use activity without a required permit is \$100, and the maximum penalty is \$2,500.

B. The minimum penalty for a specific violation is \$100, and the maximum penalty is \$2,500.

C. The violator may be ordered to correct or abate the violations. When the court finds that the violation was willful, the violator shall be ordered to correct or abate the violation unless the abatement or correction will results in:

- (1) Result in a A threat or hazard to public health or safety;
- (2) Result in substantial Substantial environmental damage; or
- (3) Result in a A substantial injustice.

C-1. Notwithstanding paragraph C, for violations of the laws and ordinances set forth in subsection 5, paragraph Q, the violator shall be ordered to correct or mitigate the violation unless the correction or mitigation results in:

- (1) A threat or hazard to public health or safety;
- (2) Substantial environmental damage; or

(3) A substantial injustice.

D. If the municipality is the prevailing party, ~~it shall~~ the municipality must be awarded reasonable attorney fees, expert witness fees and costs, unless the court finds that special circumstances make the award of these fees and costs unjust. If the defendant is the prevailing party, the defendant may be awarded reasonable attorney fees, expert witness fees and costs as provided by court rule.

E. In setting a penalty, the court shall consider, but is not limited to, the following:

- (1) Prior violations by the same party;
- (2) The degree of environmental damage that cannot be abated or corrected;
- (3) The extent to which the violation continued following a municipal order to stop; and
- (4) The extent to which the municipality contributed to the violation by providing the violator with incorrect information or by failing to take timely action.

F. The maximum penalty may exceed \$2,500, but may not exceed \$25,000, when it is shown that there has been a previous conviction of the same party within the past 2 years for a violation of the same law or ordinance.

G. The penalties for violations of waste discharge licenses issued by the municipality pursuant to Title 38, section 413, subsection 8, is as prescribed in Title 38, section 349.

H. If the economic benefit resulting from the violation exceeds the applicable penalties under this subsection, the maximum civil penalties may be increased. The maximum civil penalty may not exceed an amount equal to twice the economic benefit resulting from the violation. Economic benefit includes, but is not limited to, the costs avoided or enhanced value accrued at the time of the violation as a result of the violator's noncompliance with the applicable legal requirements.

Sec. 2. 30-A MRSA §4506, sub-§3, as amended by PL 1989, c. 6; c. 9, §2; c. 104, Pt. C, §§8 and 10; and c. 282, §1, is repealed.

See title page for effective date.

CHAPTER 728

S.P. 822 - L.D. 2098

An Act to Increase Eligibility for Imprisonment with Intensive Supervision