

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

custodian. A juvenile may enter an answer admitting the allegations of the petition, in accordance with ~~Rule~~ Rules 11 and 11A, Maine Rules of Criminal Procedure.

Sec. 15. 15 MRSA §3306-A is enacted to read:

§3306-A. Release or detention at first appearance

At the juvenile's first appearance or at any subsequent appearance before the court, the court may order, pending further appearances before the court, the juvenile's unconditional release, conditioned release or detention in accordance with section 3203-A.

Sec. 16. 15 MRSA §3309, as repealed and replaced by PL 1979, c. 512, §5, is amended to read:

§3309. Procedure

To the extent not inconsistent with or inapplicable to Part 6, procedure in juvenile proceedings ~~shall~~ must be in accordance with the Maine ~~District Court~~ Rules of Criminal ~~Rules~~ Procedure. The Supreme Judicial Court may promulgate rules for juvenile proceedings as provided under Title 4, section 8.

See title page for effective date.

CHAPTER 742

S.P. 821 - L.D. 2097

An Act to Clarify Definitions and Provisions of Marine Resources Laws

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

Sec. 1. 12 MRSA §6001, sub-§13-B is enacted to read:

13-B. Equipment. "Equipment" means a box, trap, crate, net or other device or machinery used to harvest or store marine organisms.

Sec. 2. 12 MRSA §6001, sub-§53, as enacted by PL 1977, c. 661, §5, is repealed and the following enacted in its place:

53. Vehicle. "Vehicle" means a machine or conveyance, including watercraft and aircraft, used to move or transport marine organisms.

Sec. 3. 12 MRSA §6207, first ¶, as enacted by PL 1977, c. 661, §5, is amended to read:

Any marine organism, ~~which~~ that is taken, bought, sold, shipped, transported or found in the possession of any person in violation of any provision of marine resources' laws, ~~shall be is~~ is contraband and ~~shall be is~~ is subject to forfeiture in accordance with this section and section 6206. All equipment and vehicles used or possessed in

violation of any provision of marine resources' laws ~~shall also be are~~ are contraband and are subject to forfeiture.

See title page for effective date.

CHAPTER 743

H.P. 1462 - L.D. 2039

An Act to Protect Public Health by Prohibiting Smoking on Public Transportation Buses

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

Whereas, recent evidence clearly demonstrates the danger of 2nd-hand smoke to health and indicates that people with hypersensitivity and infants are especially in jeopardy; 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:

22 MRSA §1580-C is enacted to read:

§1580-C. Smoking on public transportation buses prohibited

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Bus" means every motor vehicle designed to carry more than 15 people, including passengers and the operator, and used for the transportation of passengers. "Bus" does not include a chartered bus.

B. "Smoking" means carrying or having in one's possession a lighted cigarette, cigar, pipe or other object giving off smoke or containing any substance giving off smoke.

2. Smoking prohibited. No person may smoke tobacco or any other substance on any bus.

3. Notice. The operator of a bus subject to this section shall post a notice in a conspicuous location on the bus.

4. Violation. The following penalties apply.

A. Any person who fails to post a notice as required by this section commits a civil violation for which a forfeiture of not more than \$100 may be adjudged.

B. Any person smoking on a bus commits a civil violation for which a forfeiture of not more than \$100 may be adjudged.

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

Effective March 27, 1990.

CHAPTER 744

S.P. 541 - L.D. 1512

An Act to Reform the Juvenile Criminal Justice System

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

Sec. 1. 15 MRSA §3003, sub-§4-A, as enacted by PL 1981, c. 619, §2, is amended to read:

4-A. Diagnostic evaluation. "Diagnostic evaluation" means an examination of a juvenile, ~~to determine his mental or emotional condition~~ assess the risks the juvenile may pose and determine the needs the juvenile may have, which may include, but is not limited to, educational, vocational or psychosocial evaluations, psychometric testing and psychological, psychiatric or medical examinations, which may take place on either a residential or a nonresidential basis.

Sec. 2. 15 MRSA §3003, sub-§24-A, as amended by PL 1987, c. 398, §1, is further amended to read:

24-A. Secure detention facility. "Secure detention facility" means a facility characterized by either physically restrictive construction or intensive staff supervision which is intended to prevent a person who is placed in or admitted to the facility from departing at will.

Sec. 3. 15 MRSA §3203-A, sub-§7, 1C, as amended by PL 1987, c. 398, §7, is further amended to read:

C. Upon the request of the Commissioner of Corrections or ~~his~~ the commissioner's designee, a judge may approve the transfer of a juvenile, who is detained at the Maine Youth Center or in another detention facility described in paragraph B, to a jail which is used for the detention of adults:

(1) If the judge finds, by clear and convincing evidence, that:

(a) Jurisdiction of the matter as a juvenile case has been waived and the juvenile has been bound over pursuant to section 3101, subsection 4; ~~or~~

~~(b) A prosecutor has requested the court to bind over the juvenile, pursuant to section 3101, subsection 4, because he is accused of having committed a subsequent offense, while committed to the center;~~

(2) If the judge finds, by clear and convincing evidence, that the juvenile's behavior:

(a) Presents an imminent danger of harm to ~~himself~~ the juvenile or to others; or

(b) Presents a substantial likelihood that the juvenile will ~~absent himself from~~ leave the center detention facility; and

(3) If the judge finds, by clear and convincing evidence that there is no less restrictive alternative to detention in an adult facility which will meet the purposes of detention.

In determining whether the juvenile's behavior presents a danger to the juvenile or others, the court shall consider, among other factors:

(a) The nature of and the circumstances surrounding the offense with which the juvenile is charged, including whether the offense was committed in an aggressive, violent, premeditated or willful manner;

(b) The record and previous history of the juvenile, including the juvenile's emotional attitude and pattern of living; and

(c) If applicable, the juvenile's behavior and mental condition during any previous or current period of detention or commitment.

Sec. 4. 15 MRSA §3203-A, sub-§8, as enacted by PL 1985, c. 439, §9, is amended to read:

8. Detention. In the event that the court orders detention, after detention hearing in accordance with subsection 5, paragraph B, a petition shall be filed within 10 days from the date of detention, unless the time ~~therefore~~ is extended by the court by further order for good cause shown. In the event a petition is not so filed, then detention shall be terminated and the juvenile discharged from detention.

Sec. 5. 15 MRSA §3308, sub-§8 is enacted to read: