

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

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PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
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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

Sec. 2. 29 MRSA §1311-A, sub-§5, ¶B-1 is enacted to read:

B-1. If the Secretary of State determines that a person with an excessive blood-alcohol level operated or attempted to operate a motor vehicle with a passenger under 16 years of age, the Secretary of State may impose a suspension period of up to 275 days, in addition to the suspension period under paragraph B.

Sec. 3. 29 MRSA §1312-B, sub-§2, ¶B, as amended by PL 1987, c. 791, §19, is further amended to read:

B. In the case of a person having no previous convictions of a violation of former section 1312, subsection 10, former section 1312-B, or this section and having no previous suspension of license or privilege to operate for failure to comply with the duty to submit to and complete a test to determine the level of blood-alcohol under section 1312 within a 6-year period, the fine ~~shall~~ may not be less than \$300, the sentence ~~shall~~ must include a period of incarceration of not less than 48 hours and the court shall suspend the defendant's license or permit to operate, right to operate a motor vehicle and right to apply for and obtain a license for a period of 90 days, which penalties may not be suspended, when the person:

- (1) Was tested as having a blood-alcohol level of 0.15% or more;
- (2) Was driving in excess of the speed limit by 30 miles an hour or more during the operation ~~which~~ that resulted in the prosecution for operating under the influence or with a blood-alcohol level of 0.08% or more;
- (3) Eluded or attempted to elude an officer, as defined in section 2501-A, subsection 3, during the operation ~~which~~ that resulted in prosecution for operating under the influence or with a blood-alcohol level of 0.08% or more; ~~or~~
- (4) Failed to submit to a chemical test for the determination of that person's blood-alcohol level, at the request of a law enforcement officer on the occasion ~~which~~ that resulted in the conviction; ~~or~~
- (5) Was, on the occasion that resulted in the conviction, operating or attempting to operate a motor vehicle with a passenger under 16 years of age.

Sec. 4. 29 MRSA §1312-B, sub-§3, as amended by PL 1987, c. 791, §21, is further amended to read:

3. Sentencing procedure. Notwithstanding the provisions of Title 15, section 757, in determining the

appropriate sentence, the court shall consider whether the defendant operated or attempted to operate a motor vehicle with a passenger under 16 years of age, the record of convictions for criminal traffic offenses, adjudications of traffic infractions and suspensions of license or privilege to operate for failure to comply with the duty to submit to and complete a test to determine the level of blood alcohol of the defendant. The court may rely upon oral representations based on records maintained by the courts, by the State Bureau of Identification or by the Secretary of State, including telecommunications of records maintained by the Secretary of State. If the defendant disputes the accuracy of any representation concerning a conviction or adjudication, the court shall grant a continuance for the purposes of determining the accuracy of the record.

See title page for effective date.

CHAPTER 772

H.P. 1357 - L.D. 1874

An Act to Correct the Subdivision Laws

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

Sec. 1. 12 MRSA §682, sub-§2, as amended by PL 1989, c. 584, §1, is further amended to read:

2. Subdivision. "Subdivision" means a division of an existing parcel of land into 3 or more parcels or lots within any 5-year period, whether this division is accomplished by platting of the land for immediate or future sale, or by sale of the land by metes and bounds or by leasing. A division accomplished by gift to a person related to the donor by blood, marriage or adoption, unless the intent of that gift is to avoid the objectives of this chapter, does not create a lot or lots for purposes of this definition.

The term "subdivision" ~~shall~~ also include ~~includes~~ the division, placement or construction of a new structure or structures on a tract or parcel of land ~~into~~ resulting in 3 or more dwelling units within a 5-year period ~~and the division of an existing structure or structures previously used for commercial or industrial use into 3 or more dwelling units within a 5-year period. The area included in the expansion of an existing structure is deemed to be a new structure for the purposes of this paragraph.~~

The creation of a lot or parcel of at least 40 acres in size shall not be counted as a lot for the purpose of this subsection except when the lot or the parcel from which it was divided is located wholly or partly within the shoreland area as defined in Title 38, section 435 and except as provided in paragraph A, or when the lot or parcel from which it was divided has been subdivided into more than 10 lots in 5 years.

A. When 3 to 10 lots containing at least 40 acres are created within a 5-year period from a parcel which is located wholly outside the shoreland area as defined in Title 38, section 435, a plan showing the division of the original parcel must be filed by the person creating the 3rd lot with the registry of deeds, the commission and the State Tax Assessor within 60 days of the creation of that lot. Any subsequent division of a lot created from the original parcel within 10 years of the filing of the plan in the registry of deeds shall be considered a subdivision. Failure to file the plan required by this paragraph is a violation of this chapter subject to the penalties provided in section 685-C, subsection 8.

B. The commission shall submit a report by March 15th, annually, to the joint standing committee of the Legislature having jurisdiction over energy and natural resources. The report shall indicate the number and location of lots for which a plan was filed under paragraph A and the number and location of subsequent divisions requiring review by the commission.

Sec. 2. 30-A MRSA §4401, sub-§4, as enacted by PL 1989, c. 104, Pt. A, §45 and Pt. C, §10, and as amended by PL 1989, c. 326, §1 and c. 497, §2, is further amended to read:

4. Subdivision. "Subdivision" means the division of a tract or parcel of land into 3 or more lots within any 5-year period that begins on or after September 23, 1971. This definition applies whether the division is accomplished by sale, lease, development, buildings or otherwise. The term "subdivision" also includes the division of a new structure or structures on a tract or parcel of land into 3 or more dwelling units within a 5-year period, the construction or placement of 3 or more dwelling units on a single tract or parcel of land and the division of an existing structure or structures previously used for commercial or industrial use into 3 or more dwelling units within a 5-year period.

A. In determining whether a tract or parcel of land is divided into 3 or more lots, the first dividing of the tract or parcel is considered to create the first 2 lots and the next dividing of either of these first 2 lots, by whomever accomplished, is considered to create a 3rd lot, unless:

(1) Both dividings are accomplished by a subdivider who has retained one of the lots for the subdivider's own use as a single-family residence or for open space land as defined in Title 36, section 1102, for a period of at least 5 years before the 2nd dividing occurs; or

(2) The division of the tract or parcel is otherwise exempt under this subchapter.

B. The dividing of a tract or parcel of land and the lot or lots so made, which dividing or lots when

made are not subject to this subchapter, do not become subject to this subchapter by the subsequent dividing of that tract or parcel of land or any portion of that tract or parcel. The municipal reviewing authority shall consider the existence of the previously created lot or lots in reviewing a proposed subdivision created by a subsequent dividing.

C. A lot of 40 or more acres shall not be counted as a lot, except:

(1) When the lot or parcel from which it was divided is located entirely or partially within any shoreland area as defined in Title 38, section 435, or a municipality's shoreland zoning ordinance; or

(2) When a municipality has, by ordinance, or the municipal reviewing authority has, by regulation, elected to count lots of 40 or more acres as lots for the purposes of this subchapter when the parcel of land being divided is located entirely outside any shoreland area as defined in Title 38, section 435, or a municipality's shoreland zoning ordinance.

D. A division accomplished by devise, condemnation, order of court, gift to a person related to the donor by blood, marriage or adoption or a gift to a municipality or by the transfer of any interest in land to the owner of land abutting that land ~~unless the intent of that transfer is to avoid the objectives of this section~~, does not create a lot or lots for the purposes of this definition, unless the intent of the transferor in any transfer or gift within this paragraph is to avoid the objectives of this section. If the real estate exempt under this paragraph by a gift to a person related to the donor by blood, marriage or adoption is transferred within 5 years to another person not related to the donor of the exempt real estate by blood, marriage or adoption, then that exempt division creates a lot or lots for the purposes of this subsection.

E. The division of a tract or parcel of land into 3 or more lots and upon each of which lots permanent dwelling structures legally existed before September 23, 1971 is not a subdivision.

F. In determining the number of dwelling units in a structure, the provisions of this subsection regarding the determination of the number of lots apply, including exemptions from the definition of a subdivision of land.

G. Notwithstanding the provisions of this subsection, leased dwelling units are not subject to subdivision review if the municipal reviewing authority has determined that the units are otherwise subject to municipal review at least as stringent as that required under this subchapter.

H. Nothing in this subchapter may be construed to prevent a municipality from enacting an ordinance under its home rule authority which expands the definition of subdivision to include the division of a structure for commercial or industrial use or which otherwise regulates land use activities.

Sec. 3. 30-A MRSA §4404, sub-§14, as enacted by PL 1989, c. 404, §2, is amended to read:

14. Freshwater wetlands. All ~~potential~~ freshwater wetlands within the proposed subdivision have been identified on any maps submitted as part of the application, regardless of the size of these wetlands. Any mapping of freshwater wetlands may be done with the help of the local soil and water conservation district.

Sec. 4. 30-A MRSA §4406, sub-§1, ¶E, as enacted by PL 1989, c. 497, §10, is amended to read:

E. Any person who, after receiving approval from the municipal reviewing authority and recording the plan at the registry of deeds, constructs or develops the subdivision, or transfers any lot, in a manner other than depicted on the approved plans or amendments shall be penalized in accordance with section ~~4552~~ 4452.

See title page for effective date.

CHAPTER 773

H.P. 1342 - L.D. 1859

An Act Concerning the Definition of Security Guard

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

Sec. 1. 32 MRSA §9417, sub-§§1 and 2, as enacted by PL 1981, c. 113, §2, are amended to read:

1. Law enforcement officers. Any person currently employed either full time or part time, who has the permission of ~~his~~ that person's appointing authority; ~~;~~ provided that this chapter ~~shall apply~~ applies to any law enforcement officer who is employed as a security guard by a contract security company licensed under this chapter; ~~and~~

2. Public officials. Any person employed by the United States, the State, or any political subdivision thereof, or any public instrumentality, while in the performance of ~~his~~ that person's official duties; ~~;~~ and

Sec. 2. 32 MRSA §9417, sub-§3 is enacted to read:

3. Locksmiths. Any person while employed or doing business as a locksmith provided that this chapter applies to any locksmith who is employed as a security

guard by or doing business as a contract security company licensed under this chapter. For the purposes of this chapter, a "locksmith" is a person engaged in the sale and service of locks.

See title page for effective date.

CHAPTER 774

H.P. 1638 - L.D. 2271

An Act to Create Low-interest Loans for Businesses to Purchase Furnaces or Boilers That Burn Waste Motor Oil

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

Sec. 1. 10 MRSA §964, sub-§1, ¶H, as amended by PL 1989, c. 559, §3, is further amended to read:

H. Such other programs as the authority may by law be authorized to administer; ~~and~~

Sec. 2. 10 MRSA §964, sub-§1, ¶I, as enacted by PL 1989, c. 559, §4, is amended to read:

I. Student financial assistance programs; and

Sec. 3. 10 MRSA §964, sub-§1, ¶J is enacted to read:

J. Waste oil furnace loan program.

Sec. 4. 10 MRSA c. 110, sub-c. V-A is enacted to read:

SUBCHAPTER V-A

WASTE OIL FURNACE LOAN PROGRAM

§1099-A. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Authority. "Authority" means the Finance Authority of Maine.

2. Effective interest rate. "Effective interest rate" means an annual percentage interest rate paid by the borrower.

3. Eligible business. "Eligible business" means any business, corporation, association, firm, partnership or other organization located in this State, but does not include any agency of this State.

4. Fund. "Fund" means the Waste Oil Furnace Loan Fund established by this subchapter.