

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

~~(7) The number and percentages, by court, of convictions for operating after suspension and for being a habitual offender; guilty pleas to a lesser charge; dismissals; and not guilty findings;~~

~~(8) The average, minimum and maximum, fine, jail sentence and period of license suspension for operating after suspension and for being a habitual offender, by court; and~~

~~(9) Other items that are considered important to the review of the enforcement of the laws relating to drinking and driving.~~

Sec. 5. PL 1987, c. 773, §12 is repealed.

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

Effective April 6, 1990.

CHAPTER 791

H.P. 1724 - L.D. 2383

An Act to Amend the State Railroad Preservation and Assistance Act

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

Whereas, certain provisions in the State Railroad Preservation and Assistance Act unduly restrict the ability of the Department of Transportation to manage rail lines the department has acquired or leased, hindering the development of freight and passenger rail service in the State; 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Sec. 1. 23 MRSA §7103, sub-§3, ¶¶B and C, as repealed and replaced by PL 1989, c. 398, §7, are amended to read:

B. To conduct periodic condition surveys of rail track and other related facilities; and

C. To acquire, lease and maintain rail lines when these actions are determined to be in the best interest of the State;

Sec. 2. 23 MRSA §7103, sub-§3, ¶¶D and E are enacted to read:

D. To lease, purchase and dispose of railroad operating equipment used on rail lines acquired or leased by the State; and

E. To provide financial assistance and to lease or sell railroad operating equipment to short line operators providing rail service to lines acquired or leased by the State. For purposes of this chapter, a short line operator is any railroad having an annual gross revenue from railroad operations of \$5,000,000 or less, or regularly conducting rail service over less than 100 miles of track.

Sec. 3. 23 MRSA §7105, sub-§5 is enacted to read:

5. Department to lease, purchase and dispose of operating equipment. The Department of Transportation may lease, purchase and dispose of railroad operating equipment used on rail lines acquired or leased pursuant to this chapter. The department may provide financial assistance and may lease or sell railroad operating equipment to short line operators providing rail service to those rail lines when determined to be in the best interest of the State.

Sec. 4. 23 MRSA §7106, sub-§§1 and 4, as enacted by PL 1989, c. 398, §7, are repealed.

Sec. 5. 23 MRSA §7106, sub-§5, as enacted by PL 1989, c. 398, §7, is amended to read:

5. State liability. The State shall is not be held liable in any contract pursuant to this section chapter for the leasing or purchasing of equipment, facilities or services; for the delivery of products; for the storage of products; or for any other service or financial commitment that may result from the implementation of this section chapter.

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

Effective April 6, 1990.

CHAPTER 792

H.P. 1736 - L.D. 2397

An Act Concerning Private Wells Contaminated by Hazardous Substances

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

Whereas, clean water is vital to the health and safety of residents of this State; and

Whereas, it is sometimes necessary to install a public water system to ensure clean water; and

Whereas, the installation of such a system may be prohibitively expensive; 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:

38 MRSA §1364, sub-§5, as enacted by PL 1983, c. 569, §1, is amended to read:

5. Mitigation. The department may take whatever action is deemed necessary to abate, clean up or mitigate the threats or hazards posed or potentially posed by an uncontrolled site or to protect the public health, safety or welfare or the environment, including administering or carrying out measures to abate, clean up or mitigate the threats or hazards, and implementing remedies to remove, store, treat, dispose of or otherwise handle hazardous substances located in, on or over an uncontrolled site, including soil and water contaminated by hazardous substances. When the necessary action includes the installation of a public water supply, the department may pay the costs of operation, maintenance and depreciation of the water supply for a period not exceeding 20 years if funds are available from Other Special Revenue or proceeds from the sale of bonds.

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

Effective April 6, 1990.

CHAPTER 793

S.P. 719 - L.D. 1894

An Act to Facilitate Enforcement of Penalties for Desecration of a Cemetery

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

Whereas, the current law regarding criminal trespass is difficult to enforce against persons who trespass in cemeteries at night; and

Whereas, trespassers in cemeteries, particularly in the summer months, have caused considerable damage to headstones, crypts and other property in cemeteries and emotional distress to those whose loved ones' graves have been desecrated; 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 legisla-

tion 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:

17-A MRSA §402, as amended by PL 1981, c. 317, §11, is further amended to read:

§402. Criminal trespass

1. A person is guilty of criminal trespass if, knowing that ~~he~~ that person is not licensed or privileged to do so, that person:

A. ~~He enters~~ Enters any dwelling place;

B. ~~He enters~~ Enters any structure that is locked or barred;

C. ~~He enters~~ Enters any place from which ~~he~~ that person may lawfully be excluded and ~~which~~ that is posted in a manner prescribed by law or in a manner reasonably likely to come to the attention of intruders or ~~which~~ that is fenced or otherwise enclosed in a manner designed to exclude intruders;

D. ~~He remains~~ Remains in any place in defiance of a lawful order to leave, ~~which~~ that was personally communicated to ~~him~~ that person by the owner or ~~either~~ another authorized person; ~~or~~

E. ~~He enters~~ Enters any place in defiance of a lawful order not to enter, ~~which~~ that was personally communicated to ~~him~~ that person by the owner or ~~either~~ another authorized person; ~~or~~

F. Enters or remains in a cemetery or burial ground at any time between 1/2 hour after sunset and 1/2 hour before sunrise the following day, unless that person enters or remains during hours in which visitors are permitted to enter or remain by municipal ordinance or, in the case of a privately owned and operated cemetery, by posting.

2. Violation of subsection 1, paragraph A, is a Class D crime. Violation of subsection 1, paragraph B, C, D ~~or~~ E; or F is a Class E crime.

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

Effective April 6, 1990.

CHAPTER 794

H.P. 1671 - L.D. 2313

An Act to Amend the State's Hazardous Waste Laws to Be Consistent with the Federal Hazardous and Solid Waste Laws