

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

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 887

S.P. 277 - L.D. 723

An Act to Amend County Jail Transfers and the
Community Corrections Laws

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

Sec. 1. 15 MRSA §1710, as amended by PL 1981, c. 493, §§2 and 3, is repealed and the following enacted in its place:

§1710. Transfer of persons under sentence to county jails for rehabilitative reasons

A sheriff having custody of a person sentenced to a county jail for a term of 60 days or more upon receipt from that person of a request in writing for transfer to a state correctional facility may apply in writing to the Commissioner of Corrections for the transfer of that person from the county jail to a state correctional facility, solely for the purpose of permitting that person the opportunity to participate in rehabilitative programs available at or from the state correctional facility.

If the Commissioner of Corrections gives written acceptance of the application, the sheriff may transport the person to the appropriate institution.

The attested copy of the judgment and order of commitment by which the sheriff has legally held that person before transfer must be delivered to the chief administrative officer of the correctional facility with a copy of the authorization for transfer attested by the sheriff and upon which must be noted by the delivering officer the date of delivery of the person to the correctional facility.

In no case may the time of sentence to be served at the state correctional facility exceed the remaining time of the sentence originally imposed. In every other respect the person transferred must be treated as if committed to the state correctional facility originally, including prosecution in the event of escape. Before any person transferred under this section is granted furlough or permission to participate in any other rehabilitative program authorized under Title 34-A, section 3035, the grant must be approved by the sheriff of the county from which the person was transferred.

The county responsible for the support of the person transferred under this section while that person was incarcerated in the county jail shall pay directly to the Department of Corrections upon the request of the department an amount computed at a per diem per capita rate established by the department. The county shall also reimburse the department for any costs incurred in the provision of extraordinary medical or surgical treatment to the person transferred. The payment amount provided for in this section may be adjusted upon terms mutually

agreeable to the sheriff and the Commissioner of Corrections if the county jail houses any work releasee under Title 34-A, section 3035, simultaneously with any period of transfer under this section.

Sec. 2. 30-A MRSA §1557, sub-§2, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106, and amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is repealed.

Sec. 3. 30-A MRSA §1557, sub-§4 is enacted to read:

4. Reimbursement for transferred prisoners. The county responsible for the support of the prisoner transferred under this section while the prisoner was incarcerated in the county jail shall pay directly to the receiving county jail or the Department of Corrections upon the request of the receiving sheriff or the department an amount computed at a per diem per capita rate established by the receiving county jail or the department. The county shall also reimburse the receiving county jail or the department for any costs incurred in the provision of extraordinary medical or surgical treatment to the person transferred.

Sec. 4. 30-A MRSA §1656, as enacted by PL 1987, c. 737, Pt. A, §2, and Pt. C, §106 and amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is further amended to read:

§1656. Transfer of prisoners when jail unfit or insecure

1. Transfer of prisoners when jail unfit or insecure. Whenever complaint on oath is made to a Justice of the Superior Court that a prisoner or prisoners should be removed from a jail to another jail or to a state correctional facility because that jail is unfit for occupation or is insufficient for the secure keeping of any person charged with a crime and committed to await trial, awaiting sentencing or serving a sentence in that jail, the Justice of the Superior Court shall:

- A. Schedule the time and place for a hearing on this complaint;
- B. Have not less than 3 days' notice of that hearing given to the sheriff or sheriffs of the county jail or jails involved and, if transfer to a state correctional facility is anticipated, to the Commissioner of Corrections;
- C. Order removal, at the expense of the sending county, of the prisoner or prisoners to a state correctional facility pending hearing, provided that the Commissioner of Corrections and the sending sheriff agree; and
- D. Conduct a hearing and if the matter complained of is found true:

(1) Issue a warrant for the transfer of the prisoner or prisoners, at the expense of the sending county, to any jail; or

(2) Issue a warrant for the transfer of the prisoner or prisoners, at the expense of the sending county, to a state correctional facility, provided that the Justice of the Superior Court finds that the receiving institution is able to resolve the problem causing the need to transfer, the nature of the offense committed or alleged to have been committed by the prisoner is so severe that it requires sending to the receiving institution and the security of the sending facility is inadequate to handle the problem.

2. Emergency. In the event of an emergency, regardless of whether a complaint on oath has been made to a Justice of the Superior Court, the sheriff, with the agreement of the Commissioner of Corrections, may immediately, at the expense of the sending county, remove any prisoner from the county jail to a state correctional facility. If removal is made under this section, a complaint on oath ~~shall~~ must be made to a Justice of the Superior Court within 24 hours and a hearing ~~shall~~ must be conducted in accordance with the requirements in subsection 1, paragraph D, subparagraph (2).

3. Transfer of prisoners when jail unfit due to casualty. If by fire or other casualty any jail is destroyed or rendered unfit for use, any Justice of the Superior Court may, upon being notified by the district attorney of the county where the jail was or is located, issue ~~a~~ an order to the sheriff and the deputies and constables of that county to have all prisoners who might be liable to imprisonment in that county imprisoned in the jail of some adjoining county or in any other place of confinement. The order ~~shall~~ must be printed in the newspapers having general circulation in that county.

4. Reimbursement for transferred prisoners. The county responsible for the support of the person transferred under this section while incarcerated in the county jail shall pay directly to the receiving county jail or the Department of Corrections upon the request of the receiving sheriff or the department an amount computed at a per diem per capita rate established by the receiving county jail or the department. The county shall also reimburse the receiving county jail or the department for any costs incurred in the provision of extraordinary medical or surgical treatment to the person transferred.

Sec. 5. 34-A MRSA §1210, sub-§1, ¶A, as enacted by PL 1985, c. 821, §18, is repealed.

Sec. 6. 34-A MRSA §1210, sub-§1, ¶B, as enacted by PL 1985, c. 821, §18, is amended to read:

B. "Community corrections" means the delivery of correctional services for juveniles or adults in the least restrictive manner that ensures the public

safety by or for the county or for the county under contract with a public or private entity, including, but not limited to, preventive or diversionary correctional programs, pretrial release or conditional release programs, alternative sentencing or housing programs, electronic monitoring, residential treatment and halfway house programs, community correctional centers and temporary release programs from a facility for the detention or confinement of persons convicted of crime or adjudicated delinquents.

Sec. 7. 34-A MRSA §1210, sub-§2, as enacted by PL 1985, c. 821, §18, is amended to read:

2. Reimbursement. ~~The Department of Corrections~~ Except as provided in subsection 6-A, the department shall, under this section, reimburse each county quarterly for each actual day served at that county correctional facility by:

A. Persons convicted of a Class A, Class B or Class C crime sentenced after March 31, 1987, to serve a term of imprisonment pursuant to Title 17-A, section 1203, subsection 1, or section 1252, subsection 1; and

B. Persons convicted of a Class A, Class B or Class C crime sentenced after December 31, 1988, to serve a term of imprisonment pursuant to Title 17-A, section 1203, subsection 1 or section 1252, subsection 1.

Reimbursement for periods after June 30, 1987, ~~shall~~ may not be authorized until the reimbursable costs for the operations of the jail are agreed upon by the ~~Commissioner of Corrections, or his designee, commissioner~~ and the county commissioners for that county. Reimbursable costs ~~shall~~ for the operations of the jail must, to the extent practicable, be mutually agreed upon prior to the actual expenditures of funds for those costs. Prior approval of all capital expenditures is required for reimbursement of that expense item. If the ~~Commissioner of Corrections commissioner~~ and the county commissioners are unable to agree upon reimbursable costs, they shall jointly select an arbitrator to determine those costs. The arbitrator's decision ~~shall be~~ is final and both the commissioner and the county commissioners ~~shall be~~ are bound by ~~his~~ that decision.

Sec. 8. 34-A MRSA §1210, sub-§6, as enacted by PL 1985, c. 821, §18, is amended to read:

6. County Correctional Improvement Account. The county commissioners of each county shall establish the County Correctional Improvement Account for funds received from the State under this section, which ~~shall~~ must be used for ~~improving, maintaining and developing correctional programs,~~ community-based correctional programs, standards compliance ~~and,~~ capital improvements and the support of prisoners in that county, including personal services, contractual services, commodities, debt service and capital outlay. Funds in this

account unexpended at the end of the year ~~do~~ may not lapse, but ~~shall carry~~ must be carried forward into subsequent years. All funds received under this section must be accounted for under the normal budgetary process.

Sec. 9. 34-A MRSA §1210, sub-§6-A is enacted to read:

6-A. Funds to be used for community corrections programs. Thirty percent of all funds claimed by each county for reimbursement under this section must be retained by the department until the county demonstrates that the retained funds will be used for community corrections programs, as described in subsection 1, paragraph B, that are developed as part of a comprehensive local plan approved by the commissioner. Two-thirds of the retained funds must be retained until the county demonstrates that the funds will be used for adult programs, and 1/3 of the retained funds must be retained until the county demonstrates that the funds will be used for juvenile diversion programs. All funds retained by the department under this subsection not released by the end of the year may not lapse, but must be carried forward into subsequent years, with each county's funds carried over for that county. Annually, by September 1st, the commissioner shall submit to the committee of the Legislature having jurisdiction over corrections matters a report of the activity in the prior fiscal year of the funds retained under this subsection, including the following:

- A. The amount retained from each county;
- B. The amount of any funds that have been carried over from previous fiscal years for each county;
- C. The amount released to each county; and
- D. The specific programs for which funds were released for each county, including an indication of whether each program serves juveniles or adults.

See title page for effective date.

CHAPTER 888

H.P. 1243 - L.D. 1734

An Act to Increase Various License and Registration Fees of the Department of Agriculture, Food and Rural Resources

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

Sec. 1. 7 MRSA §714, sub-§1, as enacted by PL 1971, c. 77, §1, is amended to read:

1. Application for registration. No person shall distribute in this State a commercial feed, except a customer-formula feed, which has not been registered pursuant to this section. The application for registration shall be submitted in the manner prescribed by the commis-

sioner on forms furnished by the commissioner, and shall be accompanied by a fee of ~~\$25~~ \$30 per brand. Upon approval by the commissioner the registration shall be issued to the applicant. All registrations expire on the 31st day of December of each year.

Sec. 2. 7 MRSA §743, first ¶, as amended by PL 1979, c. 672, Pt. A, §22, is further amended to read:

Each brand and grade of commercial fertilizer shall be registered before being offered for sale, sold or distributed in this State. The application for registration shall be submitted to the commissioner on forms furnished by the commissioner and shall be accompanied by a fee of ~~\$12~~ \$14 per plant food element guaranteed. All registrations expire on December 31st of each year or in a manner consistent with the provisions as to license expiration of the Maine Administrative Procedure Act, Title 5, section 10002, whichever is later. The commissioner may refuse to renew, suspend or cancel registration for failure to comply with this subchapter or with regulations adopted pursuant hereto. This refusal, suspension or cancellation shall be considered rule-making as that term is defined in the Maine Administrative Procedure Act, Title 5, chapter 375 and notice and opportunity for a hearing shall be provided in a manner consistent with the Maine Administrative Procedure Act, Title 5, chapter 375. The application shall include the following information:

Sec. 3. 7 MRSA §2902, 6th ¶, as enacted by PL 1979, c. 672, Pt. A, §36, is amended to read:

The fee for each license to sell milk or cream as a producer dealer shall be based on the annual volume of milk sold to other than a licensed dealer or subdealer, but shall not be less than \$10 nor greater than \$25. The fee for each license to sell or distribute milk or cream from a milk plant shall be based on the annual volume of milk sold or distributed by the milk plant, but shall not be less than ~~\$25~~ \$50 nor more than ~~\$50~~ \$150. The commissioner shall promulgate and establish a fee schedule in a manner consistent with the Maine Administrative Procedure Act, Title 5, chapter 375.

Sec. 4. 7 MRSA §2902, 7th ¶, as amended by PL 1981, c. 315, §9, is further amended to read:

The fee for each wholesale license to sell or distribute frozen dessert shall be ~~\$25~~ \$50.

Sec. 5. 10 MRSA §2501, as amended by PL 1977, c. 694, §181, is further amended to read:

§2501. Qualifications

Any person wishing to be a licensed public weighmaster shall make application to the state sealer upon forms provided by ~~him~~ the state sealer, and each application shall be accompanied by a fee of ~~\$2~~ \$25. Upon receipt of application and the state ~~sealer satisfying himself~~ sealer's satisfaction that the applicant is of good moral character and has the ability to weigh accurately