

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

AS PASSED BY THE

ONE HUNDRED AND FIFTEENTH LEGISLATURE

FIRST REGULAR SESSION

December 5, 1990 to July 10, 1991

Chapters 1 - 590

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TITLE 3, SECTION 163-A, SUBSECTION 4.

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J.S. McCarthy Company  
Augusta, Maine  
1991

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**PUBLIC LAWS**  
**OF THE**  
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**1991**

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**Sec. 10. 38 MRSA §441, sub-§3, ¶C**, as amended by PL 1989, c. 403, §11, is further amended to read:

C. Keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found and fees collected. On ~~an annual~~ a biennial basis, beginning in 1992, a summary of this record ~~shall~~ must be submitted by March 1 to the Director of the Bureau of Land Quality Control within the Department of Environmental Protection; and

See title page for effective date.

## CHAPTER 347

### H.P. 1131 - L.D. 1656

#### An Act to Amend the Election Laws Governing Voting Machines and Electronic Voting Systems

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

**Sec. 1. 21-A MRSA §606, first ¶**, as enacted by PL 1985, c. 161, §6, is amended to read:

Within a reasonable time before any election, the Secretary of State shall furnish each municipality with ballots, specimen ballots, test ballots for electronic voting systems if applicable, instruction posters, election return forms, posters of specimen ballots for constitutional resolutions and statewide referenda, including the Attorney General's explanatory statements prepared under Title 1, section 353, materials setting forth the full text of all constitutional resolutions and statewide referenda and other materials necessary for conducting and reporting the results of the election.

**Sec. 2. 21-A MRSA §606, sub-§§2-B and 3-A** are enacted to read:

**2-B. Test ballots.** The Secretary of State shall provide a packet of 50 test ballots for each type of ballot to be counted by each unit of automatic counting equipment used by a counting center as defined in section 808. The Secretary of State shall authorize preparation of the test ballots for special, primary or general elections. These test ballots must be printed concurrently with the regular ballots. These test ballots must be substantially the same as the type of ballot they exemplify, except that:

A. The words "TEST BALLOT" in bold type and the name of the voting district must be printed on each test ballot; and

B. The facsimile of the signature of the Secretary of State may not be printed on a test ballot.

The Secretary of State may adopt rules, in accordance with the Maine Administrative Procedure Act, governing the printing, distribution and use of test ballots.

**3-A. Receipt issued; use of test ballots in primary, special and general elections.** The clerk shall immediately send the Secretary of State a receipt for the test ballots the clerk receives. The test ballots must be used to test automatic tabulating equipment under section 854. Upon receipt of a package or box containing test ballots for a special, primary or general election, the clerk, in the presence of one or more witnesses, shall open the packet or box containing the sealed test ballots described in subsection 2-B. The clerk shall immediately notify the Secretary of State if the number of test ballots in each packet is more or less than 50. The clerk shall keep a record of the number of test ballots throughout the preelection and postelection testing of the tabulating equipment.

**Sec. 3. 21-A MRSA §651, sub-§2**, as amended by PL 1985, c. 272, is further amended to read:

**2. Election materials distributed and posted.** At any time after the materials are received and before the polls are open, the clerk may open the packages or boxes of election materials, break the seals on the packages not marked "ballots," and use the materials for instructional purposes. Then the clerk or ~~his~~ the clerk's designated agents shall post an adequate number of instruction posters, posters of specimen ballots for constitutional resolutions and statewide referenda, including the Attorney General's explanatory statements prepared under Title 1, section 353, materials setting out the full text of constitutional resolutions and statewide referenda, and specimen ballots in the voting room outside the guard-rail enclosure. ~~When the polls are opened, or no more than 1/2 hour before the opening of the polls, the warden shall break the seals on the packages containing the ballots and distribute the ballots to the election clerks in charge of them. The breaking of the seals on the packages containing the ballots is a public proceeding and any member of the public may be present.~~

**Sec. 4. 21-A MRSA §651, sub-§§2-A and 2-B** are enacted to read:

**2-A. Testing electronic voting systems.** The clerk may break the seals on packages marked test ballots before election day in accordance with the provisions in section 606, subsection 3-A and use them to meet the requirements of section 854.

**2-B. Opening of ballot packages.** When the polls are opened, or no more than 1/2 hour before the opening of the polls, the warden shall break the seals on the packages containing the ballots and distribute the ballots to the election clerks in charge of them. The breaking of the seals on the packages containing the ballots is a public proceeding and any member of the public may be present.

**Sec. 5. 21-A MRSA c. 9, sub-c. VI, first 2 lines,** are repealed and the following enacted in their place:

## SUBCHAPTER VI

### VOTING DEVICES

#### §808. Definitions

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

**1. Automatic tabulating equipment.** "Automatic tabulating equipment" means any apparatus that automatically examines and counts votes recorded on paper ballots or on ballot cards and tabulates the results.

**2. Ballot or paper ballot.** "Ballot" or "paper ballot" means the printed paper ballot on which votes may be recorded in the layout and format required to conform to the electronic voting system in use.

**3. Ballot card.** "Ballot card" means a tabulating card on which votes may be recorded in the layout and format required to conform with the punch card voting system in use.

**4. Ballot labels.** "Ballot labels" means the pages, cards or other material containing the names of offices and candidates and the referendum questions to be voted on that are placed on the voting device to conform with the voting system in use.

**5. Counting center.** "Counting center" means one or more locations selected by the municipal officers for the automatic counting of ballots.

**6. Electronic voting system.** "Electronic voting system" means either a punch card voting system or a mark-sense voting system where the paper ballots or ballot cards are subsequently counted and tabulated by automatic tabulating equipment at one or more counting centers. "Electronic voting system" includes all the software and firmware required to program and control the equipment in the respective systems.

**7. Marking device.** "Marking device" means any special marking implements, styluses or fluorescent or opaque inks that are required for marking paper ballots or punching holes in ballot cards, depending on the type of system in use.

**8. Mark-sense voting system.** "Mark-sense voting system" means a system in which votes are recorded on paper ballots by making marks in special voting response locations using a marking device. The votes on the paper ballots are subsequently counted and tabulated by automatic tabulating equipment at one or more counting centers.

**9. Punch card voting system.** "Punch card voting system" means a system in which votes are recorded on ballot cards by punching holes in designated voting response locations using a marking device. The votes on the ballot cards are subsequently counted and tabulated by automatic tabulating equipment at one or more counting centers.

**10. Voting device.** "Voting device" means the voting machine or electronic voting system apparatus that the voters use to record their votes on paper ballots or on a tabulating card and all the automatic tabulating equipment that is integral to the electronic voting system in use.

**11. Voting machine.** "Voting machine" means an apparatus on which voters cast their votes that records each vote by means of mechanical counters and furnishes a total of the number of votes cast for each candidate and for and against each referendum measure.

#### §809. Approval of voting devices

**1. Rules.** The Secretary of State and the Attorney General together may adopt rules governing approval of voting machines under section 812 and electronic voting systems under section 843. The Secretary of State may adopt rules indicating which approved voting machines and electronic voting systems are recommended for use by municipalities to minimize the cost of producing ballot materials.

**2. Use of approved voting machines and systems.** Voting devices approved and recommended pursuant to rules adopted under subsection 1 may be used by any municipality in a state election. A municipality may use other approved voting devices that are not recommended, however, if the cost of ballot materials for these devices exceeds the Secretary of State's estimated cost of preparing paper ballots for that municipality, the municipality shall reimburse the State for the difference in that cost.

**3. Publication of list.** The Secretary of State shall publish, biennially in odd-numbered years, the list of approved voting devices, including the estimated amount a municipality is required to reimburse the State if devices that are not recommended are used.

**4. Application.** This section applies only to those voting devices in use by the municipality after October 1, 1987.

**Sec. 6. 21-A MRSA §810,** as enacted by PL 1987, c. 96, §1, is repealed.

**Sec. 7. 21-A MRSA §813,** as enacted by PL 1985, c. 161, §6, is amended to read:

#### **§813. Rules on use**

The Secretary of State may make reasonable regulations governing the use of voting machines in accordance with the Maine Administrative Procedure Act.

**Sec. 8. 21-A MRSA §841**, as amended by PL 1987, c. 96, §2, is repealed.

**Sec. 9. 21-A MRSA §844**, as enacted by PL 1985, c. 161, §6, is amended to read:

**§844. Rules on use**

The Secretary of State may make reasonable ~~regulations~~ rules governing the use of electronic voting systems in accordance with the Maine Administrative Procedure Act.

See title page for effective date.

## CHAPTER 348

H.P. 778 - L.D. 1110

### An Act Regarding Passing of School Buses

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

**Whereas**, there is a potential hazard to mentally handicapped adults if this legislation does not take effect before the expiration of the 90-day period; 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:**

**29 MRSA §2019, sub-§6**, as enacted by PL 1987, c. 601, §5, is amended to read:

**6. Definition: school-age person.** As used in this section, unless the context otherwise indicates, "school-age person" means all children up to the age of 18 years, as well as persons 18 years and older who are enrolled in a state-approved program of primary or secondary education, as defined in Title 20-A and persons as described in Title 34-B, section 5402, subsection 1 living at Pineland Center or in any of its residential facilities who are bussed to and from sites off the center grounds as part of their treatment.

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

Effective June 18, 1991.

## CHAPTER 349

H.P. 1022 - L.D. 1495

### An Act Dealing with Abandoned Automobiles in the State

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

**29 MRSA §2610, sub-§5-A** is enacted to read:

**5-A. Abandonment of vehicle on public way.** Abandonment of a vehicle on a public way is a civil violation for which a forfeiture not to exceed \$250 may be adjudged. A person who is found to have abandoned a vehicle under this subsection is responsible for any towing charges that are directly related to the abandonment of the vehicle.

See title page for effective date.

## CHAPTER 350

H.P. 406 - L.D. 589

### An Act to Facilitate Prosecution for Killing a Person While Hunting

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

**12 MRSA §7406-A** is enacted to read:

**§7406-A. Target identification while hunting**

**1. Findings.** Due to the large numbers of Maine citizens and visitors engaged in hunting in the State's woods during hunting season, the continued decline of unpopulated areas through the State, the widespread use of powerful weapons in the pursuit of wild animals and wild birds, and the growing presence of nonhunters engaged in nonhunting activities in the State's woods during hunting season, the Legislature finds that a sufficient risk of serious bodily injury or death to human beings is posed to make it necessary and prudent to provide guidance to those in pursuit of wild animals and wild birds on the matter of proper target identification.

**2. Target identification; reasonable and prudent hunter.** While hunting, a hunter may not shoot at a target without, at that point in time, being certain that it is the wild animal or wild bird sought. The target-determining process to be utilized is that which a reasonable and prudent hunter would observe in the same situation. A reasonable and prudent hunter always bears the risk of loss of legitimate prey to avoid the risk of the destruction of human life. A reasonable and prudent hunter neither disregards the risk of causing the death of another human being nor fails to be aware of that risk as a consequence of misidentification. A reasonable