

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

THE GENERAL EFFECTIVE DATE FOR
NON-EMERGENCY LAWS IS
OCTOBER 9, 1991

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

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PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
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ONE HUNDRED AND FIFTEENTH LEGISLATURE

1991

Title 14, chapters 709, 710 and 710-A. This subsection does not apply when the law specifically allows the tenant to waive a statutory right during negotiations with the park owner or operator.

2. Unenforceable provisions. The following rental agreement or rule provisions are specifically declared to be unenforceable and in violation of Title 5, section 207:

A. Any provision that absolves the park owner or operator from liability for the negligence of the park owner or operator or the agent of the park owner or operator;

B. Any provision that requires the tenant to pay the legal fees of the park owner or operator in enforcing the rental agreement;

C. Any provision that requires the tenant to give a lien upon the tenant's property, including a tenant's mobile home, for the amount of any rent or other sums due the park owner or operator; and

D. Any provision that requires the tenant to acknowledge that the provisions of the rental agreement, including tenant rules, are fair and reasonable.

Sec. 2. 14 MRSA §6030 is enacted to read:

§6030. Unfair rental contracts

1. Illegal waiver of rights. It is an unfair and deceptive trade practice in violation of Title 5, section 207 for a landlord to require a tenant to enter into a rental agreement in which the tenant agrees to a lease or rule provision that has the effect of waiving a tenant right established in chapter 709, this chapter and chapter 710-A. This subsection does not apply when the law specifically allows the tenant to waive a statutory right during negotiations with the landlord.

2. Unenforceable provisions. The following rental agreement or rule provisions are specifically declared to be unenforceable and in violation of Title 5, section 207:

A. Any provision that absolves the landlord from liability for the negligence of the landlord or the landlord's agent;

B. Any provision that requires the tenant to pay the landlord's legal fees in enforcing the rental agreement;

C. Any provision that requires the tenant to give a lien upon the tenant's property for the amount of any rent or other sums due the landlord; and

D. Any provision that requires the tenant to acknowledge that the provisions of the rental agreement, including tenant rules, are fair and reasonable.

Sec. 3. Effective date; application. This Act takes effect November 1, 1991 and applies to rental agreements entered into or renewed on or after November 1, 1991.

Effective November 1, 1991.

CHAPTER 362

H.P. 970 - L.D. 1411

An Act Concerning the Number of Signatures Required for County Office Elections

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

Sec. 1. 21-A MRSA §335, sub-§5, ¶D and E, as enacted by PL 1985, c. 161, §6, are amended to read:

D. For a candidate for county office other than county commissioner, at least 150 and not more than 200 voters;

E. For a candidate for county commissioner ~~in any county with a population of 50,000 or less,~~ at least 50 and not more than 75 voters;

Sec. 2. 21-A MRSA §354, sub-§5, ¶E, as enacted by PL 1985, c. 161, §6, is amended to read:

E. For a candidate for county office other than county commissioner or county charter commission member, at least 300 and not more than 400 voters;

Sec. 3. 21-A MRSA §354, sub-§5, ¶E-1 is enacted to read:

E-1. For a candidate for county commissioner, at least 100 and not more than 150 voters;

See title page for effective date.

CHAPTER 363

S.P. 460 - L.D. 1236

An Act Concerning Continuances Requested by Petitioners in Hearings for Operating under the Influence

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

Sec. 1. 29 MRSA §1311-A, sub-§5, ¶A, as repealed and replaced by PL 1983, c. 850, §1, is amended to read:

A. Any suspension imposed ~~shall be~~ is effective on a specified date not less than 10 days after the mailing of the notification of suspension by the Secretary of State. If a person whose license is suspended desires to have a hearing, ~~he shall~~ the person must so notify the Secretary of State, in writing, within 10 days from the effective date of the suspension. The suspension ~~shall be~~ is stayed for 10 days from the effective date of the suspension. If, within 10 days from the effective date of the suspension, the Secretary of State is notified, in writing, of a request for a hearing, the suspension ~~shall be~~ is stayed until a hearing is held and a decision is issued. The Secretary of State shall conduct a hearing and issue a decision within 30 days from the date of receipt of a written request for hearing. Failure by the Secretary of State to conduct a hearing and issue a decision within such 30-day period ~~shall result~~ results in an extension of the stay of the Secretary of State's suspension order until such time as a hearing is conducted and a decision issued. Notwithstanding this subsection, there ~~shall may~~ be no stay of suspension during the period of any delay in hearing which that is caused or requested by the petitioner, except that, if the petitioner is unable to attend the hearing due to circumstances beyond the petitioner's control, the Secretary of State may continue, one time only, the stay of suspension. The petitioner must submit to the Secretary of State a written request for delay, or an electronically transmitted facsimile of a written request for delay, stating the circumstances, at least 24 hours before the scheduled hearing.

Sec. 2. 29 MRSA §2241-G, sub-§2, ¶G, as enacted by PL 1983, c. 850, §4, is amended to read:

G. Effective ~~The effective~~ date and period of suspension are as follows.

(1) Any suspension imposed ~~shall be~~ is effective on a specified date not less than 10 days after the mailing of the notification of suspension by the Secretary of State. If a person whose license is suspended desires to have a hearing, ~~he shall~~ the person must so notify the Secretary of State, in writing, within 10 days from the effective date of the suspension. The suspension ~~shall be~~ is stayed for 10 days from the effective date of the suspension. If, within 10 days from the effective date of the suspension, the Secretary of State is notified, in writing, of a request for a hearing, the suspension ~~shall be~~ is stayed until a hearing is held and a decision is issued. The Secretary of State shall conduct a hearing and issue a decision within 30 days from the date of receipt of a written request for hearing. Failure by the Secretary of State to conduct a hearing and issue a decision within the 30-day period ~~shall result~~ results in an extension of the stay of the Secretary of State's

suspension order until such time as a hearing is conducted and a decision issued. Notwithstanding this subsection, there ~~shall may~~ be no stay of suspension during the period of any delay of hearing which that is caused or requested by the petitioner, except that, if the petitioner is unable to attend the hearing due to circumstances beyond the petitioner's control, the Secretary of State may continue, one time only, the stay of suspension. The petitioner must submit to the Secretary of State a written request for delay, or an electronically transmitted facsimile of a written request for delay, stating the circumstances, at least 24 hours before the scheduled hearing.

(2) When a person's license is suspended under this section and is also suspended after ~~having~~ that person has been adjudicated or convicted on charges arising out of the same occurrence for a violation of section 1312-B or 1312-C or Title 15, section 3103, subsection 1, paragraph F, the period of time ~~his~~ the license has been suspended under this section prior to the adjudication or conviction ~~shall be~~ is deducted from the period of time of any court-imposed suspension ordered pursuant to section 1312-B or 1312-C or Title 15, section 3103, subsection 1, paragraph F.

Sec. 3. 29 MRSA §2241-J, sub-§6, ¶A, as enacted by PL 1987, c. 791, §29, is amended to read:

A. Any suspension imposed ~~shall be~~ is effective on a specified date not less than 10 days after the mailing of the notification of suspension by the Secretary of State. If a person whose license is suspended desires to have a hearing, that person shall notify the Secretary of State, in writing, within 10 days from the effective date of the suspension. The suspension ~~shall be~~ is stayed for 10 days from the effective date of the suspension. If, within 10 days from the effective date of the suspension, the Secretary of State is notified, in writing, of a request for a hearing, the suspension ~~shall be~~ is stayed until a hearing is held and a decision is issued. The Secretary of State shall conduct a hearing and issue a decision within 30 days from the date of receipt of a written request for hearing. Failure by the Secretary of State to conduct a hearing and issue a decision within the 30-day period ~~shall result~~ results in an extension of the stay of the Secretary of State's suspension order until such time as a hearing is conducted and a decision issued. Notwithstanding this subsection, there ~~shall may~~ be no stay of suspension during the period of any delay of hearing which that is caused or requested by the petitioner, except that, if the petitioner is unable to attend the hearing due to circumstances beyond the petitioner's control, the Secretary of State may continue, one time only, the stay of suspension. The

petitioner must submit to the Secretary of State a written request for delay, or an electronically transmitted facsimile of a written request for delay, stating the circumstances, at least 24 hours before the scheduled hearing.

See title page for effective date.

CHAPTER 364

H.P. 1078 - L.D. 1572

An Act to Amend the Laws Governing the Intensive Supervision Program

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

Whereas, certain provisions of the Intensive Supervision Program raise constitutional concerns and should be amended immediately; 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. 17-A MRSA §1253, sub-§3, as amended by PL 1989, c. 693, §8, is further amended to read:

3. Beginning October 1, 1983, a person sentenced to imprisonment for more than 6 months ~~shall be~~ is entitled to receive a deduction of 10 days each month for observing all rules of the department and institution. The period from which the deduction is made ~~shall~~ must be calculated from the first day the person is delivered into the custody of the department and includes the full length of the unsuspended portion of the sentence. This provision does not apply to the suspended portion of the person's sentence, pursuant to section 1203 nor does it apply to the suspended portion ~~or to the period of intensive supervision~~ of a sentence under section 1262.

A. Deductions under this subsection must be calculated as follows for partial months.

Days of partial month	Maximum good time credit available
0 - 2 days	0
3 - 5 days	1
6 - 8 days	2
9 - 11 days	3
12 - 14 days	4

15 - 17 days	5
18 - 20 days	6
21 - 23 days	7
24 - 26 days	8
27 - 29 days	9
30 days	10

Sec. 2. 17-A MRSA §1262, sub-§6, as enacted by PL 1985, c. 821, §15, is repealed.

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

Effective June 18, 1991.

CHAPTER 365

H.P. 726 - L.D. 1030

An Act Relating to Financial Responsibility for Students Not Residing with Parents or Legal Guardians

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

Sec. 1. 20-A MRSA §5205, sub-§2, as amended by PL 1985, c. 797, §33, is further amended to read:

2. Other students not living at home. A student other than a state ward, a state agency client or a homeless child, residing with another person who is not the student's parent, ~~shall be~~ is considered a resident of the school administrative unit where the student resides if the superintendent of the unit determines that it is in the best interest of the student because of the following:

- A. It is undesirable and impractical for that student to reside with the student's parent, or that other extenuating circumstances exist which justify residence in the unit; and
- B. That person is residing in the school administrative unit for other than just education purposes.

The commissioner shall review the superintendent's determination on the request of the student's parent. The commissioner's decision ~~shall be~~ is final and binding. Upon request of the superintendent of schools in the unit in which a student is placed in accordance with this subsection, the state share percentage for subsidized educational costs for that student is equivalent to the state share percentage of the unit in which the student's parent or legal guardian resides or the average state share percentage, whichever is greater. If the parent or legal guardian does not reside in the State or can not be located, the subsidy is the state average subsidy.