

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.

J.S. McCarthy Company
Augusta, Maine
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PUBLIC LAWS
OF THE
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programs and other support services to educators in public schools engaged in school restructuring efforts.

Sec. 5. Assessment and report. The Department of Education and the State Board of Education shall coordinate the preparation of a written report with information from the public and private organizations and entities involved in school restructuring in the State to the Joint Standing Committee on Education and the Office of the Executive Director of the Legislative Council by December 1, 1992 on the status of school restructuring efforts. The report must include a summary of the number of schools participating in restructuring programs, a description of the types of restructuring programs, the number of school and educator program approval waivers requested and granted and a listing of the specific rules for which waivers were requested. The report must also include an assessment of the effectiveness of school restructuring, including recommendations on how restructuring may become more effective, how replication of successful efforts may be encouraged and how dissemination of information on school restructuring may be enhanced.

See title page for effective date.

CHAPTER 408

S.P. 550 - L.D. 1454

An Act to Amend the Laws Relating to the Long-term Care Ombudsman Program

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

22 MRSA §5112, sub-§2, as amended by PL 1989, c. 679, §3, is repealed and the following enacted in its place:

2. Advocate. Serve as an advocate on behalf of older people promoting and assisting activities designed to enhance at the national, state and community levels the well-being of older people. The committee shall serve as an ombudsman on behalf of individual citizens and older people as a class in matters under the jurisdiction of State Government. It shall serve as a voice on behalf of older people to officers of State Government, the Governor, the Legislature, the public-at-large and the Federal Government.

To serve as advocate and ombudsman for older people, the committee may enter onto the premises of any boarding care facility licensed according to section 7801 and any nursing home facility licensed according to section 1817 to investigate complaints concerning those facilities. In addition, the committee shall investigate complaints received on behalf of individuals receiving long-term care services provided by the home-based care programs, Medicaid waiver program, licensed home health agencies, certified home-

maker agencies and licensed adult day care agencies. To carry out this function, any committee member, staff or volunteer authorized by the committee may enter onto the premises of any adult foster care facility, any boarding care facility or any nursing home during the course of an investigation, speak privately with any individual in the facility or home who consents to the conversation and inspect and copy all records pertaining to a resident as long as the resident or the legal representative of the resident consents in writing to that inspection. The consent, when required and not obtainable in writing, may be conveyed orally or otherwise to the staff of the facility or home. When a resident is not competent to grant consent and has no legal representative, the committee may inspect the resident's records and may make copies that do not contain personally identifiable material without the written consent of a duly appointed legal representative. The committee may authorize up to 25 persons, in addition to committee members and staff of the committee, to carry out this function. Appropriate identification must be issued to all such persons. In accordance with the federal 1987 Older Americans Act (OAA), 42 United States Code, as amended, a person may not serve as an ombudsman without training by committee staff as to the rights and responsibilities of an ombudsman or without a specific plan of action under direction of committee staff. The committee shall renew the authorization and issue identification annually. The findings of the committee must be available to the public upon request.

In addition, the committee, staff and volunteers shall visit, talk with and make personal, social and legal services available to residents; inform residents of their rights, entitlements and obligations under federal and state laws by distributing educational materials and meeting with groups or individuals; assist residents in asserting their legal rights regarding claims for public assistance, medical care and social security benefits or in actions against agencies responsible for those programs, as well as in all other matters in which residents are aggrieved, including but not limited to advising residents to litigate; and investigate complaints received from residents or concerned parties regarding the care or other matters concerning residents.

Information or records maintained by the committee concerning complaints may not be disclosed unless the ombudsman authorizes the disclosure. The ombudsman may not disclose the identity of any complainant or resident unless:

A. The complainant, the resident or a legal representative of either consents in writing to the disclosure; or

B. A court orders the disclosure.

A complainant, a resident or a legal representative of either, in providing the consent, may specify to whom such identity may be disclosed and for what purposes, in which event no other disclosure is authorized.

Any person, official or institution who in good faith participates in the registering of a complaint pursuant to this sub-

section, or in good faith investigates that complaint or provides access to those persons carrying out the investigation, about an act or practice in any boarding care facility licensed according to section 5154 or 7801 or any nursing home licensed according to section 1817 or who participates in a judicial proceeding resulting from that complaint is immune from any civil or criminal liability that otherwise might result from these actions. For the purpose of any civil or criminal proceedings, there is a rebuttable presumption that any person acting pursuant to this subsection did so in good faith;

See title page for effective date.

CHAPTER 409

H.P. 688 - L.D. 987

An Act to Allow the Department of Transportation to Facilitate Traffic and Highway Improvements

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

Sec. 1. 23 MRSA §57-A is enacted to read:

§57-A. Acceptance of funds

The Department of Transportation is authorized and empowered to accept for the State funds from one or more private parties for transportation improvement needs generated by development. Such funds must be segregated and held in an account to be used as agreed by the parties. The State and its employees are not liable to any person, corporation or entity for damages arising out of any activities or contracts or for any other service or financial commitment resulting from the implementation of this section.

Sec. 2. 23 MRSA §401 is amended to read:

§401. Construction, reconstruction and improvement

The construction, reconstruction and improvement of all bridges on state highways, and all approaches thereto, shall be to those bridges are borne wholly by the State except as otherwise provided in this Title.

Sec. 3. 23 MRSA §651, as amended by PL 1987, c. 141, Pt. B, §18, is further amended by adding at the end a new paragraph to read:

The department, at its discretion, may authorize a person, corporation or entity who has had conditions imposed by the Department of Environmental Protection pursuant to Title 38, section 484, subsection 2 or by other governmental review to perform construction work on the state or state aid highway system. The performance of the work must be in compliance with the department's standards for highway and bridge construction,

traffic control and bonding and any other standards or conditions the department may impose. All of the department's expenses and administrative costs relating to the work must be paid by the person authorized to perform the work. Notwithstanding the Maine Tort Claims Act, Title 14, chapter 741, the State or its employees are immune from suit for damages arising from any activities performed in connection with this work.

See title page for effective date.

CHAPTER 410

S.P. 674 - L.D. 1788

An Act to Authorize Operation of a 6-axle Single Unit Truck and a Combination Vehicle with a 53-foot Semitrailer Resulting from the Experimental Vehicle Program

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

PART A

Sec. A-1. 29 MRSA §1652, sub-§1, ¶A, as amended by PL 1989, c. 528, §§2 and 16, is further amended to read:

A. No vehicle or combination of vehicles shall may be operated, or caused to be operated, on or over any way or bridge when the gross weight, actual weight of vehicle and load, exceeds 90,000 pounds. No vehicles having 2 axles shall may be so operated, or caused to be operated, when the gross weight exceeds 34,000 pounds; no vehicle or combination of vehicles having 3 axles shall may be so operated, or caused to be operated, when the gross weight exceeds 54,000 pounds; no vehicle or combination of vehicles having 4 axles shall or, except as provided in paragraph G, any single unit vehicle having 5 or more axles, may be so operated, or caused to be operated, when the gross weight exceeds 69,000 pounds; except as provided in paragraph E, no vehicle or combination of vehicles having 5 or more axles shall may be so operated, or caused to be operated, when the gross weight exceeds 80,000 pounds. Vehicles may be operated, or caused to be operated on the Interstate Highway System, as defined in the Federal Aid Highway Act of 1956, with a maximum gross weight permitted by this subsection, provided such gross weights do not exceed the following formula:

$$W=500 \left(\frac{LN}{N-1} + 12N + 36 \right)$$

W=overall gross weight on any group of 2 or more consecutive axles to the nearest 500 pounds
L=overall distance in feet between the extreme of any group of 2 or more consecutive axles