

# 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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J.S. McCarthy Company  
Augusta, Maine  
1991

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

**AS PASSED AT THE**  
**FIRST REGULAR SESSION**

**of the**  
**ONE HUNDRED AND FIFTEENTH LEGISLATURE**

**1991**

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sued or delivered to a person by a law enforcement officer, shall act as a summons to appear in court, on the date specified in the ticket, for a violation of any provision of this Title summons or ticket or to otherwise respond in accordance with law on or before the date specified in the summons or ticket. Any person who fails to appear in court as directed by the summons or ticket or to otherwise respond in accordance with law on or before the date specified in the summons or ticket commits a Class E crime. Upon the person's failure to appear or respond, the court may issue a warrant of arrest. It is an affirmative defense to prosecution under this subsection that the failure to appear or respond resulted from just cause.

4. When a lawful complaint. In the event that If the traffic citation summons or ticket provided under this section includes information and is duly sworn to as required under the general laws of this State by law and otherwise legally sufficient in respect to the form of a complaint and charging commission of the offense alleged in said citation the summons or ticket to have been committed, then such citation the summons or ticket when filed with a court having jurisdiction shall be deemed constitutes a lawful complaint for the purpose of the commencement of any traffic infraction proceeding or the prosecution of a misdemeanor, Class D or Class E crime under this Title.

4-A. Responsibility of law enforcement officer to file Uniform Traffic Ticket and Complaint or Uniform Summons and Complaint with District Court. Every law enforcement officer issuing a Uniform Traffic Ticket and Complaint or Uniform Summons and Complaint that charges the commission of an offense shall file the original of the Uniform Traffic Ticket and Complaint or Uniform Summons and Complaint with the District Court having jurisdiction over the offense or in such other location as instructed by the Chief Judge of the District Court without undue delay and, in any event, within 5 days after the issuance of the Uniform Traffic Ticket and Complaint or Uniform Summons and Complaint.

5. Refusal to sign. Any person who refuses to sign such a Uniform Traffic Ticket Summons and Complaint or a Uniform Traffic Ticket and Complaint, as provided under subsection 1-A, after having been ordered to do so by a law enforcement officer shall be guilty of commits a misdemeanor Class E crime. A law enforcement officer may not order a person to sign the summons for a civil violation unless the civil violation is an offense defined in Title 12 or Title 29.

**Sec. 7. 29 MRSA §2301-A, first ¶, as amended by PL 1987, c. 575, is further amended to read:**

If a person fails to appear in court on the day specified in response to a Uniform Traffic Ticket Summons and Complaint, a Uniform Traffic Ticket and Complaint as provided under section 2300, subsection 1-A, a summons, a condition of bail or order of court for any

violation of Title 23, section 1980; Title 28-A, section 2052; or any provision of this Title, or for any further appearance ordered by the court, including one for the payment of a fine, either in person or by counsel, the court shall suspend his the person's license or permit, his the right to operate motor vehicles in this State and the right to apply for or obtain a license.

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

Effective June 21, 1991.

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## CHAPTER 460

S.P. 557 - L.D. 1461

### An Act Relating to the Notice of Claim Provisions of the Maine Tort Claims Act

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

14 MRSA §8107, sub-§5 is enacted to read:

5. Definition of good cause. "Good cause" as used in subsection 1 includes but is not limited to any cases in which any official of the governmental entity whose duties and authority include the settlement of tort claims or any tort liability insurer of the governmental entity makes direct oral or written contacts with the claimant or the claimant's personal representative or attorney, including payments to or on behalf of the claimant, that contain or imply a promise of coverage sufficient to cause a reasonable person to believe that the losses for which no timely notice claim is filed would be covered.

If oral or written contact is limited to coverage for specific injuries or damage, a claimant is not excused from filing the notice required by this section in relation to other claims or causes of action permitted by this chapter that arise out of the same incident or event.

Nothing in this subsection prevents the injured party and an agent or insurer of the governmental entity from entering into a consensual agreement pursuant to which the injured party releases the governmental entity from any further liability in exchange for an agreed upon consideration.

See title page for effective date.

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## CHAPTER 461

H.P. 1043 - L.D. 1516

### An Act to Clarify Statutory Provisions Relating to Asset Forfeiture

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

**Sec. 1. 15 MRSA §5822, sub-§3**, as enacted by PL 1987, c. 420, §2, is amended to read:

**3. Type of action.** The proceeding ~~shall be deemed~~ is an in rem a civil action. Property subject to forfeiture may be kept or stored at any location within the territorial boundaries of the State and is subject to the authority of any court in which a petition seeking the forfeiture of that property is filed. The State has the burden of proving all material facts by a preponderance of the evidence and the owner of the property or other person claiming under the property ~~shall have~~ has the burden of proving by preponderance of the evidence all exceptions set forth in section 5821, except as provided in section 5821, subsection 7, paragraph A.

**Sec. 2. 15 MRSA §5822, sub-§4, ¶A**, as enacted by PL 1987, c. 420, §2, is amended to read:

A. To the extent that the court finds it appropriate and with the written consent of the Attorney General, the court may order forfeiture of as much of the property as is appropriate to a municipality, county or state agency ~~which, or to the district attorneys budget within the Department of the Attorney General, that~~ has made a substantial contribution to the investigation or prosecution of a related criminal case, subject to the requirements of section 5824.

When property is forfeited and transferred to a municipality in accordance with section 5824, the legislative body of the municipality shall determine the disposition of the property. When property is forfeited and transferred to a county in accordance with section 5824, the county commissioners shall determine the disposition of the property.

**Sec. 3. 15 MRSA §5823, sub-§2**, as enacted by PL 1987, c. 420, §2, is amended to read:

**2. Procedure.** The Attorney General or a district attorney upon receiving the ~~seizure vehicle~~ report shall petition, within ~~7~~ 21 days, the Superior Court in the name of the State in the nature of a proceeding in rem to order forfeiture and perfect the State's title to any vehicle subject to forfeiture under section 5821. The proceeding ~~shall be~~ is the same as for forfeited property under section 5822, except that when the owner of the vehicle ~~cannot~~ can not be determined, the court shall:

A. Order the State, prior to the forfeiture ~~proceeding~~ hearing described in paragraph B, to ~~publish notice of the proceeding once each month for 6 consecutive months in newspapers~~ make service by publication as directed by the court pursuant to the Maine Rules of Civil Procedure, Rule 4, except that the publication must be made in a newspaper of general circulation throughout the State; and

B. Hold a hearing on the petition not less than 2 weeks after all notices required by this section have been given.

The final order of forfeiture by the court under this section ~~shall perfect~~ perfects the State's right and interest in and title to the vehicle and ~~shall relate~~ relates back to the date of seizure.

See title page for effective date.

## CHAPTER 462

H.P. 956 - L.D. 1383

### An Act to Clarify the Authority of the Department of Transportation to Acquire Property for Environmental Mitigation Purposes

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

**23 MRSA §153, sub-§7**, as enacted by PL 1987, c. 267, §3, is amended to read:

**7. Other projects.** Construct, improve and maintain transportation projects as directed by law and provide mitigation for existing or potential environmental effects of any transportation projects.

See title page for effective date.

## CHAPTER 463

S.P. 613 - L.D. 1617

### An Act to Encourage Waste Reduction and Recycling

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

**38 MRSA §2141** is enacted to read:

#### §2141. Waste reduction and recycling labeling program

By February 1, 1992, the agency shall adopt rules establishing a waste reduction and recycling labeling program. The rules must include recycling emblems, standards for the use of the recycling emblems and standards for the use of the terms "reusable," "recyclable," "recycled" and "recycled content." To the fullest extent possible, emblems and standards adopted by the agency under this section must be consistent with emblems and standards adopted by the Northeast Recycling Council of the Council of State Governments and standards adopted by other northeastern states.