

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 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
1991

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION

of the
ONE HUNDRED AND FIFTEENTH LEGISLATURE

1991

will not be able to make a full payment when that payment is due, the Treasurer of State shall withhold any funds in the Treasurer of State's custody that are due or payable to the eligible entity until the amount of the principal or interest due or anticipated to be due has been paid to the authority or the trustee for the bondholders, or the authority notifies the Treasurer of State that satisfactory arrangements have been made for the payment of the principal and interest. Funds subject to withholding under this subsection include, but are not limited to, federal and state grants, contracts, allocations or appropriations.

2. Withheld funds to be made available to authority. If the authority further notifies the Treasurer of State in writing that no other arrangements are satisfactory, the Treasurer of State shall deposit in the General Fund and make available to the authority any funds withheld from the eligible entity under this section. The authority shall apply the funds to the costs incurred by the eligible entity, including payments required to be made to the authority or trustee for any bondholders of debt service on any debt issued by the authority for the eligible entity or required by the terms of any other law or contract to be paid to the holders or owners of debt issued on behalf of the eligible entity upon failure or default, or reasonable expectation of failure or default, of the eligible institution to pay the principal or interest on its securities when due.

3. Other agencies to be notified. Concurrent with any notice from the authority to the Treasurer of State under this section, the authority shall notify any other agency, department or authority of State Government that exercises regulatory, supervisory or statutory control over the operations of the eligible entity. Upon notification, the agency, department or authority shall immediately undertake reviews to determine what action, if any, that agency, department or authority should undertake to assist in the payment by the eligible entity of the money due or steps that the agencies of the State other than the Treasurer of State or the authority should take to assure the continued prudent operation of the eligible entity or provision of services to the people served by the eligible entity.

See title page for effective date.

CHAPTER 585

H.P. 1015 - L.D. 1483

An Act to Remove the Statute of Limitations for Incest and Gross Sexual Assault

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

Sec. 1. 17-A MRSA §8, sub-§1, as amended by PL 1981, c. 470, Pt. A, §37, is further amended to read:

1. It is a defense that prosecution was commenced after the expiration of the applicable period of limitations provided in this section; provided that a prosecution for murder or criminal homicide in the first or 2nd degree, or, if the victim had not attained the age of 16 years at the time of the crime, a prosecution for incest, rape or gross sexual assault, formerly denominated as gross sexual misconduct, may be commenced at any time.

Sec. 2. 17-A MRSA §8, sub-§2, as amended by PL 1981, c. 470, Pt. A, §38, is further amended to read:

2. Prosecutions for crimes other than murder or criminal homicide in the first or 2nd degree, or, if the victim had not attained the age of 16 years at the time of the crime, prosecutions for incest, rape or gross sexual assault, formerly denominated as gross sexual misconduct, are subject to the following periods of limitations:

- A. A prosecution for a Class A, Class B or Class C crime must be commenced within 6 years after it is committed; and
- B. A prosecution for a Class D or Class E crime must be commenced within 3 years after it is committed.

Sec. 3. Application. This Act applies to the following crimes in which the victim has not attained the age of 16 years at the time of the crime:

- 1. Incest and gross sexual assault committed on or after the effective date of this Act; and
- 2. Incest, rape and gross sexual assault, formerly denominated as gross sexual misconduct, for which the prosecution has not yet been barred by the previous statute of limitations in force on the effective date of this Act.

See title page for effective date.

CHAPTER 586

H.P. 283 - L.D. 404

An Act to Increase Revenues to the General Fund by Streamlining Collection Methods for Use Taxes on Snowmobiles and All-terrain Vehicles Pursuant to the Maine Sunset Act

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

Whereas, it is in the State's best interest to collect all taxes in the most efficient manner possible; and

Whereas, it would be most efficient for this Act to take effect as close as possible to the beginning of the next fiscal year; 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. 12 MRSA §7793-A, as enacted by PL 1989, c. 588, Pt. C, §1, is amended to read:

§7793-A. Collection by commissioner

The commissioner or agents of the commissioner shall act on behalf of the State Tax Assessor to collect the use tax due under Title 36, chapters 211 to 225 in respect to any watercraft for which an original registration is required under this Title at the time and place of registration of that watercraft.

~~Each official shall deduct and retain from the use taxes collected pursuant to this section a fee of \$1.25 for each watercraft in respect to which a use tax certificate has been submitted in accordance with section 7793-C, even though the certificate indicated that no use tax was due in respect to the watercraft in question.~~

~~All fees so retained shall be transmitted forthwith to the Treasurer of State and treated as funds deposited pursuant to section 7074. All taxes collected pursuant to this section shall must be transmitted forthwith to the Treasurer of State and shall be credited to the General Fund.~~

Sec. 2. 12 MRSA §7793-D, as enacted by PL 1989, c. 588, Pt. C, §1, is repealed and the following enacted in its place:

§7793-D. Certificates to be forwarded to the State Tax Assessor

Agents of the commissioner shall promptly forward all certificates submitted in accordance with section 7793-C to the commissioner. The commissioner shall transmit all such certificates to the State Tax Assessor.

Sec. 3. 12 MRSA §7793-E, as enacted by PL 1989, c. 588, Pt. C, §1, is amended to read:

§7793-E. Collection by State Tax Assessor

The provisions of this section ~~shall~~ and sections 7793-A to 7793-D must be construed as cumulative of

other methods prescribed in Title 36, ~~chapters 211 to 225~~, for the collection of the sales or use tax. Nothing ~~herein shall in these sections may~~ be construed as precluding the State Tax Assessor from collecting the tax due in respect to any watercraft in accordance with such other methods as are prescribed in Title 36, ~~chapters 211 to 225~~, for the collection of the sales or use tax.

Sec. 4. 12 MRSA §§7824-A to 7824-E are enacted to read:

§7824-A. Collection by commissioner

The commissioner or agents of the commissioner shall act on behalf of the State Tax Assessor to collect the use tax due under Title 36, chapters 211 to 225, in respect to any snowmobile for which an original registration is required under this Title at the time and place of registration of that snowmobile.

All taxes collected pursuant to this section must be transmitted forthwith to the Treasurer of State and must be credited to the General Fund.

§7824-B. Original registration defined

"Original registration" means any registration other than a renewal of registration by the same owner in sections 7824-A to 7824-E.

§7824-C. Payment of sales or use tax a prerequisite to registration

An application for registration may not be granted in respect to any snowmobile the sale or use of which may be subject to tax under Title 36, chapters 211 to 225, except in the case of a renewal of registration by the same owner, until one of the following conditions has been satisfied:

1. Dealers' certificate. The applicant has submitted a dealers' certificate in a form prescribed by the State Tax Assessor, showing either that the sales tax due in respect to the snowmobile in question has been collected by the dealer or that the sale of the snowmobile is exempt from or otherwise not subject to tax under Title 36, chapters 211 to 225;

2. Use tax certificate. The applicant has properly executed and signed a use tax certificate in such form and manner as may be prescribed by the State Tax Assessor and paid the amount of tax shown in the certificate to be due; or

3. Exemption. The applicant has properly executed and signed a use tax certificate in such form and manner as may be prescribed by the State Tax Assessor showing that the sale or use of the snowmobile in question is exempt from or otherwise not subject to tax under Title 36, chapters 211 to 225.

§7824-D. Certificates to be forwarded to the State Tax Assessor

Agents of the commissioner shall promptly forward all certificates submitted in accordance with section 7824-C to the commissioner. The commissioner shall transmit all such certificates to the State Tax Assessor.

§7824-E. Collection by State Tax Assessor

The provisions of this section and sections 7824-A to 7824-D must be construed as cumulative of other methods prescribed in Title 36 for the collection of the sales or use tax. Nothing in these sections may be construed as precluding the State Tax Assessor from collecting the tax due in respect to any snowmobile in accordance with such other methods as are prescribed in Title 36 for the collection of the sales or use tax.

Sec. 5. 12 MRSA §§7854-A to 7854-E are enacted to read:

§7854-A. Collection by commissioner

The commissioner or agents of the commissioner shall act on behalf of the State Tax Assessor to collect the use tax due under Title 36, chapters 211 to 225 in respect to any ATV for which an original registration is required under this Title at the time and place of registration of that ATV.

All taxes collected pursuant to this section must be transmitted forthwith to the Treasurer of State and must be credited to the General Fund.

§7854-B. Original registration defined

"Original registration" means any registration other than a renewal of registration by the same owner in sections 7854-A to 7854-E.

§7854-C. Payment of sales or use tax a prerequisite to registration

An application for registration may not be granted in respect to any ATV the sale or use of which may be subject to tax under Title 36, chapters 211 to 225, except in the case of a renewal of registration by the same owner, until one of the following conditions has been satisfied:

1. Dealers' certificate. The applicant has submitted a dealers' certificate in a form prescribed by the State Tax Assessor, showing either that the sales tax due in respect to the ATV in question has been collected by the dealer or that the sale of the ATV is exempt from or otherwise not subject to tax under Title 36, chapters 211 to 225;

2. Use tax certificate. The applicant has properly executed and signed a use tax certificate in such form and manner as may be prescribed by the State Tax Assessor

and paid the amount of tax shown in the certificate to be due; or

3. Exemption. The applicant has properly executed and signed a use tax certificate in such form and manner as may be prescribed by the State Tax Assessor showing that the sale or use of the ATV in question is exempt from or otherwise not subject to tax under Title 36, chapters 211 to 225.

§7854-D. Certificates to be forwarded to the State Tax Assessor

Agents of the commissioner shall promptly forward all certificates submitted in accordance with section 7854-C to the commissioner. The commissioner shall transmit all such certificates to the State Tax Assessor.

§7854-E. Collection by State Tax Assessor

The provisions of this section and sections 7854-A to 7854-D must be construed as cumulative of other methods prescribed in Title 36, for the collection of the sales or use tax. Nothing in these sections may be construed as precluding the State Tax Assessor from collecting the tax due in respect to any ATV in accordance with such other methods as are prescribed in Title 36 for the collection of the sales or use tax.

Sec. 6. 36 MRSA §1952-A, as amended by PL 1989, c. 588, Pt. C, §5, is further amended to read:

§1952-A. Payment of tax on vehicles and watercraft

The tax imposed by chapters 211 to 225 on the sale or use of any vehicle or watercraft shall ~~must~~, except where the dealer thereof has collected such tax in full, be paid by the purchaser or other person seeking registration of the vehicle or watercraft at the time and place of registration of such vehicle or watercraft. In the case of vehicles except snowmobiles and all-terrain vehicles, the tax shall ~~must~~ be collected by the Secretary of State and transmitted to the Treasurer of State as provided by Title 29, chapter 5, subchapter 1-A. In the case of watercraft, snowmobiles and all-terrain vehicles, the tax shall ~~must~~ be collected by the Commissioner of Inland Fisheries and Wildlife and transmitted to the Treasurer of State as provided by Title 12, sections 7793-A to 7793-E, 7824-A to 7824-E or 7854-A to 7854-E.

Sec. 7. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

1991-92	1992-93
---------	---------

INLAND FISHERIES AND WILDLIFE,
DEPARTMENT OF

Bureau of Administrative Services

Licensing Services - Inland
Fisheries and Wildlife

Positions	(1.0)	(1.0)
Personal Services	\$17,660	\$18,543
All Other	2,000	2,000

Provides a direct appropriation to replace the Department of Inland Fisheries and Wildlife's current practice of retaining \$1.25 for each use tax certificate on watercraft processed, resulting in an additional \$20,000 annually to the General Fund. Appropriation for the Clerk Typist I position will enable the Department of Inland Fisheries and Wildlife also to collect the use tax on snowmobiles and all-terrain vehicles at the time of registration, estimated to increase General Fund revenues by a minimum of \$40,000 a year.

DEPARTMENT OF INLAND FISHERIES AND WILDLIFE		
TOTAL	\$19,660	\$20,543

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect July 1, 1991.

Effective July 1, 1991.

CHAPTER 587

I.B. 2 - L.D. 720

An Act to Enact the Passenger Rail Service Act

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

23 M.R.S.A. c. 615, sub-c. III is enacted to read:

SUBCHAPTER III

PASSENGER RAIL SERVICE

§7171. Short Title.

This subchapter may be known and cited as the "Passenger Rail Service Act."

§7172. Definitions

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

1. Department. "Department" means the Department of Transportation and any successors to that Department.

2. Government Agency. "Government Agency" includes any department, agency, commission, bureau, authority, instrumentality and political subdivision of:

A. The Federal Government;

B. The State;

C. Any other state; and

D. The Dominion of Canada and any of its provinces.

3. Person. "Person" includes individuals, corporations, Government Agencies, partnerships, joint ventures, business trusts, trusts, associations and all other legal entities.

4. Railroad Line. "Railroad line" or "lines" means the right-of-way, track, track appurtenances, ties, bridges, station houses and other appurtenant structures.

§7173. Initiation and establishment of passenger rail service.

1. Establishment of Service. The Department is directed to take all actions that are reasonably necessary to initiate, establish or reinstate regularly scheduled passenger rail service between points within this State and points within and outside this State. These actions may include, but are not limited to, the acquisition, holding, use, operation, repair, construction, reconstruction, rehabilitation, modernization, rebuilding, relocation, maintenance and disposition of railroad lines, railway facilities, rolling stock, machinery and equipment, trackage rights, real and personal property of any kind whatsoever, and any rights in or related to that property.

2. Acquisition of properties, rights. The Department may acquire any of the properties or rights listed in subsection 1 through purchase, lease, lease-purchase, gift, devise or otherwise. In making these acquisitions the Department may exercise the power of eminent domain following the same procedure set forth in section 7154, subsection 5, except that any notice of condemnation must be filed in the registry of deeds for the county or counties, or registry division or divisions, in which the property is located, in the case of real property, and with the Uniform Commercial Code division of the office of the Secretary of State in the case of personal property.

§7174. Contracts; Studies

In order to implement section 7173 and the purposes of this subchapter, the Department is hereby directed to:

1. Conduct Studies. Conduct, or cause to be conducted, any studies that the Department determines necessary or proper;

2. Enter into contracts. Enter into and fulfill any contracts and agreements which the Department determines necessary or proper;

3. Acquire property. Acquire property, including, but not limited to, railroad lines, both within and outside of this State; and