

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND FIFTEENTH LEGISLATURE

SECOND SPECIAL SESSION

December 12, 1991 to January 7, 1992

SECOND REGULAR SESSION

January 8, 1992 to March 31, 1992

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 30, 1992

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
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J.S. McCarthy Company
Augusta, Maine
1992

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
SECOND REGULAR SESSION

of the
ONE HUNDRED AND FIFTEENTH LEGISLATURE

1991

was served or given pursuant to an order of a court, including service by publication, that the notice was served or given pursuant to the order;

D. An adequate description of real estate involved;

E. A copy of any order that affects the property, with the applicable dates of that order; and

F. A certification by the clerk that any applicable appeal period has expired without action or, if appealed by any party, a certification of the appeal.

Sec. 2. 14 MRSA §2401, sub-§§4 and 5, as enacted by PL 1991, c. 125, are repealed.

See title page for effective date.

CHAPTER 727

S.P. 843 - L.D. 2147

An Act to Prohibit Undocumented Insurance Trade Practices

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

Sec. 1. 24-A MRSA §2184 is enacted to read:

§2184. Credit card charges of insurance purchases

An insurer or any person representing or acting as an agent for an insurer may not charge a premium to a credit card held by an insured or potential insured without a signed written authorization from the insured or potential insured. The insured must sign annually to renew the credit charge authorization.

See title page for effective date.

CHAPTER 728

H.P. 1604 - L.D. 2266

An Act to Amend the Laws Governing the Practice of Hairdressing

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

Whereas, delay in the implementation of this change to the law may prevent some licensed persons from practicing their profession in barbering, cosmetology, manicuring or aesthetics; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Con-

stitution 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. 32 MRSA §14203, sub-§2, ¶G, as enacted by PL 1991, c. 397, §6, is amended to read:

G. On persons in their residences, ~~if the licensee maintains or is employed in a licensed shop;~~ and

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

Effective March 24, 1992.

CHAPTER 729

S.P. 819 - L.D. 2018

An Act Concerning the Freedom of Access Laws as They Relate to Disclosure of Public Employee Personnel Records

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

Whereas, there is an omission in current law that may be interpreted to allow criminal justice intelligence and investigative records in the custody of the Department of Corrections to be examined or disseminated; and

Whereas, disclosure of these sensitive criminal justice records could endanger the life or safety of criminal justice personnel and the law must be clarified immediately to prevent such disclosure; 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. 5 MRSA §7070, sub-§2, ¶E, as amended PL 1991, c. 229, §1, is further amended to read:

E. Complaints Except as provided in section 7070-A complaints, charges or accusations of misconduct, replies to those complaints, charges or accusations and any other information or materials that may result in disciplinary action. If disciplinary action is taken, the final written decision

relating to that action is no longer confidential after the decision is completed.

For purposes of this paragraph, "final written decision" means:

- (1) The final written administrative decision that is not appealed pursuant to a grievance arbitration procedure; or
- (2) If the final written administrative decision is appealed to arbitration, the final written decision of a neutral arbitrator.

A final written administrative decision that is appealed to arbitration is no longer confidential 120 days after a written request for the decision is made to the employer if the final written decision of the neutral arbitrator is not issued and released before the expiration of the 120 days;

Sec. 2. 5 MRSA §7070-A is enacted to read:

§7070-A. Personnel records; deadly force or physical force by law enforcement officer

The name of a law enforcement officer is not confidential under section 7070, subsection 2, paragraph E in cases involving:

1. Deadly force. The use of deadly force by a law enforcement officer; or

2. Physical force. The use of physical force by a law enforcement officer resulting in death or serious bodily injury.

In cases specified in subsections 1 and 2, regardless of whether disciplinary action is taken, the findings of any investigation into the officer's conduct are no longer confidential when the investigation is completed and a decision on whether to bring criminal charges has been made, except that if criminal charges are brought, the findings of the investigation remain confidential until the conclusion of the criminal case.

Sec. 3. 16 MRSA §614, sub-§1, as amended by PL 1985, c. 552, is further amended to read:

1. Limitation on dissemination of intelligence and investigative information. Reports or records in the custody of a local, county or district criminal justice agency, in the custody of the office of State Fire Marshal, in the custody of the Department of Corrections or in the custody of the criminal law enforcement units of the Department of Marine Resources or the Department of Inland Fisheries and Wildlife containing intelligence and investigative information shall be are confidential and shall may not be disseminated, if there is a reasonable

possibility that public release or inspection of the report or record may would:

- A. Interfere with law enforcement proceedings;
- B. Result in public dissemination of prejudicial information concerning an accused person or concerning the prosecution's evidence that will interfere with the ability of a court to impanel an impartial jury;
- C. Result in public dissemination of information about the private life of an individual in which there is no legitimate public interest and ~~which~~ that would be offensive to a reasonable person;
- D. Disclose the identity of a confidential source;
- E. Disclose confidential information furnished only by the confidential source;
- F. Disclose investigative techniques and procedures or security plans and procedures not generally known by the general public; or
- G. Endanger the life or physical safety of law enforcement personnel.

Sec. 4. 25 MRSA §1631, sub-§§15 and 16 are amended to read:

15. Further statistical reports. Statistical reports by Division of Special Services on truck weights, public utility enforcement and beano; and

16. Audits. Annual audits; and

Sec. 5. 25 MRSA §1631, sub-§17 is enacted to read:

17. Investigations of deadly force or physical force by law enforcement officer. The name of a law enforcement officer in cases involving:

A. The use of deadly force by a law enforcement officer; or

B. The use of physical force by a law enforcement officer resulting in death or serious bodily injury.

In cases specified in paragraphs A and B, regardless of whether disciplinary action is taken, the findings of any investigation into the officer's conduct are no longer confidential when the investigation is completed and a decision on whether to bring criminal charges has been made, except that if criminal charges are brought, the findings of the investigation remain confidential until the conclusion of the criminal case.

Sec. 6. 30-A MRSA §503, sub-§1-A is enacted to read:

1-A. Investigations of deadly force or physical force by law enforcement officer. The name of a law enforcement officer is not confidential under subsection 1, paragraph B, subparagraph (5) in cases involving:

A. The use of deadly force by a law enforcement officer; or

B. The use of physical force by a law enforcement officer resulting in death or serious bodily injury.

In cases specified in paragraphs A and B, regardless of whether disciplinary action is taken, the findings of any investigation into the officer's conduct are no longer confidential when the investigation is completed and a decision on whether to bring criminal charges has been made, except that if criminal charges are brought, the findings of the investigation remain confidential until the conclusion of the criminal case.

Sec. 7. 30-A MRSA §2702, sub-§1-A is enacted to read:

1-A. Investigations of deadly force or physical force by law enforcement officer. The name of a law enforcement officer is not confidential under subsection 1, paragraph B, subparagraph (5) in cases involving:

A. The use of deadly force by a law enforcement officer; or

B. The use of physical force by a law enforcement officer resulting in death or serious bodily injury.

In cases specified in paragraphs A and B, regardless of whether disciplinary action is taken, the findings of any investigation into the officer's conduct are no longer confidential when the investigation is completed and a decision on whether to bring criminal charges has been made, except that if criminal charges are brought, the findings of the investigation remain confidential until the conclusion of the criminal case.

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

Effective March 25, 1992.

CHAPTER 730

H.P. 1690 - L.D. 2370

An Act to Enforce Registration of Motor Vehicles

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

Sec. 1. 29 MRSA §102-B is enacted to read:

§102-B. Evasion of registration fees and excise taxes

A person required to register a vehicle in this State who instead registers the vehicle in another state or province is guilty of evasion of registration fees and excise taxes. Violation of this section is a traffic infraction punishable by a fine of not less than \$500 nor more than \$1,000.

The Secretary of State shall notify the State Tax Assessor upon receipt of the court abstract so that the State Tax Assessor may determine whether further investigation is necessary.

See title page for effective date.

CHAPTER 731

H.P. 1682 - L.D. 2362

An Act Concerning the Authority of Podiatrists

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

Whereas, current law allows nurses to execute a medical regimen only when prescribed by a physician or dentist; and

Whereas, the omission of podiatrists from the law has only recently been called to the attention of the professions of nursing and podiatry; and

Whereas, the inability to utilize the service of a nurse in their profession is a major handicap to podiatrists; 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. 32 MRSA §2102, sub-§2, ¶A, as repealed and replaced by PL 1985, c. 724, §2, is amended to read:

A. Diagnosis and treatment of human responses to actual or potential physical and emotional health problems, through such services as case finding, health teaching, health counseling and provision of care supportive to or restorative of life and well-being and execution of the medical regimen as pre-