

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
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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
1992

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
SECOND REGULAR SESSION

of the
ONE HUNDRED AND FIFTEENTH LEGISLATURE

1991

8. Septage permits; municipal enforcement. Pursuant to Title 30-A, section 4452, subsection 6, a municipality may enforce the terms and conditions of a septage land disposal or storage site permit issued by the department under this subchapter.

Sec. 6. Application. Nothing in this Act may be construed to require municipal enforcement of septage land disposal or storage site permits issued by the Department of Environmental Protection or to limit the department's authority to enforce the terms and conditions of a septage land disposal or storage site permit issued by the department.

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

Effective March 26, 1992.

CHAPTER 733

H.P. 1602 - L.D. 2264

An Act to Enhance the Operations of the District Court Violations Bureau

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

Whereas, the violations bureau has been established in the District Court pursuant to Title 4, section 164, subsection 12 and the violations bureau is permitted to accept payment of waiver fines by persons charged with traffic infraction offenses; and

Whereas, as of January 1, 1992 the use of a Uniform Traffic Ticket and Complaint is not permitted in traffic infraction cases; and

Whereas, certain statutes other than Title 29 refer to certain offenses as traffic infractions that, because of their nature and applicable penalties, can not be processed as traffic infractions; and

Whereas, electronic transfer of information between the District Court Violations Bureau and the Office of the Secretary of State, Division of Motor Vehicles is not yet possible and without such electronic transfer of information proper notice of license suspension can not be given by the District Court Violations Bureau as required by Title 29, section 2301-B to those persons suspended for failure to answer a Violation Summons and Complaint or appear for trial; and

Whereas, under current statutes a proper allocation may not be made of the funds deposited to the Government Operations Surcharge Fund from surcharges

added to traffic infraction fines, penalties and forfeitures; 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. 4 MRSA §171-A, as enacted by PL 1975, c. 731, §4, is repealed and the following enacted in its place:

§171-A. Traffic infraction and civil violation complaints

1. Traffic infraction. When a complaint is made to the proper officer of the District Court charging a person with the commission of a traffic infraction the officer of the District Court shall cause to be served upon the person a Violation Summons and Complaint or other process in such form and under such circumstances as the Supreme Judicial Court shall by rule provide.

2. Civil violations. When a complaint is made to the proper officer of the District Court charging a person with the commission of a civil violation other than a traffic infraction, the officer of the District Court shall cause to be served upon the person a Uniform Summons and Complaint or other process in such form and under such circumstances as the Supreme Judicial Court shall by rule provide.

Sec. 2. 4 MRSA §173, sub-§2-A, as enacted by PL 1991, c. 549, §5 and affected by §17, is amended to read:

2-A. Costs in traffic infraction or civil violation cases. The Chief Judge shall establish costs to be paid by a defendant to reopen a traffic infraction or civil violation case after the case has been disposed of by default resulting from the defendant's failure to file a timely written answer or the defendant's failure to appear for trial in court.

In addition to other penalties provided by law, the court may impose on the defendant reasonable costs for the defendant's failure to answer or the defendant's failure to appear in court.

Sec. 3. 4 MRSA §1057, sub-§3, as amended by PL 1991, c. 303, §1, is further amended to read:

3. Reimbursement to counties. Monthly, the Treasurer of State shall make payments from this fund to each county in ~~direct proportion to the amount of revenue obtained from all courts within each county~~ the same proportion as the total amount paid to that county

from the total amount deposited into the fund during the fiscal year ending June 30, 1991 bears to the total amount deposited into the fund during the fiscal year ending June 30, 1991, except that a county may not receive an amount greater than the prior year's expenditures on its jail. The amount of total payments made to counties must equal 2% of the total fines, forfeitures and penalties, including this surcharge, received by the Treasurer of State. The balance remaining in the Government Operations Surcharge Fund at the end of each month must accrue to the General Fund.

Sec. 4. 17 MRSA §2264, sub-§5, as enacted by PL 1989, c. 820, §4, is amended to read:

5. Vehicle operator. From a vehicle. When any litter is thrown or discarded from a vehicle, both the operator of the vehicle, unless it is a vehicle being used for the carriage of passengers for hire, and the person actually disposing of the litter are in violation of this section. The violation is ~~punishable as a traffic infraction~~ civil violation under Title 29, chapter 19. This penalty is in addition to any penalty under section 2264-A.

A record of a violation of this subsection must be forwarded to the Secretary of State who, in accordance with Title 29, section 2304, shall add the violation to the department's point system and the violation is counted in determining an individual's total points under the point system of the Division of Motor Vehicles.

Sec. 5. 17-A MRSA §17, sub-§1, as amended by PL 1991, c. 549, §7 and affected by §17, is further amended to read:

1. A law enforcement officer who has probable cause to believe that a civil violation has been committed by a person must issue or have delivered a written summons to that person directing the person to appear in the District Court to answer the allegation that the person has committed the violation. The summons must include the signature of the officer, a brief description of the alleged violation, the time and place of the alleged violation and the time, place and date the person is to appear in court. The form used must be the Violation Summons and Complaint, as prescribed in Title 29, section 2300, for traffic infractions and the Uniform Summons and Complaint for other civil violations, except that, if the agency by whom the officer is employed has on May 1, 1991 current stocks of forms that the agency is authorized to use, the agency may permit officers to use those forms in place of the Uniform Summons and Complaint until those stocks are depleted. A person to whom a summons is issued or delivered must give a written promise to appear. If the person refuses to sign the summons after having been ordered to do so by a law enforcement officer, the person commits a Class E crime. The 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; Title 23, sec-

tion 1980; Title 28-A, section 2052; or Title 29. ~~As soon as practicable after service of the summons, the officer shall cause a copy of the summons to be filed with the court.~~

Every law enforcement officer issuing a Violation Summons and Complaint charging the commission of a traffic infraction shall file the original of the Violation Summons and Complaint with the violations bureau within 5 days of the issuance of that Violation Summons and Complaint. Every law enforcement officer issuing a Uniform Summons and Complaint that charges the commission of an offense shall file the original of the 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 Summons and Complaint.

Sec. 6. 29 MRSA §111, sub-§2, as repealed and replaced by PL 1975, c. 731, §25, is amended to read:

2. Presentation. ~~No~~ A person charged with violating this section ~~shall may not~~ be adjudicated to have committed a traffic infraction if ~~he~~ that person produces in court a certificate of registration ~~theretofore~~ issued for said vehicle and valid at the time and date of the issuance of the Uniform ~~Traffic Ticket Summons and Complaint~~. If the person charged ~~shall exhibit~~ exhibits to a law enforcement officer designated by the issuing officer ~~such~~ the certificate of registration, not later than 24 hours before the time set for the court appearance, then the traffic infraction proceeding ~~shall must~~ be dismissed.

Sec. 7. 29 MRSA §531-B, as amended by PL 1983, c. 816, Pt. A, §27, is further amended to read:

§531-B. License or permit to be carried and exhibited on demand

Every licensee, including ~~persons~~ a person to whom a temporary ~~driver's operator's~~ license has been issued, and every person to whom an instruction permit has been issued shall have ~~his~~ that person's operator's license or instruction permit in ~~his~~ that person's immediate possession at all times when operating a motor vehicle and shall hand over for inspection the same upon demand of a police officer. ~~No~~ A person charged with violating this section ~~shall may not~~ be adjudicated to have committed a traffic infraction if ~~he~~ that person produces in court an operator's license or instruction permit ~~theretofore~~ issued to ~~him~~ that person and valid at the time and date of the issuance of the Uniform ~~Traffic Ticket Summons and Complaint~~. If the person charged ~~shall exhibit~~ exhibits to a law enforcement officer designated by the issuing officer ~~such~~ an operator's license or instruction permit, not later than 24 hours before the time set for the court appearance, then the traffic infraction proceeding ~~shall must~~ be dismissed.

Sec. 8. 29 MRSA §2241, sub-§4, as amended by PL 1991, c. 293, §3, is further amended to read:

4. Notice of suspension or revocation. Notice Except as provided in section 2301-B, notice of any suspension or revocation ordered or issued under this Title must be sent by regular mail or served in hand. Written notice is sufficient if sent by regular mail to the last known name and address provided by the person, as required by section 546, to the Secretary of State or, in the case of a person who has not applied for or who has not been issued a Maine operator's license, to the last address shown by the records maintained by the Secretary of State. The notice must also state that the license will not be reinstated and the person may not operate a motor vehicle before payment of the reinstatement fee as required under section 2241-D.

Sec. 9. 29 MRSA §2301-B, as enacted by PL 1991, c. 549, §15 and affected by §17, is amended by adding at the end a new paragraph to read:

Written notice is sufficient if sent by regular mail to the last known name and address provided by the person on the Violation Summons and Complaint, written answer to a Violation Summons and Complaint, a written pleading filed with the violations bureau or, if the person has not so provided an address, to the address shown on the Violation Summons and Complaint, a copy of which has been served on the person. The notice must also state that the license, permit or right to operate will not be reinstated and the person may not operate a motor vehicle before payment of the reinstatement fee as required under section 2241-D.

Sec. 10. 30-A MRSA §121, sub-§4, as amended by PL 1989, c. 104, Pt. A, §4 and Pt. C, §§8 and 10, is further amended to read:

4. Parking areas. The county commissioners may lay out parking areas on county lands near county buildings and may enact ordinances for the reasonable use of those areas and enforce them by suitable penalties. Any violation of these ordinances is a ~~traffic infraction~~ civil violation.

County public parking areas are subject to any applicable requirements of the Maine Human Rights Act, Title 5, chapter 337, subchapter V.

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

Effective March 26, 1992.

CHAPTER 734

S.P. 879 - L.D. 2251

An Act to Clarify the Enrollment Period for the 5-year Medical Liability Demonstration Project and to Clarify Provisions of the Rural Medical Access Program

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

Whereas, the 5-year Medical Liability Demonstration Project established in Public Law 1989, chapter 931 began on January 1, 1992; and

Whereas, confusion exists under the statute as to whether or not participants may be enrolled after the initial enrollment period; and

Whereas, physicians who have enrolled after the initial period may believe they are in the project when, in fact, they may not be enrolled as the result of an Attorney General opinion regarding open enrollment; and

Whereas, physicians licensed in the State since November 1, 1991 may wish to participate in the project; 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. 24 MRSA §2976, as enacted by PL 1989, c. 931, §4, is amended to read:

§2976. Physician participation

Any physicians practicing in a medical specialty area for which practice parameters and risk management protocols have been developed and adopted pursuant to section 2973, shall file notice with the Board of Registration in Medicine or the Board of Osteopathic Examination and Registration prior to November 1, 1991, indicating whether they elect to participate in the project. The medical liability demonstration project authorized by this subchapter does not begin with respect to a medical specialty area unless at least 50% of the physicians licensed in the State and practicing in that specialty area elect to participate. Continuation of a project is not dependent on the level of participation. Enrollments may be accepted by the boards after the initial enrollment period,