

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,
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

I understand that if I make this gift and receive a motor vehicle or motorcycle driver's license indicating this gift, I must destroy, cancel or mutilate the organ donor card and pouch to revoke the gift.

Signed by the donor and the following 2 witnesses in the presence of each other.

Signature.....
Address.....

Witness.....
Address.....

Witness.....
Address.....

COMPLETION OF THIS CARD IS OPTIONAL

Sec. 5. Administration of Act. The Department of the Secretary of State shall retain within the Administration - Motor Vehicles Highway Fund account an amount of money from the \$1 fee sufficient to cover the cost of administering this Act. Any revenues collected in excess of costs must be credited to the General Fund.

Sec. 6. Allocation. The following funds are allocated from the Highway Fund to carry out the purposes of this Act.

1992-93

SECRETARY OF STATE, DEPARTMENT OF THE

Administration - Motor Vehicles

All Other \$16,425

Provides funds for the purchase of materials and general operating expenses to implement an anatomical gift program. The expenses of this program will be reimbursed by the collection of fees. This will increase Highway Fund revenue by \$16,425 in fiscal year 1992-93.

Sec. 7. Effective date. This Act takes effect January 1, 1993.

Effective January 1, 1993.

CHAPTER 824

S.P. 849 - L.D. 2162

An Act to Correct Errors and Inconsistencies in the Laws of Maine

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

Whereas, these errors and inconsistencies create uncertainties and confusion in interpreting legislative intent; and

Whereas, it is vitally necessary that these uncertainties and the confusion be resolved in order to prevent any injustice or hardship to the citizens of Maine; 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:

PART A

Sec. A-1. 1 MRSA §814, as amended by PL 1991, c. 538, §1, is repealed and the following enacted in its place:

§814. Purchase of real estate

1. Expansion in the Capitol Area. Whenever the Governor determines that public exigencies require the construction of additional buildings, structures, parking spaces or other facilities for the expansion of State Government in the Capitol Area, the Governor may purchase or take by eminent domain real estate in Augusta.

2. Capitol Area defined. The Capitol Area is defined as the following described premises:

A. The west side of Kennebec River as follows: Beginning at the intersection of the easterly line of Florence Street with the northerly line of Capitol Street; thence easterly along said northerly line of Capitol Street to a point of 150 feet westerly of the intersection of the westerly line of Federal Street projected northerly across said Capitol Street and said northerly line of Capitol Street; thence southerly and parallel to said westerly line of Federal Street about 800 feet to Kennedy Brook; thence following the thread of the stream generally easterly to its intersection with the northerly property line of the land of the State of Maine, being part of

the Motor Vehicles premises; thence westerly about 60 feet along said property line; thence southerly along said property line about 155 feet; thence easterly along said property line about 140 feet; thence southerly along said property line about 120 feet to the northerly line of Manley Street; thence diagonally and southwesterly across Manley Street to its intersection with the northwesterly corner of other land of the State of Maine; thence southerly along said property line extended to the northerly line of Glenwood Street; thence along said Glenwood Street easterly to the westerly line of State Street; thence northerly along said State Street about 150 feet to a point opposite the northerly line of Britt Street; thence across State Street and along the northerly line of said Britt Street easterly to its intersection with property of Augusta Sanitary District; thence northerly and easterly as said property line may run to its intersection with the Kennebec River; thence along said river northerly as the same may run to its intersection with the southerly line of Highway Route 201; thence southwesterly along said highway line, as the same may run, to the easterly line of State Street at its intersection with Memorial Traffic Circle; thence across State Street in a northwesterly direction to the southeasterly line of Grove Street at its intersection with Memorial Traffic Circle; thence southwesterly along said Grove Street to the northerly line of Higgins Street; thence across Grove Street; thence southerly along Grove Street to its intersection with the northerly line of Wade Street; thence westerly about 400 feet in a straight line along Wade Street and its northerly line extended to the westerly line of Sewall Street; thence southerly along Sewall Street to the northerly line of Wade Street where it intersects the westerly line of Sewall Street; thence westerly along the northerly line of Wade Street and thence continuing in a straight line westerly and parallel to Capitol Street to the easterly line of Florence Street; thence southerly along Florence Street to the point of beginning; and

B. The east side of the Kennebec River as follows: Beginning at a point at the intersection of the northerly line of the Old Arsenal Grounds with the westerly line of Hospital Street; thence westerly along said northerly line of the Old Arsenal Grounds 1,680 feet to a point at the Kennebec River; thence following the river generally southwesterly to a point where a projected northeasterly line of Kelton Road would meet the river, being a point 2,185 feet, more or less, from the intersection of said road and the northwesterly line of Hospital Street; thence southeasterly to and along the projected northwesterly line of Kelton Road from the river to a point on the southwest corner of the lands of the Augusta Sanitary District 564.19 feet, more or less, from

the intersection of Kelton Road and Hospital Street; thence northeasterly at an interior angle of 89° 20' a distance of 84.88 feet to a point; thence southeasterly at an interior angle of 90° a distance of 76.09 feet to a point; thence northeasterly at an interior angle of 270° a distance of 98.74 feet to a point; thence at an interior angle of 90° 20' a distance of 212.8 feet, more or less, on a line bearing S 61° 20' E to a point; thence southwesterly at an interior angle of 90° a distance of 36.06 feet, more or less, to a point on the northerly line of the Augusta Sanitary District property; thence in an easterly direction at an angle 90° and a distance of 128.42 feet, more or less, to a point; thence in a northerly direction at an angle of 90° a distance of 73 feet to a point; thence in an easterly direction at an angle of 90° and a distance of 143 feet, more or less, to a point on the westerly line of Hospital Street; thence northeasterly along the westerly line of Hospital Street 3,125 feet to a point on the southeast corner of the lands of the City of Augusta; thence westerly at right angle 185 feet to a point; thence southerly at right angle 25 feet to a point; thence westerly at right angle 115 feet to a point; thence northerly at right angle 140 feet to a point; thence easterly at right angle 115 feet to a point; thence northerly at right angle 20 feet to a stone bound; thence easterly at right angle 185 feet to the westerly line of Hospital Street; thence northerly along the westerly line of Hospital Street 380 feet, more or less, to the point of beginning.

3. Procedure. All proceedings under this section must be in accordance with Title 35-A, chapter 65.

Sec. A-2. 4 MRSA §164, sub-§3, as amended by PL 1983, c. 548, §2, is further amended to read:

3. Days and hours for holding court. Fix the days and hours for holding court in each division, ~~consistent with section 18;~~

Sec. A-3. 5 MRSA §11, 2nd ¶, as amended by PL 1985, c. 785, Pt. B, §7, is further amended to read:

Any payment; made in violation of the compensation plan or the rules pertaining thereto or made to a person appointed or established in ~~his~~ a position in a manner contrary to chapters ~~51 to 56, 60, 65, 67, 71 and 372~~ may be recovered from the appointing authority, the Director of Human Resources or any officer or person making such payment, whoever is culpable, or from the sureties on the official bond of such officer or person. Action for ~~such~~ recovery may be maintained by the State Civil Service Appeals Board or any member thereof, any officer or employee of the state service or any citizen of the State. All ~~moneys~~ money recovered under this section ~~shall~~ must be paid into the State Treasury and credited to the General Fund.

Sec. A-4. 5 MRSA §4601, as amended by PL 1991, c. 99, §27 and c. 100, §1, is repealed and the following enacted in its place:

§4601. Right to freedom from discrimination in education

The opportunity for an individual at an educational institution to participate in all educational, counseling and vocational guidance programs and all apprenticeship and on-the-job training programs without discrimination because of sex, a physical or mental disability, national origin or race is recognized and declared to be a civil right.

Sec. A-5. 5 MRSA §10051, sub-§1, as amended by PL 1991, c. 377, §4 and c. 563, §2, is repealed and the following enacted in its place:

1. Jurisdiction. Except as provided in section 10004; Title 8, section 279-B; Title 10, section 8003; Title 20-A, sections 10712 and 10713; Title 29; Title 32, chapters 105 and 114; and Title 35-A, section 3132, the Administrative Court has exclusive jurisdiction upon complaint of any agency or, if the licensing agency fails or refuses to act within a reasonable time, upon complaint of the Attorney General, to revoke or suspend licenses issued by the agency and has original jurisdiction upon complaint of an agency to determine whether renewal or reissuance of a license of that agency may be refused.

Sec. A-6. 5 MRSA §17001, sub-§13, ¶B, as amended by PL 1991, c. 432; c. 591, Pt. EEE, §3; and c. 618, §2 and affected by §7, is repealed and the following enacted in its place:

B. "Earnable compensation" does not include:

(1) For any member who has 7 years of creditable service by December 1, 1991 or who has reached 60 years of age and has been in service for a minimum of one year immediately before that date, payment for more than 30 days of unused accumulated or accrued sick leave, payment for more than 30 days of unused vacation leave or payment for more than 30 days of a combination of both;

(2) For any member who is not covered by subsection 1, payment for any unused accumulated or accrued sick leave or payment for any unused vacation leave;

(3) Any other payment that is not compensation for actual services rendered or that is not paid at the time the actual services are rendered; or

(4) Teacher recognition grants paid pursuant to Title 20-A, section 13503-A.

A payment for unused sick leave or unused vacation leave may not be included as part of earnable compensation unless it is paid upon the member's last termination before the member applies for retirement benefits.

Sec. A-7. 5 MRSA §17057, as repealed and replaced by PL 1991, c. 480, §2 and as amended by c. 580, §2, is repealed and the following enacted in its place:

§17057. Information not public record

1. Medical information. Medical information of any kind in the possession of the retirement system, including information pertaining to diagnosis or treatment of mental or emotional disorders, is confidential and not open to public inspection and does not constitute "public records" as defined in Title 1, section 402, subsection 3. Records containing medical information may be examined by the employee to whom they relate or by the State or participating local district employer of the employee for any purposes related to any claim for workers' compensation or any other benefit. The employee must be advised in writing by the retirement system of any request by the employer to examine the employee's medical records. Medical information obtained pursuant to this section remains confidential, except as otherwise provided by law, and except when involved in proceedings resulting from an appeal pursuant to section 17451 or proceedings regarding claims for other retirement benefits.

2. Group life insurance information. Information in the possession of the retirement system regarding a participant's designated beneficiary or amount of insurance coverage or group life insurance is confidential and not open to public inspection and does not constitute "public records" as defined in Title 1, section 402, subsection 3.

Sec. A-8. 7 MRSA §2954, sub-§1, as amended by PL 1991, c. 266, §1 and c. 526, §1, is repealed and the following enacted in its place:

1. Commission empowered to establish prices; public hearing. The commission is vested with the power to establish and change, after investigation and public hearing, the minimum wholesale and retail prices to be paid to producers, dealers and stores for milk received, purchased, stored, manufactured, processed, distributed or otherwise handled within the State. The commission shall hold a public hearing prior to the establishing or changing of such minimum prices. The commission may proceed, however, under the emergency rule-making provisions of Title 5, section 8054 without making findings of emergency when the only changes to be made in the minimum prices are to conform with the orders of any federal or other agency duly authorized by law to establish or negotiate producer prices or are to respond to other conditions affecting prevailing Class I, Class II and

Class III prices in southern New England, or reflect the Maine Dairy Farm Stabilization Tax as determined by Title 36, chapter 708-A. Title 5, section 8054, subsection 3, the 2nd sentence, does not apply to minimum prices adopted under the previous sentence. Due notice of the public hearing must be given by publishing notice as provided in Title 5, chapter 375. The commission shall hold such a public hearing not less frequently than once every 12 months to determine whether the minimum wholesale and retail prices then established should be changed. In addition to the data received through the implementation of the information gathering procedures of its rules as a basis for its determinations, the commission shall solicit and seek to receive oral and written testimony at hearings to determine whether the minimum wholesale and retail prices then established should be changed and whether the proposed minimum wholesale and retail prices are just and reasonable.

Sec. A-9. 8 MRSA §261-A, sub-§§4 and 7, as enacted by PL 1991, c. 579, §4 and affected by §18, are amended to read:

4. Term of office. Except as provided in subsection 5 6, members of the commission serve 3-year terms. Any vacancy is filled by appointment for the remainder of the unexpired term. Members whose terms expire serve until their successors are qualified and appointed.

7. Removal. Except as provided in subsection 5 6, the Governor may remove any member of the commission for just cause. A member who is subject to removal must be given a copy of the charges against that member and must, upon request, be given an opportunity to be heard upon 10 days' notice.

Sec. A-10. 9-A MRSA §10-102, sub-§1, as enacted by PL 1989, c. 70, §3, is amended to read:

1. "Credit services organization" is defined as follows.

A. "Credit services organization" means any person who, with respect to the extension of consumer credit by others, provides or offers to provide, in return for the separate payment by the consumer of money or other valuable consideration, any of the following services:

- (1) Improving a consumer's credit record, history or rating;
- (2) Arranging for or obtaining an extension of credit for a consumer; or
- (3) Providing advice or assistance to a consumer with respect to subparagraph (1) or (2).

B. "Credit services organization" does not include:

(1) A supervised financial organization as defined in ~~Title 9-A~~, section 1-301, subsection 38;

(2) A supervised lender as defined in ~~Title 9-A~~, section 1-301, subsection 39;

(3) A person licensed by the Real Estate Commission;

(4) A person currently admitted to the practice of law in this State;

(5) Any nonprofit organization exempt from taxation under the United States Internal Revenue Code, Section 501(c)(3); or

(6) A consumer reporting agency, as defined in the Fair Credit Reporting Act, Title 10, chapter 210.

Sec. A-11. 9-B MRSA §164, sub-§2, as enacted by PL 1977, c. 416, is amended to read:

2. Inducing violation. Any person who intentionally or knowingly induces or attempts to induce any officer or employee of a fiduciary institution or consumer reporting agency to disclose financial records in violation of this ~~sub~~chapter commits a civil violation and ~~shall be~~ is subject to a civil penalty of not more than \$1,000.

Sec. A-12. 10 MRSA §1013, sub-§10, as amended by PL 1991, c. 603, §4, is further amended to read:

10. Student financial assistance counseling and outreach program. The student financial assistance counseling and outreach program, as established in Title 20-A, chapter 430-B; ~~and~~

Sec. A-13. 10 MRSA §1413, sub-§11, as amended by PL 1989, c. 501, Pt. DD, §22, is further amended to read:

11. Manual of Accepted Practices. "Manual of Accepted Practices" means the Manual of Accepted Practices prepared by the ~~State Development Office~~ Department of Economic and Community Development in conformance with the mandatory standards for residential construction as defined in section 1415-C.

Sec. A-14. 10 MRSA §1415-C, sub-§§4, 5 and 6, as enacted by PL 1989, c. 75, §6, are amended to read:

4. Waiver. A waiver from subsection 3 may be granted by the ~~director~~ commissioner on a case-by-case basis for instances of renovation as defined by section 1413, subsection 15. In regards to the renovation of historic buildings, a waiver ~~shall be~~ is granted when the

Executive Director of the State Historic Preservation Commission determines that adherence to the energy building standards would result in irreparable damage to the historic character of a building on the National Register of Historic Places, eligible for nomination to the national register or designated as a historic building by a certified municipal historic preservation ordinance. In other instances, such as the rebuilding of a structure damaged by fire or a historic preservation project when maintaining historic character is not an issue, the director commissioner may grant a waiver when it can be shown that the additional cost of meeting the energy building standards would make the building renovation economically infeasible.

5. Waiver decision. The director commissioner shall render a decision on an application for a waiver from the standards within 30 days of the receipt by the director commissioner of a complete application for a waiver. In rendering a decision, the director commissioner may place conditions upon the granting of a waiver. Failure on the part of the director commissioner to render a decision within the 30-day period ~~shall constitute~~ constitutes approval of the request for the waiver.

6. Waiver application. A request for a waiver under subsection 4 ~~shall must~~ be submitted to the Office of Energy Resources Department of Economic and Community Development in writing and ~~shall must~~ contain the location of the renovation, the intended use of the building and the names of the owner, designer and contractor or builder. If applying for a waiver under the historic preservation provisions of subsection 4, information on the historic character of the building ~~shall must~~ be provided to the director commissioner. If applying for a waiver under the economic hardship provisions of subsection 4, information on the economic infeasibility ~~shall must~~ be provided to the director commissioner.

Sec. A-15. 10 MRSA §1415-E, sub-§1, as enacted by PL 1987, c. 818, §4, is amended to read:

1. Administration. The ~~Office of Energy Resources shall be~~ Department of Economic and Community Development is responsible for the administration and enforcement of the standards established in this chapter. In administering these standards, the ~~Office of Energy Resources Department of Economic and Community Development~~ shall:

A. Work cooperatively with other state, regional and local agencies interested in or affected by these standards and may, by rules promulgated in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, distribute to regional planning councils funds made available for this purpose;

B. Revise the Manual of Accepted Practices to incorporate these mandatory provisions and make

this and other relevant publications available to the towns and cities of this State; and

C. Collect data from municipalities and regional planning agencies on the energy construction characteristics of the residential units built after January 1, 1989 and include an analysis of that data in its biennial energy resources plan.

Sec. A-16. 10 MRSA §1475, sub-§1, as amended by PL 1985, c. 429, §2, is further amended to read:

1. Written disclosure statement. No dealer may sell, negotiate the sale of, offer for sale or transfer any used motor vehicle, including any used motor vehicle transferred to another dealer, unless ~~he- the dealer~~ affixes to the vehicle a conspicuous written statement containing the information required by subsection ~~2~~ 2-A.

Sec. A-17. 11 MRSA §9-302, sub-§(3), ¶(b), as repealed and replaced by PL 1977, c. 526, §41, is amended to read:

(b) The following statutes: Title to motor vehicles, Title 29, ~~section 2350 et seq;~~ chapter 21, but during any period in which collateral is inventory held for sale by a person who is in the business of selling goods of that kind, the filing provisions of this Article, Part 4, apply to a security interest in that collateral created by ~~him~~ that person as debtor; or

Sec. A-18. 12 MRSA §559, sub-§7, as enacted by PL 1981, c. 532, is amended to read:

7. Operation of this section; retroactive date. This section ~~shall does~~ not create a cause of action on behalf of any person against the State for damages or otherwise arising out of state ownership of lands prior to ~~the effective date of this section~~ December 25, 1981. A declaration of confirmation by the Bureau of Public Lands pursuant to subsection 4 ~~shall does~~ not constitute a decision by the State as to which claimant, if any, may have title, and the State, its officers, agents and employees ~~shall are~~ not be liable to any person by reason of having made or having refused to make such a declaration. Failure to apply for or receive confirmation or a declaration under subsection 4 ~~shall does~~ not affect any rights granted or released by this section. This section ~~shall may~~ not be construed to affect the rules of law otherwise in force relating to accretion or reliction of filled or other lands along the great ponds or the coast, nor to either convey or release rights or interest acquired by the State in filled lands by gift, purchase or the power of eminent domain or to affect any obligations, rights or liabilities created by the operation of ~~sections 4701 to 4709 as later replaced by~~ Title 38, sections 471 to 478 480-B to 480-F, 480-Q and 480-R or by permits issued under those sections. This section ~~shall be~~ is retroactive to October 1, 1975.

Sec. A-19. 12 MRSA §674, last ¶, as repealed and replaced by PL 1983, c. 754, §4, is amended to read:

In addition, the bureau may, in the name of the State, institute any appropriate action, injunction or other proceeding to prevent, restrain, correct or abate any violation of this chapter or of the rules or permits issued under it. This action may include, but is not limited to, proceedings to revoke or suspend any bureau permit or approval taken before the Administrative Court, in accordance with Title 4, section 1151, subsection 2; and Title 4, sections 1152 to 1157 or, notwithstanding the provisions of Title 5, section 10051, before the Superior Court, as part of an enforcement action brought by the bureau.

Sec. A-20. 12 MRSA §4807-C, as amended by PL 1985, c. 481, Pt. A, §22, is further amended to read:

§4807-C. Approval of lesser frontage

A lot of less than the frontage required in section 4807-A may be used for subsurface waste disposal if approved in writing by the Department of Human Services. Approval ~~shall~~ must be granted if the applicant for approval demonstrates to the ~~board~~ Department of Human Services that such frontage will not cause such lot to be of such configuration as to prevent compliance with the standards in section 4807-B, or not otherwise present any harm to public health, safety or general welfare.

Sec. A-21. 12 MRSA §7406, sub-§12, as amended by PL 1991, c. 175 and c. 222, is repealed and the following enacted in its place:

12. Hunting without hunter orange clothing. A person is guilty of hunting without hunter orange clothing if that person hunts with firearms during the open firearm season on deer and fails to wear 2 articles of solid-colored hunter orange clothing that are in good, serviceable condition and visible from all sides, except that persons hunting waterfowl from a boat or blind or in conjunction with waterfowl decoys need not wear hunter orange clothing. One article of clothing must be a hat. The other article of clothing must cover a major portion of the torso, such as a jacket, vest, coat or poncho. The presence of a decal on an article of clothing that is otherwise solid-colored hunter orange does not disqualify that article of clothing from satisfying the requirements of this subsection.

Sec. A-22. 13 MRSA §3169, as amended by PL 1977, c. 78, §109, is further amended to read:

§3169. Administration of ministerial and school funds

The ministerial and school funds now held in trust by any town or by a corporation existing under section 3162 may be turned over to the Treasurer of State to be administered in accordance with the terms and provi-

sions of such trust and ~~which shall those funds must~~ be invested by him the Treasurer of State in the same manner as provided for investments in securities enumerated in Title 9-B, sections 551 to 555 chapter 55-A. Such town or corporation thereupon ~~shall be~~ is relieved of any further duties or liabilities for such funds, provided such town, acting under an appropriate article in the warrant at any annual town meeting, ~~shall vote~~ votes to cause such funds to be entrusted to the Treasurer of State.

Sec. A-23. 15 MRSA §1025, as amended by PL 1991, c. 521 and c. 548, Pt. A, §5, is repealed and the following enacted in its place:

§1025. Law enforcement officers

A law enforcement officer may, without fee, take the personal recognizance of any defendant for appearance on a charge of a Class D or Class E crime. If authorized, a law enforcement officer may, without fee, take the personal recognizance with deposit in accordance with Title 12, section 675; Title 12, section 7053, subsection 2, paragraph C; and Title 12, section 9707. The law enforcement officer's authority under this section continues as long as the arrestee remains in the officer's custody.

Sec. A-24. 15 MRSA §3203-A, sub-§7, ¶D, as amended by PL 1991, c. 493, §15, is repealed and the following enacted in its place:

D. Upon the petition of a sheriff or the sheriff's designee, the District Court may approve the transfer of a juvenile who has been bound over pursuant to section 3101, subsection 4 from a separate juvenile section described in paragraph A, or from a detention facility described in paragraph B and operated by the county, to any section of a jail or another secure facility that is intended for use or used primarily for the detention of adults, if the court finds by clear and convincing evidence that the juvenile's behavior presents an imminent danger of harm to that juvenile or to others and that there is no less restrictive alternative to detention in an adult section that serves the purposes of detention.

That determination must be made on the basis of evidence, including reliable hearsay evidence, presented in testimony or affidavits. In determining whether the juvenile's behavior presents a danger to that juvenile or others, the court shall consider, among other factors:

(1) The nature of and the circumstances surrounding the offense with which the juvenile is charged, including whether the offense was committed in an aggressive, violent, premeditated or willful manner;

(2) The record and previous history of the juvenile, including the juvenile's emotional attitude and pattern of living; and

(3) The juvenile's behavior and mental condition during any previous or current period of detention or commitment.

Sec. A-25. 17-A MRSA §1152, sub-§2-A, as amended by PL 1985, c. 821, §4, is further amended to read:

2-A. Every natural person convicted of a crime may be required to make restitution as authorized by chapter 54. Subject to the limitations of chapter 54, restitution may be imposed as a condition of probation or may be imposed in addition to any other sentencing alternative included within subsection 2 with the exception of the alternative in subsection 2, paragraph A.

Sec. A-26. 18-A MRSA §2-805, sub-§(b), as enacted by PL 1979, c. 540, §1, is amended to read:

(b) ~~Where~~ When the title to property or the devolution thereof depends upon priority of death and there is no sufficient evidence that the persons died otherwise than simultaneously, the property of each person ~~shall~~ must be disposed of as if ~~he~~ that person were the survivor, except as provided otherwise in this ~~chapter~~ part.

Sec. A-27. 19 MRSA §502, sub-§2, as repealed and replaced by PL 1985, c. 652, §32, is repealed and the following enacted in its place:

2. Not supporting spouse or dependent child.

When the individual is not supporting such a spouse or dependent child described in subsection 1, 60% of that individual's disposable earnings for that week.

~~With respect to the disposable earnings of any individual for any workweek, the 50% specified in subsection 1, shall be deemed to be 55% and the 60% specified in subsection 2, shall be deemed to be 65% if and to the extent that such earnings are subject to garnishment to enforce a support order with respect to a period which is prior to the 12-week period which ends with the beginning of that workweek. In no event may the amount withheld exceed the limitations imposed by the United States Code, Title 15, Section 1673.~~

Sec. A-28. 19 MRSA §502, as repealed and replaced by PL 1985, c. 652, §32, is amended by adding at the end a new paragraph to read:

With respect to the disposable earnings of any individual for any workweek, the 50% specified in subsection 1 is deemed to be 55% and the 60% specified in subsection 2 is deemed to be 65% if and to the extent that such earnings are subject to garnishment to enforce a support order with respect to a period that is prior to

the 12-week period that ends with the beginning of that workweek. In no event may the amount withheld exceed the limitations imposed by the United States Code, Title 15, Section 1673.

Sec. A-29. 19 MRSA §770, sub-§5, as amended by PL 1981, c. 420, §11, is further amended to read:

5. Arrest in certain situations. When a law enforcement officer has probable cause to believe that there has been a criminal violation of a court approved consent agreement or a protection order issued pursuant to this chapter or Title 15, chapter ~~12~~ 12-A, or that a violation of Title 17-A, section 208, has occurred between members of the same family or household, ~~he~~ that enforcement officer shall arrest and take into custody the alleged offender.

Sec. A-30. 19 MRSA §777, sub-§1, ¶E, as enacted by PL 1985, c. 652, §50, is amended to read:

E. An order for withholding under this section ~~shall have~~ has priority over any other attachment, execution, garnishment or wage assignment unless otherwise ordered by the court, except such an order ~~shall~~ does not have priority over a previously implemented garnishment upon a judgment for support or alimony arrearages or any previously implemented assignment of wages or withholding made pursuant to chapter 7, subchapter V.

Sec. A-31. 20-A MRSA §2102, sub-§4, as amended by PL 1989, c. 700, Pt. A, §46, is further amended to read:

4. Borrowing. Notwithstanding any provision of a union school agreement to the contrary, each municipality participating in a union school construction project shall pay the percentage of the cost of the project ~~which~~ that corresponds to that municipality's percentage of union school operating costs in the year in which the project receives concept approval; ~~he~~ is entitled to the debt service allocation attributable to the bonds or notes ~~which~~ that municipality has issued for the project; and ~~own~~ owns, as a tenant in common with the other participating municipalities, the percentage of the buildings and real property constructed or acquired in conjunction with the project ~~which~~ that corresponds to that municipality's percentage of the original cost of the project. A referendum vote ~~shall~~ must be conducted by each municipality to authorize the issuance of its percentage of the bonds or notes for a school construction project for a union school in accordance with section 15904, subsection 1. Subject to the requirements of chapter 609, each municipality ~~which~~ that is a party to a union school agreement may issue bonds or notes pursuant to Title ~~30~~ 30-A, sections ~~5152~~ 5772 and ~~5153~~ 5773 for school construction purposes to finance its percentage share of the cost of a school construction project for a union school. In the event that a union school agreement is terminated, no

provision of the termination formula or agreement nor the decision of the Commissioner of Education regarding termination may impair the obligations of the municipalities to their bond holders.

Sec. A-32. 20-A MRSA §4502, sub-§2, as enacted by PL 1983, c. 859, Pt. A, §§20 and 25, is amended to read:

2. Curriculum standards. Schools shall also meet all curriculum standards established in ~~chapters 207 and~~ chapter 207-A.

Sec. A-33. 20-A MRSA §§10202 and 10203, as enacted by PL 1983, c. 320, §2, are amended to read:

§10202. Goals and objectives

The goals and objectives of ETLM are to provide those services which, among others, ~~shall~~ must meet the safety needs of industry and the public regarding the quality of construction of products tested by ETLM, the maintenance of high standards for testing conducted by ETLM and the provision of educational and other consultant services, and ~~shall~~ must merge with the educational goals and objectives of ~~SMVTH~~ SMTC.

§10203. Authority

ETLM ~~shall be~~ is an integral part of ~~SMVTH~~ SMTC and may, among other things, conduct tests, list products, supply labels, make reports, provide consultant services, conduct educational programs and provide other services consistent with the overall goals and objectives of ETLM as set forth in section 10202.

Sec. A-34. 20-A MRSA §§11441 to 11445, as enacted by PL 1991, c. 612, §3, are repealed.

Sec. A-35. 20-A MRSA c. 417-C is enacted to read:

CHAPTER 417-C

HIGHER EDUCATION LOAN PROGRAM

§11458. Program established

There is established the Higher Education Loan Program, administered by the Finance Authority of Maine, to carry out the purposes of this chapter.

§11459. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Authority. "Authority" means the Finance Authority of Maine.

2. Eligible program of study. "Eligible program of study" means a certificate program of at least one year, an associate degree program, a baccalaureate degree program or a graduate degree program.

3. Institution of higher education. "Institution of higher education" means an accredited institution of higher education located within the United States.

4. Unmet need. "Unmet need" means the difference between the total cost of attendance for an academic year at an institution of higher education and the total of all sources of financial assistance, including loans, grants, work-study programs and all other available sources, as determined by the authority by rules adopted in accordance with Title 5, chapter 375.

§11460. Eligibility

Loans under this chapter are available only to or for the benefit of a resident of the State who:

1. Graduated. Has graduated from an approved secondary school, matriculated at a postsecondary school prior to high school graduation or successfully completed a high school equivalency diploma or its equivalent;

2. Accepted as undergraduate. Has been accepted for enrollment as an undergraduate or graduate student or is in good standing as an undergraduate or graduate student at an institution of higher education in an eligible program of study and has not previously received the degree for which the student is enrolled;

3. Application. Has applied for a loan under the program according to schedules and procedures and on forms specified by the authority and has provided or caused to be provided all information determined necessary by the authority in order to determine eligibility;

4. Unmet need. Has been determined by the authority to have an unmet need for financial assistance that, if not met, will prevent the student from attending the institution of higher education of that student's choice;

5. Residency. Meets the state residency requirements that may be established by the authority by rule;

6. Loan repayment. Has been determined by the authority to have a reasonable prospect of being able to repay the loan. In appropriate cases, the authority may allow repayments to be deferred and subordinated to repayment of other student loans for such period of time as may be necessary for the borrower to be able to afford to repay the loan; and

7. Academic standing. Is maintaining a grade point average of at least 2.0 on a scale of 4.0, or the equivalent as determined by the authority, provided, however, that the authority may waive the minimum grade point aver-

age in the case of a student demonstrating special circumstances and a substantial likelihood of improvement.

§11461. Higher Education Loan Program Fund

1. Establishment. The Higher Education Loan Program Fund is established to be used by the authority as a nonlapsing, revolving fund for carrying out this chapter. In its discretion, the authority may combine this fund with other funds of the authority for accounting purposes and may establish separate accounts for loans and for a reserve for loan default payments. Money in the fund currently not needed to meet the obligations of the authority as lender or insurer is deposited with the authority to the credit of the fund or may be invested as provided by law.

2. Charges and credits. All amounts received by the authority for deposit to the fund pursuant to this chapter or otherwise must be deposited in the fund. All expenses of the authority in carrying out this chapter, including interest, principal and fee payments required by loan defaults, must be charged to the fund, except that bond proceeds and principal repayments must be used only for loans and not for administrative expenses of the program or other current expenditures.

§11462. Loans to minors

Notwithstanding any other law, if the borrower on a loan made or insured under this program is a minor, an otherwise valid note or other written agreement executed by the borrower for the purpose of the loan creates a binding obligation.

Sec. A-36. 20-A MRSA §11805, sub-§3, ¶A, as repealed and replaced by PL 1991, c. 572 and c. 612, §6, is repealed and the following enacted in its place:

A. The Finance Authority of Maine may expend the money appropriated by the Legislature for the purchase of positions at accredited medical schools to purchase:

- (1) Up to 18 positions each year, to a total of 72 positions, at accredited schools of allopathic medicine;
- (2) Up to 2 positions each year, to a total of 8 positions, at accredited schools of dentistry;
- (3) Up to 2 positions each year, to a total of 8 positions, at accredited schools of veterinary medicine;
- (4) Up to one position each year, to a total of 4 positions, at accredited schools of optometry; and
- (5) Up to 10 positions each year at a college of osteopathic medicine, to a total of 40 po-

sitions. These positions may not be funded by decreasing the number of allopathic positions in subparagraph (1).

Sec. A-37. 20-A MRSA §15005, sub-§1, as amended by PL 1991, c. 429, §5 and c. 591, Pt. I, §6, is repealed and the following enacted in its place:

1. Apportionments. Apportionments to school administrative units and private schools, unless specifically directed by statute, must be made annually commencing in July in the following manner. An amount not to exceed 1/12 of the subsidy must be paid each month no later than the last day of the month. Any balance must be paid within 7 days after the end of the fiscal year. If the balance of state subsidy for a fiscal year is paid after the end of the fiscal year, the final payment may be recorded as an account receivable due from the State in that fiscal year.

Sec. A-38. 20-A MRSA §15618, sub-§2, ¶C, as enacted by PL 1983, c. 859, Pt. G, §§2 and 4, is amended to read:

C. In a municipality, the meeting ~~shall~~ must be called by the municipal officers:

- (1) Within 15 days after receipt of a request from the school board, if the request is received within 15 days of the budget meeting and it specifies the article or articles to be reconsidered; or
- (2) Within 15 days after receipt of a petition presented in accordance with Title 30 ~~30-A~~, section ~~2065~~ 2532, if the petition is received within 15 days of the budget meeting and it specifies the article or articles to be reconsidered.

Sec. A-39. 22 MRSA §42, sub-§3-B, as amended by PL 1985, c. 612, §3, is further amended to read:

3-B. Inspection of plumbing and subsurface waste water disposal systems. The department shall adopt rules providing for the inspection of plumbing and subsurface waste water disposal systems. In municipalities, the municipal officers shall provide for the appointment of one or more plumbing inspectors. In plantations, the assessors shall appoint plumbing inspectors in accordance with Title 30 ~~30-A~~, section ~~3222~~ 4221. In the unorganized areas of the State, the department shall appoint plumbing inspectors or act in the capacity of a plumbing inspector until a person is appointed.

Sec. A-40. 22 MRSA §661, as enacted by PL 1987, c. 519, §1, is amended to read:

§661. Public policy

In the interests of the public health and welfare of the people of this State, it is the declared public policy of this State that the operation of nuclear power facilities licensed to operate in the State ~~shall~~ must be accomplished in a manner consistent with protection of the public health and safety and in compliance with the environmental protection policies of this State. It is the purpose of this chapter, in conjunction with sections 671 to 690; Title 25, sections 51 and 52; Title 37-B, ~~section 951 chapter 17~~; and Title ~~35 35-A~~, sections ~~3331 4331~~ to ~~3393 4393~~, to exercise the jurisdiction of the State to the maximum extent permitted by the United States Constitution and federal law and to establish in cooperation with the Federal Government a State Nuclear Safety Inspector Program for the on-site monitoring, regulatory review and oversight of the operations of commercial nuclear power facilities within the State ~~which that~~ hold an operating license issued by the United States Nuclear Regulatory Commission. Nothing in this chapter may be construed as an attempt by the State to regulate radiological health and safety reserved to the Federal Government by reason of the United States Atomic Energy Act of 1954, as amended.

Sec. A-41. 22 MRSA §2642, sub-§2, as amended by PL 1987, c. 192, §2, is further amended to read:

2. Penalty. Whoever willfully violates any regulation established under the authority of this section ~~shall~~ must, upon conviction, be penalized in accordance with Title ~~30 30-A~~, section ~~4966 4452~~.

Sec. A-42. 22 MRSA §2648, first ¶, as amended by PL 1987, c. 192, §3, is further amended to read:

Any water utility or municipality is authorized to designate by buoys in water or markers on the ice in an area on a lake or pond from which water is taken, with a radius commencing at its point of intake. Such radius ~~shall~~ may not exceed 200 feet and within that area ~~no a~~ person ~~shall~~ may not anchor or moor a boat or carry on ice fishing. Any such buoys placed in the water ~~shall~~ must be plainly marked as required by the Director of the Bureau of Parks and Recreation under Title 38, section 323. Any person violating this section ~~shall~~ must, on conviction, be penalized in accordance with Title ~~30 30-A~~, section ~~4966 4452~~.

Sec. A-43. 22 MRSA §2654, sub-§1, as repealed and replaced by PL 1987, c. 122, §3, is amended to read:

1. Single community water districts. In a single community water district, the vote on the issue of fluoridation ~~shall~~ must be called by a majority vote of the municipal officers acting on their own initiative or pursuant to a petition meeting the requirements established for a referendum vote by the municipality's home rule charter or, if the municipality has no home rule charter, as provided by Title ~~30 30-A~~, section ~~2053 2522~~.

Sec. A-44. 22 MRSA §4004, sub-§1, as amended by PL 1987, c. 744, §1, is further amended by amending the first paragraph to read:

1. General. The department may take appropriate action, consistent with available funding, ~~which that~~ will help achieve the goals of section 4003 and subchapter ~~XI XI-A~~, including:

Sec. A-45. 22 MRSA §4004, sub-§2, ¶B, as amended by PL 1987, c. 744, §2, is further amended to read:

B. Promptly investigate all abuse and neglect cases coming to its attention or in the case of out-of-home abuse and neglect investigations, the department shall act in accordance with subchapter ~~XI XI-A~~;

Sec. A-46. 22 MRSA §4088, sub-§1-A, as enacted by PL 1989, c. 400, §9, is amended to read:

1-A. Applicability of other definitions. Any terms defined or used in ~~subchapter H~~, section 4002; have the same meaning when used in this subchapter.

Sec. A-47. 22 MRSA §5304, sub-§2, as amended by PL 1975, c. 293, §§4 and 5, is further amended to read:

2. Bureau. "Bureau" means the Bureau of ~~Resource Development~~ Child and Family Services, Maine Department of Human Services.

Sec. A-48. 22 MRSA §5308, as amended by PL 1989, c. 400, §11, is further amended to read:

§5308. Bureau of Child and Family Services

There ~~shall be~~ is within the Department of Human Services the Bureau of Child and Family Services. ~~It shall~~ The bureau must be a separate, distinct administrative unit, which ~~shall~~ may not be integrated in any way as a part or function of any other administrative unit of the department. ~~It shall be~~ The bureau is equal in organizational level and status with other major organizational units within the department or its successors. The bureau ~~shall be~~ is under the immediate and full supervision of the commissioner or the chief officer of whatsoever unit ~~shall succeed~~ succeeds the department.

It is the intent of this Part that the bureau shall function as a central office administrative unit of the department with the advice of the council and that the powers, duties, authority and responsibility of the bureau ~~shall~~ may not be delegated, decentralized or assigned to regional, local or other units of the department, except as provided in this section, ~~section 5316 and~~ section 6108 ~~and~~ Title 5, section 464. Regarding any portion of this Part and Part 2 ~~which that~~ relate to provision of services directly to eligible people through staff

employed subject to the Civil Service Law by the department or other organizational units of State Government, the bureau may carry out its powers and duties through regional or other administrative units of the department or State Government.

Regarding any portion of this Part and Part 2 ~~which~~ that relate to development, execution and monitoring of agreements, the bureau shall carry out its powers and duties directly with public or private, nonprofit agencies without acting through other administrative units of the department as intermediaries, except as provided in section 6108. Functions relating to agreements ~~shall do~~ not require the approval of any other unit of the department, except as the bureau is responsible and accountable to the commissioner; and except as the bureau shall function with the advice of the council pursuant to ~~section 5316~~ Title, 5, section 464 and with the consent of the Maine Committee on Aging pursuant to section 5112, subsection 3 and except as provided by section 6108.

The bureau ~~shall be~~ is the sole agency of State Government responsible for administration of this Part and Part 2 subject to the direction of the commissioner. ~~It~~ The bureau shall fully coordinate with appropriate state agencies and fully utilize existing support services.

Sec. A-49. 22 MRSA §8104, sub-§1, as amended by PL 1989, c. 700, Pt. A, §95, is further amended to read:

1. Interagency licensing method. ~~The Commissioners~~ Commissioner of the ~~Departments~~ Department of Education, the Commissioner of Human Services and the Commissioner of Mental Health and Mental Retardation, or their designees, shall jointly establish a method for interagency licensing of residential child care facilities subject wholly or partly to licensing by at least 2 of the departments. The method ~~shall~~ must provide for the following:

- A. Development of common licensing rules;
- B. Periodic review of licensing rules;
- C. Delegation of departmental responsibilities; and
- D. Determination of licensing fees.

Sec. A-50. 24-A MRSA §2178, as enacted by PL 1969, c. 132, §1, is amended to read:

§2178. False applications, claims, proofs of loss; penalty

No agent, broker, solicitor, examining physician, applicant or other person ~~shall~~ may knowingly or willfully make any false or fraudulent statement or representation in or with reference to any application for insurance; or for the purpose of obtaining any money or benefit, knowingly or willfully present or cause to be presented a false or fraudulent claim; or any proof in sup-

port of such a claim for the payment of the loss upon a contract of insurance; or prepare, make, or subscribe a false or fraudulent account, certificate, affidavit or proof of loss, or other document or writing, with intent that the same may be presented or used in support of such a claim. ~~Violations of Persons who violate this section shall be~~ are subject to the penalty provided in section ~~12-A~~ 12-A, or as provided by any other applicable law ~~which~~ that provides a greater penalty.

Sec. A-51. 24-A MRSA §§2847-A, 2847-B and 2847-C are enacted to read:

§2847-A. Penalty for failure to notify of hospitalization

An insurance policy may not include a provision permitting the insurer to impose a penalty for the failure of any person to notify the insurer of an insured person's hospitalization for emergency treatment. For purposes of this section, "emergency treatment" has the same meaning as defined in Title 22, section 1829.

This section applies to policies and certificates executed, delivered, issued for delivery, continued or renewed in this State after the effective date of this section. For purposes of this section, all policies are deemed to be renewed no later than the next yearly anniversary of the contract date.

§2847-B. Jury service

1. Prohibition. An insurer that issues group or blanket health care contracts providing coverage for medical care to residents of this State may not terminate coverage for any person covered under those contracts because the person has been summoned for or is engaged in jury service under Title 14, chapter 305, subchapter I-A.

2. Application. This section applies to all policies and any certificate executed, delivered, issued for delivery, continued or renewed in this State on or after January 1, 1991. For purposes of this section, all contracts are deemed to be renewed no later than the next yearly anniversary of the contract date.

§2847-C. Notification prior to cancellation

The superintendent shall, by January 1, 1991, adopt rules to provide for notification of the insured person and another person, if designated by the insured, prior to cancellation of a health insurance certificate for non-payment of premiums, and to provide restrictions on cancellation when an insured person suffers from organic brain disease.

The rules may include, but are not limited to, definitions, minimum disclosure requirements, notice provisions and cancellation restrictions.

The requirements of this section apply to all policies and certificates executed, delivered, issued for delivery, continued or renewed in this State.

Sec. A-52. 24-A MRSA §2848, as enacted by PL 1989, c. 767, §4; c. 801, §3; and c. 867, §8 and affected by §10, is repealed and the following enacted in its place:

§2848. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Group. “Group” means any of the types of groups under sections 2804 to 2808.

2. Preexisting condition exclusion. “Preexisting condition exclusion” means an exclusion of benefits for a specified or indefinite period of time on the basis of one or more physical or mental conditions for which, preceding the effective date of enrollment:

A. A person experienced symptoms that would cause an ordinarily prudent person to seek diagnosis, care or treatment; or

B. A provider of health care services recommended or provided medical advice or treatment to the person.

3. Subgroup. “Subgroup” means an employer covered under a contract issued to a multiple employer trust or to an association.

4. Waiting period. “Waiting period” means a period of time after the effective date of enrollment during which a health insurance plan excludes coverage for the diagnosis or treatment of any or all medical conditions.

Sec. A-53. 24-A MRSA §2849, as enacted by PL 1989, c. 835, §3 and c. 867, §8 and affected by §10, is repealed and the following enacted in its place:

§2849. Continuity on replacement of group policy

1. Policies subject to this section. Notwithstanding any other provision of law, this section applies to all group policies, except group long-term care policies as defined in section 5051 or group long-term disability policies, issued by insurers or health maintenance organizations to policyholders who are obtaining coverage to replace coverage under a different contract or policy issued by any nonprofit hospital or medical service organization, insurer or health maintenance organization. For purposes of this section, the group policy issued to replace the prior contract or policy is the “replacement policy.” The group contract or policy being replaced is the “replaced contract or policy.”

2. Persons provided continuity of coverage under this section. This section provides continuity of coverage to persons who were covered under the replaced contract or policy at any time during the 90 days before the discontinuance of the replaced contract or policy.

3. Prohibition against discontinuity. In a replacement policy subject to this section, an insurer or health maintenance organization may not, for any person described in subsection 2:

A. Request that the person provide or otherwise seek to obtain evidence of insurability;

B. Decline to enroll the person on the basis of evidence of insurability if the person is otherwise eligible for coverage; or

C. Impose a preexisting condition exclusion period or waiting period on that person, except as provided in this section.

4. Persons covered for fewer than 90 continuous days. Notwithstanding subsection 3, a person who was covered under the replaced contract or policy for fewer than 90 continuous days may be subject to a preexisting condition exclusion or waiting period in the replacement policy, provided the period is not longer than 90 days, and credit is given for satisfaction or partial satisfaction of the same or similar provisions under the replaced contract or policy.

5. Liability after discontinuance. The nonprofit hospital or medical service organization, insurer or health maintenance organization that issued the replaced contract or policy is liable after discontinuance of that contract or policy only to the extent of its accrued liabilities and extensions of benefits.

Sec. A-54. 25 MRSA §2902, sub-§4, as amended by PL 1989, c. 648, §3 and c. 700, Pt. A, §101, is repealed and the following enacted in its place:

4. Maine Highway Safety Commission. The Maine Highway Safety Commission, as authorized by Title 5, section 12004-I, subsection 83, which is under the direction of the Commissioner of Public Safety and advisory to the Governor. The commission consists of not more than 25 members selected by the Governor from state, civic and industrial organizations and individuals with interests relating to highway safety. The Commissioner of Public Safety, the Commissioner of Transportation, the Commissioner of Human Services and the Commissioner of Education, the Secretary of State and the Attorney General shall serve as ex officio members. The ex officio members shall appoint persons in major policy-influencing positions as their designees to represent them at meetings of the commission with voting privileges. The commission members shall serve at the pleasure of the Governor and are compensated in accordance with Title

5, chapter 379. The commission shall stimulate active support for highway safety measures and programs and shall advise the Department of Public Safety regarding these issues. The commission shall annually report its findings and recommendations, including any necessary implementing legislation, to the Governor and to the joint standing committee of the Legislature having jurisdiction over state and local government;

Sec. A-55. 26 MRSA §612-A, as enacted by PL 1987, c. 583, §2, is amended to read:

§612-A. Municipal licensing

This subchapter ~~shall~~ may not be construed to prevent a municipality from acting under its home rule authority granted by Title ~~30~~ 30-A, section ~~2151-A~~ 3001 and by the Constitution of Maine, Article VIII, Part Second, to license or regulate the business of employment agencies or to require a bond.

Sec. A-56. 27 MRSA §505, sub-§2, ¶A, as amended by PL 1989, c. 647, §2 and c. 700, Pt. B, §40, is repealed and the following enacted in its place:

A. The Maine Historic Preservation Commission is under the management and supervision of a director who may adopt rules pursuant to the Maine Administrative Procedure Act to implement this section.

Sec. A-57. 28-A MRSA §606, sub-§1, as amended by PL 1991, c. 227, §1 and c. 376, §52, is repealed and the following enacted in its place:

1. All licensees must buy liquor from commission; exception. Except as provided in this subsection and subsection 1-A, all persons licensed to sell spirits must purchase all such liquor from the commission. Agency liquor stores may not sell liquor to retail licensees for resale.

A. This subsection does not apply to public service corporations operating interstate.

Sec. A-58. 28-A MRSA §1066-A, sub-§2, ¶B, as enacted by PL 1987, c. 342, §93, is amended to read:

B. Employed under section ~~702~~ 704.

Sec. A-59. 29 MRSA §542, first ¶, as amended by PL 1991, c. 591, Pt. V, §1 and c. 597, §18, is repealed and the following enacted in its place:

All new and renewal licenses to operate motor vehicles expire at midnight on the license holder's 4th birthday next following the date of issuance of license. The fee for such license is \$18; except that, effective October 1, 1991, a fee of \$23 must be charged for each new and renewal commercial driver's license.

Sec. A-60. 29 MRSA §831, first ¶, as amended by PL 1991, c. 486, §1 and c. 597, §21, is repealed and the following enacted in its place:

The Secretary of State may not register any motor vehicle rented or leased on plans commonly known as U-Drive, Drive Yourself or Driverless Car plans nor any motor vehicle used for livery or hire other than a limousine, except as provided in section 2708, and no person, firm or corporation may operate or cause to be operated upon any public highway in this State any such motor vehicle, until the owner or owners thereof have procured insurance from a company or insurer authorized to transact business in this State or from a company or insurer that is otherwise approved to provide insurance in this State by the Superintendent of Insurance or a bond, having a surety company authorized to transact business in this State or 2 individuals as sureties thereon, in the amount of \$20,000 because of bodily injury or death to any one person, and subject to the limit respecting one person, in the amount of \$40,000 because of bodily injury to or death to 2 or more persons in any one accident, and in the amount of \$10,000 because of injury to and destruction of property in any one accident, which insurance or bond must indemnify the insured against any legal liability for personal injury, the death of any person or property damage, which injury, death or damage may result from or have been caused by the operation of the motor vehicle described in the contract of insurance or such bond. The policy or bond must provide primary coverage for the operator as well as the owner.

Sec. A-61. 30-A MRSA §381, sub-§2, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is further amended to read:

2. Training at Maine Criminal Justice Academy required. Appointed deputies are subject to the training requirements of Title 25, sections ~~2805 and 2805-A~~ 2804-B to 2804-F.

Sec. A-62. 30-A MRSA §5033, sub-§1, ¶J, as enacted by PL 1989, c. 601, Pt. B, §4, is amended to read:

J. Any other criteria that the authority ~~and the alliance consider~~ considers necessary.

Sec. A-63. 32 MRSA §220, sub-§1, ¶B, as amended by PL 1991, c. 396, §11, is further amended to read:

B. Qualifications.

(1) To be qualified for admission to the examination to practice architecture in this State an applicant must submit evidence to the board that:

(a) The applicant has completed a course of study in a school or college

of architecture approved by the board, with graduation evidenced by a diploma setting forth a satisfactory degree, and 3 years of practical experience in the office of an experienced architect or architects engaged in the practice of architecture as a profession; or

(b) Training The applicant has training or practical experience, or a combination of both, that in the opinion of the board is fully equivalent to that required in division (a).

(2) An applicant for licensure as an architect in this State who has a current and valid license from another jurisdiction and a certificate from the National Council of Architectural Registration Boards may offer to render architectural services in this State prior to licensure by the board if the applicant first notifies the board in writing that the applicant will be present in this State to offer to render architectural services. The applicant may not render architectural services until duly licensed by the board.

Sec. A-64. 32 MRSA §220, sub-§2, ¶B, as amended by PL 1991, c. 396, §11, is further amended to read:

B. Qualifications.

(1) To be qualified for admission to the examination to practice landscape architecture in this State an applicant must submit evidence that:

(a) The applicant has completed a course of study in a school or college of landscape architecture approved by the board, with graduation evidenced by a diploma setting a satisfactory degree and 2 years of practical experience in landscape architectural work of a grade and character satisfactory to the board; or

(b) Training The applicant has training or practical experience, or a combination of both, that in the opinion of the board is fully equivalent to that required in division (a).

(2) An applicant for licensure as a landscape architect in this State who has a current and valid license from another jurisdiction and a Council of Landscape Architectural Registration Boards' certificate may of-

fer to render landscape architectural services in the State prior to licensure by the board provided the applicant first notifies the board in writing that the applicant will be present in the State to offer to render landscape architectural services. The applicant may not render landscape architectural services until duly licensed by the board.

Sec. A-65. 32 MRSA §1551, sub-§8, as enacted by PL 1991, c. 351, §1 and repealed by c. 397, §5, is repealed.

Sec. A-66. 32 MRSA §1652-A, sub-§3, as repealed and replaced by PL 1991, c. 351, §2 and repealed by c. 397, §5, is repealed.

Sec. A-67. 32 MRSA §1655, as amended by PL 1991, c. 351, §3 and repealed by c. 397, §5, is repealed.

Sec. A-68. 32 MRSA §3282-A, sub-§1, as amended by PL 1991, c. 186 and c. 534, §7, is repealed and the following enacted in its place:

1. Disciplinary proceedings and sanctions. The board shall investigate a complaint, on its own motion or upon receipt of a written complaint filed with the board, regarding noncompliance with or violation of this chapter or of any rules adopted by the board.

The board shall notify the licensee of the content of a complaint filed against the licensee as soon as possible, but in no event later than 60 days after receipt of this information. The licensee shall respond within 30 days. If the licensee's response to the complaint satisfies the board that the complaint does not merit further investigation or action, the matter may be dismissed, with notice of the dismissal to the complainant, if any.

If, in the opinion of the board, the factual basis of the complaint is or may be true and is of sufficient gravity to warrant further action, the board may request an informal conference with the licensee. The board shall provide the licensee with adequate notice of the conference and the issues to be discussed. The complainant may attend and may be accompanied by legal counsel and one other person. The conference must be conducted in executive session of the board, unless otherwise requested by the licensee. Before the board decides what action to take at the conference or as a result of the conference, the board shall give the complainant a reasonable opportunity to speak. Statements made at the conference may not be introduced at a subsequent formal hearing unless all parties consent. The complainant, the licensee or either of their representatives shall maintain the confidentiality of the conference.

When a complaint has been filed against a licensee and the licensee moves or has moved to another state, the board may report to the appropriate licensing board in

that state the complaint that has been filed, any other complaints in the physician's record on which action was taken and any disciplinary actions of the board with respect to that physician.

When a person applies for a license under this chapter, the board may investigate the professional record of that person, including any professional records that the person may have as a licensee in other states. The board may deny a license or authorize a restricted license based on the record of the applicant in other states.

If the board finds that the factual basis of the complaint is true and is of sufficient gravity to warrant further action, it may take any of the following actions it determines appropriate.

A. With the consent of the licensee, the board may enter into a consent agreement that fixes the period and terms of probation best adapted to protect the public health and safety and rehabilitate or educate the licensee. A consent agreement may be used to terminate a complaint investigation, if entered into by the board, the licensee and the Attorney General's office.

B. In consideration for acceptance of a voluntary surrender of the license, the board may negotiate stipulations, including terms and conditions for reinstatement, that ensure protection of the public health and safety and serve to rehabilitate or educate the licensee. These stipulations may be set forth only in a consent agreement signed by the board, the licensee and the Attorney General's office.

C. If the board concludes that modification or nonrenewal of the license might be in order, the board shall hold an adjudicatory hearing in accordance with Title 5, chapter 375, subchapter IV.

D. If the board concludes that suspension or revocation of the license is in order, the board shall file a complaint in the Administrative Court in accordance with Title 4, chapter 25.

The board shall require a licensee to notify all patients of the licensee of any probation or stipulation under which the licensee is practicing as a result of board disciplinary action. This requirement does not apply to any physician participating in an alcohol or drug treatment program pursuant to Title 24, section 2505, any physician who retires following charges made or complaints investigated by the board or any physician under the care of a professional and whose medical practices and services are not reduced, restricted or prohibited by the disciplinary action.

Sec. A-69. 34-A MRSA §3040-A, sub-§§1 and 4, as amended by PL 1991, c. 314, §47, are further amended to read:

1. Payment. Except as provided in ~~paragraph D~~ subsection 4, if any client under the control of the department dies, leaving on deposit in the ~~clients' client's~~ client's account at a correctional or detention facility an amount not exceeding \$1,000, and no personal representative of the client's estate is appointed, the chief administrative officer may pay the balance of the client's account to the surviving spouse or next of kin in accordance with the Probate Code, Title 18-A, sections 2-101 to 2-114, to the funeral director having any bill outstanding for the burial of the decedent or to any other preferred creditor or creditors who may appear to be entitled thereto, and shall deliver personal property in the chief administrative officer's custody to the surviving spouse or next of kin in accordance with the Probate Code, Title 18-A, sections 2-101 to 2-114.

4. Alternative payment. Notwithstanding subsection 1, upon presentation of an affidavit under Title 18-A, section 3-1201, the chief administrative officer shall pay the balance of any deposit in the ~~clients' client's~~ client's account at a correctional or detention facility and deliver the decedent's personal property to the client's successor under Title 18-A, sections 3-1201 and 3-1202. The payments under this ~~paragraph subsection~~ subsection take precedence over payments under subsection 1 to the extent of the balance of the deposits in the clients' account and the personal property remaining in the custody of the chief administrative officer at the time the affidavit is presented.

Sec. A-70. 34-B MRSA §3623, as amended by PL 1989, c. 163, is repealed.

Sec. A-71. 36 MRSA §581, 7th ¶, as enacted by PL 1975, c. 726, §1, is amended to read:

No penalty ~~shall~~ may be assessed upon the withdrawal of land from taxation under this subchapter if the owner applies for and is accepted for classification of that land as farmland or open space land under subchapter H-B X, provided that in the event that a penalty is later assessed under section 1112, the period of time that the land was taxed as forest land under this subchapter ~~shall be~~ is included for the purposes of establishing the amount of the penalty.

Sec. A-72. 36 MRSA §653, sub-§1, ¶F, as amended by PL 1989, c. 501, Pt. Z, is further amended to read:

F. To be eligible for exemption under this subsection:

(3) No exemption may be granted to any person under this subsection unless the person is a resident of this State; and

(4) Notwithstanding any other provisions of this paragraph, prior to April 1, 1982, any person claiming an exemption under para-

graph C who is receiving any form of pension or compensation from the Federal Government for total disability, service-connected or nonservice-connected, as a veteran, and any person claiming an exemption under paragraph C-1, D, D-1, D-2 or D-3 ~~shall~~ is not be required to meet the standards specified in former subparagraphs (1) and (2). Any such person who received an exemption in 1980 ~~shall~~ is not be required to reapply in 1981. Exemptions granted under this section ~~which~~ that are reimbursable pursuant to section 661 ~~shall~~ are not be considered eligible for reimbursement under paragraph H. Any person whose exemption is reimbursable under section 661 ~~shall~~ is, for 1981, be entitled to an extension until May 1, 1981, for filing a written application and written proof of entitlement for exemption with the assessors of the place in which the person resides, notwithstanding the provisions of paragraph G.

Sec. A-73. 36 MRSA §1760, sub-§3, ¶E, as amended by PL 1991, c. 546, §17 and repealed by c. 591, Pt. WW, §3 and affected by §4, is repealed.

Sec. A-74. 36 MRSA §3223-A, as enacted by PL 1987, c. 793, Pt. B, §3, is repealed.

Sec. A-75. 36 MRSA §3224, as enacted by PL 1989, c. 502, Pt. A, §135, is repealed.

Sec. A-76. 36 MRSA §5111, sub-§1, as amended by PL 1991, c. 591, Pt. YY, §1 and affected by §§7 and 8, is further amended to read:

1. Single individuals and married persons filing separate returns. For single individuals and married persons filing separate returns:

If Maine taxable income is:	The tax is:
Less than \$4,050	2% of the Maine taxable income
At least \$4,050 but less than \$8,100	\$81 plus 4.5% of the excess over \$4,050
At least \$8,100 but less than \$16,200	\$263 plus 7% of the excess over \$8,100
At least \$16,200 but less than \$37,500	\$830 plus 8.5% of the excess over \$16,200
\$37,500 or more	\$2,641 plus 8.6% of the excess over \$37,500

This subsection is repealed January 1, 1994.

Sec. A-77. 36 MRSA §5111, sub-§2, as amended by PL 1991, c. 591, Pt. YY, §3 and affected by §§7 and 8, is further amended to read:

2. Heads of households. For unmarried individuals or legally separated individuals who qualify as heads of households:

If Maine taxable income is:	The tax is:
Less than \$6,100	2% of the Maine taxable income
At least \$6,100 but less than \$12,150	\$122 plus 4.5% of the excess over \$6,100
At least \$12,150 but less than \$24,300	\$394 plus 7% of the excess over \$12,150
At least \$24,300 but less than \$56,250	\$1,245 plus 8.5% of the excess over \$24,300
\$56,250 or more	\$3,961 plus 8.6% of the excess over \$56,250

This subsection is repealed January 1, 1994.

Sec. A-78. 36 MRSA §5111, sub-§3, as amended by PL 1991, c. 591, Pt. YY, §5 and affected by §§7 and 8, is further amended to read:

3. Individuals filing married joint return or surviving spouses. For individuals filing married joint returns or surviving spouses permitted to file a joint return:

If Maine taxable income is:	The tax is:
Less than \$8,100	2% of the Maine taxable income
At least \$8,100 but less than \$16,200	\$162 plus 4.5% of the excess over \$8,100
At least \$16,200 but less than \$32,400	\$527 plus 7% of the excess over \$16,200
At least \$32,400 but less than \$75,000	\$1,661 plus 8.5% of the excess over \$32,400

Sec. A-87. 38 MRSA §1304, sub-§1-A, ¶B, as enacted by PL 1987, c. 517, §9, is amended to read:

B. Establishment of transporter licensing and conveyance registration fees ~~which, considering the criteria of subsection 14, paragraphs A to C, that are sufficient to recover all costs of administering, monitoring compliance with and enforcing the provisions of this subsection and which fees shall must be paid to the Maine Environmental Protection Fund;~~

Sec. A-88. 38 MRSA §2201, as amended by PL 1991, c. 517, Pt. B, §15 and c. 591, Pt. R, §12, is repealed and the following enacted in its place:

§2201. Maine Solid Waste Management Fund established

The Maine Solid Waste Management Fund, referred to in this section as the "fund," is established as a nonlapsing fund to support programs administered by the Maine Waste Management Agency and the Department of Environmental Protection. The fund must be segregated into 2 subsidiary accounts. The first subsidiary account, called operations, receives all fees established and received under article 1. The 2nd subsidiary account, called administration, receives all fees established under this article and under Title 36, chapter 719, all funds recovered by the department as reimbursement for departmental expenses incurred to abate imminent threats to public health, safety and welfare posed by the illegal disposal of solid waste and all unclaimed deposits returned to the State under Title 32, chapter 28.

Money in the fund not currently needed to meet the obligations of the agency must be deposited with the Treasurer of State to the credit of the fund and may be invested as provided by law. Interest on these investments must be credited to the fund.

Funds related to administration may only be expended in accordance with allocations approved by the Legislature for administrative expenses directly related to the agency's and the department's programs, including actions by the department necessary to abate imminent threats to public health, safety and welfare posed by the illegal disposal of solid waste. Funds related to operations may only be expended in accordance with allocations approved by the Legislature and solely for the development and operation of publicly owned facilities owned or approved by the agency and for the repayment of any obligations of the agency incurred under article 3. These allocations must be based on estimates of the actual costs necessary for the agency and the department to administer their programs, to provide financial assistance to regional associations and to provide other financial assistance necessary to accomplish the purposes of this chapter. Beginning in the fiscal year ending on June 30, 1991 and thereafter, the fund must annually transfer to the General Fund an amount necessary to

reimburse the costs of the Bureau of Taxation incurred in the administration of Title 36, section 5219-D and Title 36, chapter 719 and an amount equal to the General Fund revenues lost as the result of Title 36, sections 2526 and 5219-D. Beginning in the fiscal year ending on June 30, 1992 and thereafter, the fund must transfer to the General Fund an amount equal to the administrative expenses and reimbursement costs directly related to the administration of Title 32, section 1866, subsection 7 and Title 32, section 1866-A by the Treasurer of State. Allowable expenditures include "Personal Services," "All Other" and "Capital Expenditures" associated with all agency activities other than those included in the operations account.

Sec. A-89. 38 MRSA §2310, sub-§2, as amended by PL 1991, c. 377, §22 and c. 520, §20, is repealed and the following enacted in its place:

2. Terms. All appointed members are appointed for staggered terms of 3 years. The President of the Senate and the Speaker of the House of Representatives shall appoint each one member for a one-year initial term, one member for a 2-year initial term and one member for a 3-year initial term. The Governor shall appoint 2 members for one-year initial terms, 2 members for 2-year initial terms and 2 members for 3-year initial terms. A vacancy must be filled by the same appointing authority that made the original appointment. No appointed member may serve more than 2 3-year terms.

Sec. A-90. 39 MRSA §103-B, sub-§4, as amended by PL 1985, c. 372, Pt. A, §40, is further amended to read:

4. Costs. If the employee prevails, costs of appeal shall be are allowed, including the record, and including reasonable attorneys' fees as provided for under section 110. No attorney who represents an employee who prevails in an appeal before the division may recover any fee from that client for that representation. Any attorney who violates this paragraph shall lose his fee subsection loses the fee and is liable in a court suit to pay damages to the client equal to 2 times the fee charged that client.

Sec. A-91. PL 1989, c. 849, §3, 2nd sentence is amended to read:

The report may contain recommendations to add other toxic substances contained in packaging to the list set forth in that chapter in order to further reduce the toxicity of packaging waste, and must contain recommendations whether to continue the recycling exemption provided in Title 32, section 1734, subsection 2, paragraph 3 C and describe the nature of the elements used in lieu of lead, mercury, cadmium and hexavalent chromium.

Sec. A-92. PL 1991, c. 591, Pt. YY, §8 is repealed.

Sec. A-93. Retroactivity. The section of this Act that repeals Public Law 1991, chapter 591, Part YY, section 8 applies retroactively to July 17, 1991.

Sec. A-94. PL 1991, c. 592, Pt. D, §14 is repealed.

Sec. A-95. Retroactivity. The section of this Act that repeals Public Law 1991, chapter 592, Part D, section 14 applies retroactively to July 17, 1991.

Sec. A-96. PL 1991, c. 597, §7 is enacted to read:

Sec. 7. Effective date. Sections 4 and 5 take effect on January 1, 1992.

Sec. A-97. Retroactivity. The section of this Act that enacts Public Law 1991, chapter 597, section 7 applies retroactively to January 1, 1992.

PART B

Sec. B-1. 4 MRSA §1151, sub-§2, as amended by PL 1991, c. 377, §2 and c. 563, §1, is repealed and the following enacted in its place:

2. Licensing jurisdiction. Except as provided in Title 5, section 1004; Title 8, section 279-B; Title 10, section 8003, subsection 5; Title 20-A, sections 10712 and 10713; Title 29; Title 32, chapters 105 and 114; and Title 35-A, section 3132, the Administrative Court has exclusive jurisdiction upon complaint of an agency or, if the licensing agency fails or refuses to act within a reasonable time, upon complaint of the Attorney General, to revoke or suspend licenses issued by the agency and has original jurisdiction upon complaint of a licensing agency to determine whether renewal or reissuance of a license of that agency may be refused. The Administrative Court has original concurrent jurisdiction to grant equitable relief in proceedings initiated by an agency or the Department of the Attorney General alleging any violation of a license or licensing laws or rules.

Notwithstanding any other provisions of law, a licensing agency may not reinstate or otherwise affect a license suspended, revoked or modified by the Administrative Court pursuant to a complaint filed by the Attorney General, without the approval of the Attorney General.

Sec. B-2. 5 MRSA §20, sub-§1, as enacted by PL 1985, c. 737, Pt. A, §15, is amended to read:

1. Employee of this State. "Employee of this State" means an employee in the classified or unclassified service as defined in chapters ~~57 and 71~~ and 372.

Sec. B-3. 5 MRSA §88-A, sub-§2, as amended by PL 1991, c. 249 and c. 595, §2, is repealed and the following enacted in its place:

2. Issuance of card; contents. Upon receipt of a completed application and payment of a fee of \$5, the Secretary of State shall issue an identification card to the applicant. If a person is the holder of a motor vehicle operator's license bearing a photograph of the individual and issued under Title 29, chapter 7, the Secretary of State or the Secretary of State's representative may refuse to issue an identification card. The Secretary of State shall design cards for persons 18 to 21 years of age so that they are readily distinguishable from cards for persons 21 years of age or older. Each card must contain:

A. The applicant's photograph;

B. The applicant's name and address;

C. The applicant's date of birth; and

D. Any other information and identification that the Secretary of State considers necessary.

Sec. B-4. 10 MRSA §1013, sub-§11, as repealed by PL 1991, c. 603, §5 and amended by c. 612, §1, is repealed.

Sec. B-5. 20-A MRSA §2902, sub-§§2 and 4, as enacted by PL 1981, c. 693, §§5 and 8, are amended to read:

2. Language of instruction. Use English as the language of instruction except as specified under section ~~4602~~ 4701;

4. Commissioner's basic curriculum. Provide instruction in the basic curriculum established by rule by the commissioner under section ~~4601, subsection 4~~ 4704;

Sec. B-6. 22 MRSA §680, sub-§5, as enacted by PL 1983, c. 345, §§13 and 14, is amended to read:

5. Exemptions. The department may, upon application by an interested person, or on its own initiative, grant such exemptions from the requirements of this section as it determines are in the public interest. Applications for exemption under this ~~paragraph~~ subsection may include activities; such as, but not limited to, the use of licensed materials for educational or noncommercial displays or scientific collections.

Sec. B-7. 22 MRSA §2649, sub-§2, as enacted by PL 1987, c. 353, §1, is amended to read:

2. Existing rules. Any rules that are adopted must be at least as strict as those already in existence for that body of water. Nothing in this section may be construed to limit in any way the authority of the municipal officers to enact ordinances under Title ~~30~~ ~~30-A~~, section ~~2151, subsection 7~~ section 3009, subsection 1, paragraph E, or any private and special law granting a water utility or municipality greater control for protecting its public water supply than those set forth in this section.

Sec. B-8. 30-A MRSA §3758, sub-§2, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is further amended to read:

2. Penalties. Whoever violates this subchapter or the rules of the Department of Transportation adopted under section 3759 ~~shall~~ **must** be penalized in accordance with section ~~4506~~ **4452**. Each day that the violation continues constitutes a separate offense.

Sec. B-9. 30-A MRSA §4215, sub-§3, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is further amended to read:

3. Penalties. Any person who installs or orders the installation of any plumbing or subsurface ~~waste wa-~~ ~~ter~~ **wastewater** disposal system without the permit required by this section or who otherwise violates this section ~~shall~~ **must** be penalized in accordance with section ~~4506~~ **4452**. The municipality or the department may seek to enjoin violations of this section.

Sec. B-10. 36 MRSA §151, first and 2nd ¶¶, as amended by PL 1989, c. 848, §3 and c. 871, §2, are repealed and the following enacted in their place:

Any person who is subject to an assessment by the State Tax Assessor or entitled by law to receive notice of a determination of the State Tax Assessor and who is aggrieved as a result of that action may request in writing, within 30 days after receipt of notice of such a decision, reconsideration by the State Tax Assessor of that decision.

If a request for reconsideration is filed within the specified time period, the State Tax Assessor shall reconsider the decision. If the person requesting reconsideration requests at the same time, in writing, an informal conference, the State Tax Assessor shall provide an opportunity for an informal conference with the person to receive additional information and to hear argument regarding the protested decision. The State Tax Assessor shall give the person 10 working days' notice of the time and place of the conference. The conference may be held with less than 10 working days' notice if a mutually convenient time and place can be arranged between the person and the State Tax Assessor. The reconsideration, with or without an informal conference, is not an adjudicatory proceeding as defined in Title 5, section 8002.

Sec. B-11. 36 MRSA §4435, as enacted by PL 1987, c. 772, §35, is amended to read:

§4435. Report of conviction

Any district attorney's office ~~which that~~ prosecutes a dealer for trafficking in or furnishing marijuana or scheduled drugs, with respect to all or part of those scheduled drugs or marijuana ~~referred to in subsection 1~~, shall report, upon conviction of the dealer, the conviction to

the State Tax Assessor within 30 days of the conviction. The report ~~shall~~ **must** contain such information as may be required by the State Tax Assessor.

Sec. B-12. 39 MRSA §21-A, sub-§1, as enacted by PL 1985, c. 249, §4, is amended by amending the first 3 paragraphs to read:

1. Private employers. Every private employer is subject to this Act and shall secure the payment of compensation in conformity with this section, section 22-A and sections ~~22~~ **23** to 27 with respect to all employees, subject to the provisions of this section.

Any private employer who has not secured the payment of compensation under this section, section 22-A and sections ~~22~~ **23** to 27 is not entitled, in a civil action brought by an employee or ~~his~~ the employee's representative, for personal injuries or death arising out of and in the course of ~~his~~ employment, to the defense set forth in section 3. The employee of any such employer may, instead of bringing a civil action, claim compensation from the employer under this Act.

The following employers are not liable under this section for securing the payment of compensation in conformity with this section, section 22-A and sections ~~22~~ **23** to 27 with respect to the employees listed, nor deprived of the defenses listed in section 3:

Sec. B-13. PL 1989 c. 501, Pt. O, §22, as amended by PL 1989, c. 596, Pt. C, §8; c. 600, Pt. B, §§9 and 10; and c. 878, Pt. D, §§14 and 15, is repealed and the following enacted in its place:

Sec. 22. Effective date. Sections 1 to 6 of this Part take effect December 5, 1990. Sections 7, 9, 11, 12, 14, 15 and 17 take effect September 4, 1989. Sections 10, 13 and 16 take effect December 3, 1990.

Sec. B-14. Retroactivity. The section of this Act that repeals and replaces Public Law 1989, chapter 501, Part O, section 22 takes effect retroactive to July 1, 1989.

Sec. B-15. PL 1991, c. 597, §34 is enacted to read:

Sec. 34. Effective date. Sections 4 and 5 of this Act take effect on January 1, 1992.

Sec. B-16. Retroactivity. The section of this Act that enacts Public Law 1991, chapter 597, section 34 takes effect retroactive to January 1, 1992.

PART C

Sec. C-1. 10 MRSA §1013, sub-§13, as enacted by PL 1991, c. 612, §2, is amended to read:

13. Higher Education Loan Program. The Higher Education Loan Program as established in Title 20-A, chapter ~~417-B~~ 417-C.

Sec. C-2. 10 MRSA §1415-F, as enacted by PL 1989, c. 75, §7, is amended to read:

§1415-F. Manual of Accepted Practices

The ~~director~~ commissioner shall prepare a Manual of Accepted Practices, ~~which shall consist that consists~~ of building procedures and building materials to enable builders of one-family and 2-family structures to conform to the residential standards in section 1415-C.

Sec. C-3. 20-A MRSA §13016, sub-§1, ¶C, as enacted by PL 1983, c. 845, §4, is amended to read:

C. Notwithstanding paragraphs A and B, the commissioner may grant an extension for not more than 2 years based on:

- (1) The recommendation of the superintendent;
- (2) The recommendation of the support system ~~which~~ that includes a Teacher Action Plan describing the goals to be met by the teacher to achieve a professional certificate, specific steps needed to achieve those goals, and criteria for measuring whether those steps have been successfully completed;
- (3) If there is an inconsistency between the recommendations in subparagraphs (1) and (2), the commissioner may hold a fact-finding hearing in the school administrative unit where the teacher is employed. At the hearing, the Teacher Action Plan, superintendent's recommendations and support system recommendations ~~shall~~ must be presented. With the consent of the teacher the hearing may be open to the public; and

Sec. C-4. 38 MRSA §352, sub-§5-A, as amended by PL 1991, c. 591, Pt. U, §1, is further amended in that part designated "TABLE I" by repealing that part relating to "TITLE 38" "SECTION 590" and inserting in its place the following:

590, Air emissions license

See section 353-A

Sec. C-5. 39 MRSA §52-B, 2nd ¶, as enacted by PL 1991, c. 615, Pt. A, §27, is amended to read:

In order to qualify for reimbursement for health care services provided to employees under this Title, health care providers providing individual health care services and courses of treatment may not charge more for the services or courses of treatment for employees than is charged to private 3rd-party payers payors for

similar services or courses of treatment. An employer is not responsible for charges that are determined to be excessive or treatment determined to be inappropriate by an independent medical examiner pursuant to section ~~92-A~~ 92-B.

Sec. C-6. 39 MRSA §52-D, sub-§1, as enacted by PL 1991, c. 615, Pt. D, §5, is amended to read:

1. Purpose. To ensure quality treatment for injured employees and to provide reasonable and proper health care services, the Medical Coordinator shall develop and implement a medical utilization review and case management program consistent with the requirements of this section. The Medical Coordinator shall utilize independent medical examiners from the lists maintained pursuant to section ~~92-A~~ 92-B to perform the medical utilization review and case management.

PART D

Sec. D-1. 14 MRSA §2401, sub-§3, as amended by PL 1991, c. 726, §1, is further amended to read:

3. Judgment required; recording and contents. ~~The court shall name the party or parties responsible for preparing and recording the judgment in the registry of deeds in the county or counties in which the subject property is located, and for paying the recording fees.~~ The judgment must be signed by the judge and contain the following provisions:

- A. The names and addresses, if known, of all parties to the action, including the counsel of record;
- B. The docket number;
- C. A certification finding that all parties have received notice of the proceedings, ~~that the notice was given~~ in accordance with the applicable provisions of the Maine Rules of Civil Procedure and, if the notice 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; and
- E. ~~A copy of any order that affects the property, with the applicable dates of that order; and~~
- F. A certification to be signed by the clerk after the appeal period has expired, certifying that any applicable appeal period has expired without action or, if appealed by any party, a certification of the appeal. either:

- (1) Any applicable appeal period has expired without action; or

(2) An appeal has been filed and naming the appellant.

Unless a proposed judgment with the provisions required in this subsection is presented to the court at the time of the court's decision, the court shall name the party responsible for preparing a judgment with the required provisions. If an appeal is not filed, an attested copy of the judgment with the signed clerk's certification that an appeal has not been taken must be recorded in the county or counties where the subject property is located. The court shall also name the party responsible for recording the attested copy of the judgment and for paying the appropriate recording fees.

Sec. D-2. Effective date. That section of this Part that amends the Maine Revised Statutes, Title 14, section 2401, subsection 3 takes effect 90 days after adjournment of the Second Regular Session of the 115th Legislature.

Sec. D-3. 17-A MRSA §806, sub-§1, as amended by PL 1991, c. 559 and c. 565, is repealed and the following enacted in its place:

1. A person is guilty of criminal mischief if that person intentionally, knowingly or recklessly:

A. Damages or destroys the property of another, having no reasonable grounds to believe that the person has a right to do so; damages or destroys property to enable any person to collect insurance proceeds for the loss caused; or tampers with the property of another, having no reasonable grounds to believe that the person has the right to do so, and thereby impairs the use of that property;

B. Damages, destroys or tampers with property of a law enforcement agency, fire department, or supplier of gas, electric, steam, water, transportation, sanitation or communication services to the public, having no reasonable grounds to believe that the person has a right to do so, and by such conduct recklessly creates a risk of interruption or impairment of services rendered to the public; or

C. Drives or places in any tree or saw log, without the prior consent of the owner, any iron, steel or other substance sufficiently hard to damage saws or wood manufacturing or processing equipment with intent to cause inconvenience, annoyance or alarm to any other person.

Sec. D-4. 28-A MRSA §1061, sub-§4, ¶A, as amended by PL 1991, c. 376, §53 and repealed and replaced by c. 583, is repealed and the following enacted in its place:

A. The number of rooms required is based on the population of the municipality in which the hotel is located, as reported in the 1960 Federal Decennial Census. If the population reported in the most

recent Federal Decennial Census is at least 20% less than the population reported in the 1960 census, the most recent Federal Decennial Census must be used to determine the number of rooms required.

(1) If the hotel is located in a municipality having a population of 7,500 or less, the hotel must have at least 12 adequate sleeping rooms.

(2) If the hotel is located in a municipality having a population of more than 7,500, the hotel must have at least 30 adequate sleeping rooms.

Sec. D-5. 36 MRSA §4697, as amended by PL 1991, c. 376, §60 and c. 446, Pt. B, §7, is repealed and the following enacted in its place:

§4697. Reports of production and payment of tax

Every packer shall, on or before the last day of each month, report to the State Tax Assessor the quantity of sardines, kippers or steaks packed by the packer during the preceding calendar month, on forms furnished by the State Tax Assessor, and pay to the State Tax Assessor the tax of 35¢ per case on all sardines reported as packed and 15¢ per case on all kippers or steaks reported as packed. If the State Tax Assessor determines that overpayment of tax has been made, the State Tax Assessor shall make a refund. In making additional assessment or refund determinations, the State Tax Assessor shall rely on the records of the Maine Sardine Council concerning the quantity of sardines, kippers or steaks packed in each sardine plant that is for sale and suitable for human consumption. Any packer may pay to the State Tax Assessor in advance a sum of money based on an estimate of the packer's tax for a given number of months and this sum is a credit against future monthly reports of that packer.

Sec. D-6. 36 MRSA §5200-A, sub-§1, ¶H, as repealed and replaced by PL 1991, c. 548, Pt. A, §27 and c. 591, Pt. N, §9 and affected by §10, is repealed and the following enacted in its place:

H. The absolute value of the amount of any net operating loss arising from tax years beginning on or after January 1, 1989 but before January 1, 1993 that, pursuant to the United States Internal Revenue Code, Section 172, is being carried back for federal income tax purposes to the taxable year by the taxpayer.

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

Effective April 6, 1992, unless otherwise indicated.