

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND FIFTEENTH LEGISLATURE

SECOND SPECIAL SESSION

December 12, 1991 to January 7, 1992

SECOND REGULAR SESSION

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PUBLISHED BY THE REVISOR OF STATUTES
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J.S. McCarthy Company
Augusta, Maine
1992

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
SECOND REGULAR SESSION

of the
ONE HUNDRED AND FIFTEENTH LEGISLATURE

1991

CHAPTER 850

H.P. 1749 - L.D. 2438

An Act to Improve the Effectiveness of the Driver Education and Evaluation Programs

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

Sec. 1. 5 MRSA §12004-G, sub-§15-A, as amended by PL 1991, c. 622, Pt. Y, §1, is further amended to read:

15-A. Substance Abuse	Safety Training Operating-under-the-influence Programs Appeals Board <u>Driver Education and Evaluation Programs Appeals Board</u>	\$75/Day	5 MRSA §20078
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Sec. 2. 5 MRSA §20003, sub-§3, as enacted by PL 1989, c. 934, Pt. A, §3, is amended to read:

3. Approved treatment facility. "Approved treatment facility" means a public or private alcohol treatment facility meeting standards approved by the office in accordance with section 20005 and licensed pursuant to ~~Title 22, chapter 1602, subchapter V~~ and other applicable provisions of state law.

Sec. 3. 5 MRSA §20005, sub-§5, as amended by PL 1991, c. 601, §6, is further amended to read:

5. Budget. Develop and submit to the Legislature by January 15th of the first year of each legislative biennium recommendations for continuing and supplemental allocations, deappropriations or reduced allocations and appropriations from all funding sources for all state alcohol and drug abuse programs. The office shall make final recommendations to the Governor before any substance abuse funds are appropriated or deappropriated in the Governor's proposed budget. The office shall formulate all budgetary recommendations for the Driver Education and Evaluation Programs with the advice, consultation and full participation of the chief executive officer of the Driver Education and Evaluation Programs;

Sec. 4. 5 MRSA §20005, sub-§6, ¶B, as amended by PL 1991, c. 557, §1 and c. 601, §6, is repealed and the following enacted in its place:

B. Establish operating and treatment standards and inspect and issue certificates of approval for approved treatment facilities, drug abuse treatment facilities or programs, including residential treatment centers and community-based service pro-

viders pursuant to section 20024 and subchapter V; and

Sec. 5. 5 MRSA §20024, first ¶, as amended by PL 1991, c. 601, §18, is further amended to read:

The office shall periodically enter, inspect and examine a treatment facility or program and examine its books, programs, standards, policies and accounts. This examination process must include a review of the requirements to be a community-based service provider pursuant to subchapter V. The office shall fix and collect the fees for the inspection and certification and shall maintain a list of approved public and private treatment facilities.

Sec. 6. 5 MRSA §20072, as amended by PL 1991, c. 622, Pt. Y, §3, is further amended to read:

§20072. Driver Education and Evaluation Programs

The ~~safety training operating under the influence programs~~ Driver Education and Evaluation Programs are established in the Office of Substance Abuse and shall administer the alcohol and other drug ~~safety training operating under the influence education, evaluation and treatment~~ programs as provided in this chapter. The office shall certify to the Secretary of State:

1. Completion of Driver Education and Evaluation Programs. Those individuals who have satisfactorily completed a program prescribed by section 20073-A; and

2. Completion of treatment other than Driver Education and Evaluation Programs. Those individuals who have satisfied the requirement for completion of treatment as defined in section 20071 by means other than a program prescribed by section 20073-A. The Office of Substance Abuse may charge an administrative fee, not to exceed \$50, to clients under this ~~paragraph subsection.~~ This fee must be transferred to the General Fund.

Sec. 7. 5 MRSA §20073-A, sub-§3, as enacted by PL 1991, c. 622, Pt. Y, §5, is amended to read:

3. First offender with an aggravated offense and multiple offenders; adult. ~~The safety training operating under the influence program required for adult~~ Adult first offenders with an aggravated operating under the influence offense and multiple offenders shall attend the Weekend Intervention Program as established in this subsection. The Weekend Intervention Program consists of the following components:

A. A rigorous, highly structured, residential intervention program, consisting of at least 22 hours, using films, lectures, group discussion and individual sessions, designed to educate the client on the effects of substance use, abuse and addiction and an

evaluation using assessment instruments, data collection and self-assessment; and

B. A treatment program provided by a community-based service provider, designed to address the client's specific alcohol or other drug problem and abuse, using a treatment plan based on the completion of treatment guidelines adopted by the office, if additional treatment is required as a result of the evaluation.

Sec. 8. 5 MRSA §20073-A, sub-§4 is enacted to read:

4. Multiple offenders under 21 years of age. Multiple offenders under 21 years of age shall attend the Weekend Intervention Program under subsection 3.

Sec. 9. 5 MRSA §20074, as amended by PL 1991, c. 622, Pt. Y, §6, is further amended to read:

§20074. Separation of evaluation and treatment functions

A ~~safety training operating under the influence programs~~ Driver Education and Evaluation Programs private practitioner or a counselor employed by a substance abuse facility approved or licensed by the office providing services under this subchapter may not provide both treatment services and evaluation services for the same individual participating in programs under this subchapter unless a waiver is granted on a case-by-case basis by the Driver Education and Evaluation Programs. The practitioner or counselor providing evaluation services shall give a client the name of 3 practitioners or counselors who can provide treatment services, at least one of whom may not be employed by the same agency as the practitioner or counselor conducting the evaluation.

Sec. 10. 5 MRSA §20075, as enacted by PL 1991, c. 601, §28, is amended to read:

§20075. Certification; recertification

All providers of the evaluation, intervention and treatment components of the ~~program~~ Driver Education and Evaluation Programs must be certified by the office pursuant to section 20005 and this subchapter. The certification period for individual providers and agencies is ~~3 years and 2 years for agencies.~~ The office shall adopt rules requiring continuing education for recertification.

Sec. 11. 5 MRSA §20078, first ¶, as amended by PL 1991, c. 622, Pt. Y, §9, is further amended to read:

The ~~Safety Training Operating under the influence~~ Driver Education and Evaluation Programs Appeals Board, established by Title 5, section 12004-G, subsection 15-A, is referred to as the "board" in this subchapter and is governed by this section.

Sec. 12. 5 MRSA §20078, sub-§§1, 6 and 7, as amended by PL 1991, c. 622, Pt. Y, §10, are further amended to read:

1. Qualifications. Each member of the board must have training, education, experience and demonstrated ability in successfully treating clients with substance abuse problems. Board members may not hold a current certificate to provide ~~safety training operating under the influence~~ Driver Education and Evaluation Programs services during their terms of appointment.

6. Appeal from decision. A Driver Education and Evaluation Programs client of ~~safety training operating under the influence~~ programs may appeal to the board as follows.

A. The client may appeal a failure to certify completion of treatment pursuant to section 20072, subsection 2.

B. The client may appeal an evaluation decision referring the client to treatment or a completion-of-treatment decision pursuant to section 20073-A. A client may appeal under this paragraph only after the client has sought a 2nd opinion of the need for treatment or of satisfactory completion of treatment.

7. Appeal procedure and action. An appeal is heard and decided by one board member. The board may affirm or reverse the decision of the treatment provider or agency, require further evaluation, make a finding of completion of treatment or make an alternate recommendation. The board, after due consideration, shall make a written decision and transmit that decision to the ~~safety training operating under the influence programs~~ Driver Education and Evaluation Programs and the client who appealed the case. The decision of the board is final agency action for purposes of judicial review pursuant to Title 5, chapter 375, subchapter VII.

Sec. 13. 5 MRSA §20078, sub-§8, as enacted by PL 1991, c. 601, §28, is amended to read:

8. Repeal. This section and Title 5, section 12004-G, subsection 15-A are repealed July 1, 1992 1993.

Sec. 14. 5 MRSA §20078, sub-§9 is enacted to read:

9. Report. The board shall report on its activities under this section by April 1, 1993 to the joint standing committees of the Legislature having jurisdiction over human resource matters and audit and program review matters.

Sec. 15. 29 MRSA §1312-B, sub-§2, ¶D-1, as amended by PL 1991, c. 622, Pt. Y, §11, is further amended to read:

D-1. In addition to the penalties provided under paragraphs B, C and D, the court shall order the defendant to participate in the ~~alcohol and other drug safety training operating under the influence program for first offenders with an aggravated operating under the influence offense and multiple offenders~~ Weekend Intervention Program administered by the Office of Substance Abuse, as defined in Title 5, chapter 521. The court may waive the ~~first offender with an aggravated operating under the influence or multiple offender intervention program~~ Weekend Intervention Program under Title 5, section 20073-A, subsection 3, if the court finds that the defendant has completed a residential treatment program, or its equivalent, subsequent to the date of the offense.

Sec. 16. 29 MRSA §1312-D, sub-§2-A, as amended by PL 1991, c. 622, Pt. Y, §12, is further amended to read:

2-A. Special licenses for Driver Education and Evaluation Programs participants. Following the expiration of the total period of suspension imposed on a ~~first time~~ first-time offender pursuant to Title 15, section 3314 or section 1312-B, the Secretary of State shall issue a special license or permit to the person if the Secretary of State receives written notice that the person has completed the assessment components of the alcohol and other drug program as set out in Title 5, section 20073-A. ~~First offenders with an aggravated operating under the influence offense as defined in Title 5, section 20071, subsection 4-B~~ are entitled to received a special license after completion of the evaluation provided by the Office of Substance Abuse. A special license or permit may not be issued under this section to 2nd and subsequent offenders.

Sec. 17. Special purpose audit. The State Auditor shall issue a separate special purpose audit report based on agreed upon procedures of the Office of Substance Abuse and the Driver Education and Evaluation Programs, including a review of the programs' participation in federal maintenance of effort requirements for substance abuse programs. The State Auditor shall submit findings to the joint standing committees of the Legislature having jurisdiction over audit and program review, human resources and appropriations and financial affair matters by July 1, 1992.

Sec. 18. Funding; appropriation. Funds appropriated to the Office of Substance Abuse may not be less than the revenue generated through fees by the Driver Education and Evaluation Programs. The Driver Education and Evaluation Programs must be funded at the level needed to provide the required services to all clients in a timely manner.

Sec. 19. Retroactivity. That section of this Act that amends the Maine Revised Statutes, Title 5, section 20078, subsection 8 applies retroactively to July 1, 1992.

See title page for effective date.

CHAPTER 851

H.P. 1755 - L.D. 2441

An Act Concerning Fuel Oil and Coal Used in Manufacturing Processes

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

Sec. 1. 36 MRSA §1760, sub-§9-G is enacted to read:

9-G. Fuel oil or coal. Fuel oil or coal, the by-products from the burning of which become an ingredient or component part of tangible personal property for later sale.

See title page for effective date.

CHAPTER 852

H.P. 1768 - L.D. 2451

An Act to Revise the Salaries of Certain County Officers

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

Whereas, it has become necessary to revise the salaries of certain county officials; and

Whereas, it is desired to have these revisions retroactive to January 1, 1992; 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:

30-A MRSA §2, sub-§1, as repealed and replaced by PL 1991, c. 541, §1, is repealed and the following enacted in its place: