

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

13. Fee waiver. An issuing authority may waive the permit fee for a permit issued to a law enforcement officer certified by the Maine Criminal Justice Academy.

Sec. 5. 25 MRSA §2003, sub-§14 is enacted to read:

14. Lapsed permit. A person may apply for renewal of a permit at the permit renewal rate at any time within 6 months after expiration of a permit. A person who applies for a permit more than 6 months after the expiration date of the permit last issued to that person must submit an original application and pay the original application fee.

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

Effective April 9, 1992.

CHAPTER 866

H.P. 1428 - L.D. 2040

An Act to Increase the Penalties for Committing Repeated Crimes against the Person and Repeated Acts of Domestic Violence

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

Sec. 1. 17-A MRSA §212 is enacted to read:

§212. Classification of offenses against the person

1. A violation of this chapter committed against a member of the actor's family or household that would otherwise be a Class D crime is a Class C crime if the actor has 2 or more prior Maine convictions for violations of any combination of this chapter or of Title 19, section 769. For purposes of this section, the dates of the prior convictions must precede the commission of the offense being enhanced by no more than 5 years, although both prior convictions may have occurred on the same date. The date of a conviction is deemed to be the date that sentence is imposed, even though an appeal was taken. The date of a commission of the offense being enhanced is presumed to be that date stated in the complaint, information or indictment, notwithstanding the use of the words "on or about" or the equivalent.

2. It is an affirmative defense to prosecution under this section that a victim of any of the prior offenses was not a member of the actor's family or household.

3. As used in this section, "member of the actor's family or household" means the actor's spouse or former spouse, an individual presently or formerly living together

with the actor as spouse, the natural parent of the actor's child, an adult household member related to the actor by consanguinity or affinity and an individual presently or formerly living together with the actor as a sexual partner. Professing to be a spouse is not necessary to constitute "living as spouses."

See title page for effective date.

CHAPTER 867

H.P. 1560 - L.D. 2198

An Act to Discourage Illegal Dumping of Waste

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

Sec. 1. 38 MRSA §423-C is enacted to read:

§423-C. Registered owner's liability for vehicle illegally discharging waste

A person who is a registered owner of a vehicle at the time that vehicle is involved in a violation of section 423-A commits a civil violation subject to the provisions of section 349, subsection 2, except as provided in subsection 4. For purposes of this section, "registered owner" includes a person issued a dealer or transporter registration plate.

1. Report violation; investigation. A person who observes a violation of section 423-A may report the violation to a police officer. If a report is made, the person shall report the time and the location of the violation and the registration plate number and a description of the vehicle involved. The officer shall initiate an investigation of the reported violation and, if possible, contact the registered owner of the motor vehicle involved and request that the registered owner supply information identifying the operator.

2. Summons. The investigating officer may cause the registered owner of the vehicle to be served with a summons for a violation of this section.

3. Registered owner not operator. Except as provided in subsection 4, it is not a defense to a violation of this section that a registered owner was not operating the vehicle at the time of the violation.

4. Defenses. The following are defenses to a violation of this section.

A. If a person other than the owner is convicted of operating the vehicle at the time of the violation in violation of section 423-A, the registered owner may not be found in violation of this section.

B. If the registered owner is a lessor of vehicles and at the time of the violation the vehicle was in the possession of a lessee and the lessor provides the investigating officer with a copy of the lease agreement containing the information required by Title 29, section 901, the lessee and not the lessor may be charged under this section.

C. If the vehicle is operated using a dealer or transporter registration plate and at the time of the violation the vehicle was operated by a person other than the dealer or transporter and if the dealer or transporter provides the investigating officer with the name and address of the person who had control over the vehicle at the time of the violation, that person and not the dealer or transporter may be charged under this section.

D. If a report that the vehicle was stolen is given to a law enforcement officer or agency before the violation occurs or within a reasonable time after the violation occurs, the registered owner may not be charged under this section.

Sec. 2. Costs not funded. Notwithstanding the Maine Revised Statutes, Title 30-A, section 5684, any requirements of this Act that result in additional costs to local or county government are not state mandates subject to that section and the State is not required to fund those costs.

See title page for effective date.

CHAPTER 868

S.P. 831 - L.D. 2135

An Act to Amend the Laws Concerning the Maine Court Facilities Authority

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

4 MRSA §1606, sub-§2, as enacted by PL 1987, c. 438, §1, is amended to read:

2. Limitation on securities issued. The authority ~~shall~~ may not issue securities in excess of ~~\$15,000,000~~ \$25,000,000 outstanding at any one time except for the issuance of revenue refunding securities authorized by section ~~1609~~ 1610. The amount of securities ~~which can~~ that may be outstanding in the name of the authority may be increased ~~hereafter~~ by the Legislature; upon a showing by the authority that its available revenues are sufficient to support additional issuance of bonds and that the issuance of bonds will not materially impair the credit standing of the authority, the investment status of bonds issued by the authority or the ability of the authority to fulfill its commitments to bondholders. Noth-

ing in this chapter may be construed to authorize the authority to issue securities to fund the construction, reconstruction, purchase or acquisition of facilities for the use of the Supreme Judicial Court; without approval of the Legislature.

See title page for effective date.

CHAPTER 869

H.P. 1437 - L.D. 2049

An Act Regarding Special Plates

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

Whereas, Public Law 1991, chapter 600 contains provisions that are controversial relating to special plates for veterans; and

Whereas, in fairness to all veterans, Public Law 1991, chapter 600 should be repealed; and

Whereas, Public Law 1991, chapter 600 is now in effect and the changes contained in this legislation need to take effect immediately; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 29 MRSA §252-H, as enacted by PL 1991, c. 7, §1, is amended to read:

§252-H. United States flag plates

The Secretary of State is authorized to design and issue a special plate depicting the United States flag. A person may display the United States flag plate on a vehicle registered up to 9,000 pounds or on a motor home by covering, but not removing, the normal front registration plate. The Secretary of State shall charge a fee of \$5 for each United States flag plate issued. Municipal agents appointed pursuant to section 52-A may charge \$1 in addition to the fee required by this section for each United States flag plate issued, the service charge to be retained by the municipality. The authorization to display the United States flag plate on a registered vehicle expires March 30, ~~1992~~ 1993.

A person who displays the United States flag plate in place of the normal registration plate after March 30, ~~1992~~ 1993 violates section 2183.