

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND FIFTEENTH LEGISLATURE

THIRD SPECIAL SESSION

October 1, 1992 to October 6, 1992

FOURTH SPECIAL SESSION

October 16, 1992

ONE HUNDRED AND SIXTEENTH LEGISLATURE

FIRST REGULAR SESSION

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THE GENERAL EFFECTIVE DATE FOR

FIRST REGULAR SESSION

NON-EMERGENCY LAWS IS

OCTOBER 13, 1993

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
1993

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION

of the
ONE HUNDRED AND SIXTEENTH LEGISLATURE

1993

Sec. 1. 7 MRSA §1808, first ¶, as amended by PL 1967, c. 204, is further amended to read:

~~No A biological product containing living organisms or viruses capable of eliciting an immunological response offered for use in the treatment or prevention of diseases of domestic animals shall may not be produced, sold, distributed, imported or used within the State, or imported into the State for sale, distribution or use unless approval and written permission has first been obtained from the commissioner, or his the commissioner's agent in charge of livestock sanitary work, for the distribution and use of such that product. The commissioner or his the commissioner's agent has the right to refuse permission for such distribution, sale, importation or use of any such product within the State, and may require reporting of sale, distribution, importation or use of any such product within the State, if permission is granted.~~

See title page for effective date.

CHAPTER 368

H.P. 660 - L.D. 898

An Act Concerning Juvenile Offenders

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

Sec. 1. 15 MRSA §393, sub-§1, as amended by PL 1989, c. 917, §1, is repealed and the following enacted in its place:

1. Possession prohibited. A person may not own, possess or have under that person's control a firearm, unless that person has obtained a permit under this section, if that person:

A. Has been convicted of a crime, under the laws of the United States, this State or any other state, that is punishable by imprisonment for one year or more;

B. Has been convicted of a crime, under the laws of the United States, this State or any other state, that was committed with the use of a dangerous weapon or a firearm against a person, except for a violation of former Title 12, chapter 319, subchapter III; or

C. Has been adjudicated in this State or under the laws of the United States or any other state to have engaged in conduct as a juvenile that, if committed by an adult, would have been a disqualifying conviction:

(1) Under paragraph A and bodily injury to another person was threatened or resulted;
or

(2) Under paragraph B.

For the purposes of this subsection, a person is deemed to have been convicted upon the acceptance of a plea of guilty or nolo contendere or a verdict or finding of guilty, or the equivalent in a juvenile case, by a court of competent jurisdiction.

Sec. 2. 15 MRSA §393, sub-§1-A is enacted to read:

1-A. Limited prohibition for nonviolent juvenile offenses. A person who has been adjudicated in this State or under the laws of the United States or any other state to have engaged in conduct as a juvenile that, if committed by an adult, would have been a disqualifying conviction under subsection 1, paragraph A but is not an adjudication under subsection 1, paragraph C may not own or have in that person's possession or control a firearm for a period of 3 years following completion of any disposition imposed or until that person reaches 18 years of age, whichever is later.

Sec. 3. 15 MRSA §393, sub-§2, as amended by PL 1985, c. 478, §1, is further amended to read:

2. Application after 5 years. Any A person subject to the provisions of subsection 1 may, after the expiration of 5 years from the date that the person is finally discharged from any and all the sentences imposed as a result of the conviction or adjudication, apply to the Commissioner of Public Safety for a permit to carry a firearm. Such a That person shall may not be issued a license permit to carry a concealed firearm pursuant to Title 25, chapter 253-A 252.

Sec. 4. 25 MRSA §2003, sub-§1, ¶C, as enacted by PL 1985, c. 478, §2, is repealed.

Sec. 5. 25 MRSA §2003, sub-§1, ¶D, as amended by PL 1989, c. 917, §8, is further amended to read:

D. Submits an application that contains the following:

- (1) Full name;
- (2) Full current address and addresses for the prior 5 years;
- (3) The date and place of birth, height, weight and, color of eyes, color of hair, sex and race;
- (4) A record of previous issuances of, refusals to issue and revocations of a permit to carry concealed firearms or other concealed weapons by any issuing authority in the State or any other jurisdiction. The record of pre-

vious refusals alone does not constitute cause for refusal and the record of previous revocations alone constitutes cause for refusal only as provided in section 2005; and

(5) Answers to the following questions.

(a) Is there a formal charging instrument now pending against you in this or any other jurisdiction for a crime that is punishable by one year or more imprisonment or for any other crime alleged to have been committed by you with the use of a dangerous weapon, as defined in Title 17-A, section 2, subsection 9, or of a firearm against another person?

(b) Is there a formal charging instrument now pending against you in this or any other jurisdiction for a juvenile offense that ~~involves conduct that, if committed by an adult, would be punishable by one year or more imprisonment or for any other juvenile offense alleged to have been committed by you with the use of a dangerous weapon, as defined in Title 17-A, section 2, subsection 9, or of a firearm against another person?~~

(i) Involves conduct that, if committed by an adult, would be punishable by one year or more imprisonment and bodily injury to another person was threatened or resulted; or

(ii) Is alleged to have been committed by you with the use of a dangerous weapon, as defined in Title 17-A, section 2, subsection 9, or of a firearm against another person?

(b-1) Is there a formal charging instrument now pending against you in this or any other jurisdiction for a juvenile offense that involves conduct that, if committed by an adult, would be punishable by one year or more imprisonment, other than an offense described in division (b)?

(c) Have you ever been convicted of a crime described in division (a) or adjudicated as having committed a juvenile offense as described in division (b)?

(c-1) Have you ever been adjudicated as having committed a juvenile offense as described in division (b-1)?

(d) Are you a fugitive from justice?

(e) Are you a drug abuser, drug addict or drug dependent person?

(f) Do you have a mental disorder that causes you to be potentially dangerous to yourself or others?

(g) Have you been adjudicated to be an incapacitated person pursuant to Title 18-A, Article V, Parts 3 and 4, and not had that designation removed by an order under Title 18-A, section 5-307, subsection (b)?

(h) Have you been dishonorably discharged from the military forces within the past 5 years?

(i) Are you an illegal alien?

(j) Have you been convicted of a violation of Title 17-A, section 1057 within the past 5 years?

(k) Have you been adjudicated within the past 5 years as having committed a juvenile offense involving conduct that, if committed by an adult, would be a violation of Title 17-A, section 1057?

(l) To your knowledge, have you been the subject of an investigation by any law enforcement agency within the past 5 years regarding the alleged abuse by you of family or household members?

(m) Have you been convicted within the past 5 years of 3 or more crimes punishable by imprisonment of less than one year?

(n) Have you been adjudged adjudicated within the past 5 years to have committed 3 or more juvenile offenses involving conduct that, if committed by an adult, would be punishable by imprisonment of less than one year?

(o) To your knowledge, have you engaged within the past 5 years in reckless or negligent conduct that has been the subject of an investigation by a governmental entity?; and

Sec. 6. 25 MRSA §2003, sub-§2, ¶A-1 is enacted to read:

A-1. That the applicant understands that an affirmative answer to the question in subsection 1, paragraph D, subparagraph (5), division (c-1) is cause for refusal unless the applicant is nonetheless authorized to possess a firearm under Title 15, section 393, subsection 1-A;

Sec. 7. 25 MRSA §2003, sub-§2, ¶B-1, as enacted by PL 1989, c. 917, §11, is amended to read:

B-1. That the applicant understands that an affirmative answer to one or more of the questions in subsection 1, paragraph D, subparagraph (5), divisions (a), (b), (b-1), (c-1), (l), (m), (n) and (o) is used by the issuing authority, along with other information, in judging good moral character under subsection 4; and

See title page for effective date.

CHAPTER 369

H.P. 998 - L.D. 1339

An Act to Allow for the Recall of Municipal Officials

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

Sec. 1. 30-A MRSA §2602, sub-§6, ¶A, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is further amended to read:

A. Any change in the provisions of this section relating to ~~municipal officers~~ or a school committee must be accomplished by charter; and

See title page for effective date.

CHAPTER 370

H.P. 173 - L.D. 225

An Act Regarding Dam Registration Fees

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

Sec. 1. 30-A MRSA c. 187, sub-c. VI is enacted to read:

SUBCHAPTER VI

MUNICIPAL REGULATION OF WATER LEVELS AND MINIMUM FLOWS

§4454. Municipal regulation

Pursuant to the provisions of this subchapter, a municipality may adopt an ordinance under its home rule authority to regulate water level regimes and minimum flow requirements for impounded bodies of water and dams that are entirely within its corporate boundary.

§4455. Registration for authority to regulate

Prior to regulating a water level regime or minimum flow on any impounded body of water, a municipality shall adopt an ordinance and submit that ordinance to the Commissioner of Environmental Protection for review and approval. An ordinance adopted under this section must include:

1. Substance of state law. All substantive provisions of Title 38, chapter 5, subchapter 1, article 3-A. The ordinance may not allow a municipality to establish a water level regime or minimum flow requirements for any dam listed in Title 38, section 840, subsection 1, paragraphs A to D; and

2. Commissioner as petitioner. Provisions allowing the Commissioner of Environmental Protection and any municipality downstream of the impoundment to petition the municipality for an adjudicatory hearing.

An ordinance adopted under this subchapter may establish a fee for adjudicatory hearings conducted by the municipality.

§4456. Interlocal agreements

Two or more municipalities may enter into an interlocal agreement under this section to regulate water level regimes and minimum flow requirements for impounded bodies of water and dams that are entirely within the corporate boundaries of those municipalities only if each municipality has adopted an ordinance that has been approved by the Commissioner of Environmental Protection pursuant to this subsection.

§4457. Assumption of authority

Immediately upon the commissioner's approval of an ordinance submitted under this subchapter, all powers and duties of the Commissioner of Environmental Protection set forth in Title 38, chapter 5, subchapter 1, article 3-A, vest in that municipality.

Sec. 2. 38 MRSA §352, sub-§5-B, as enacted by PL 1991, c. 591, Pt. U, §2, is amended in that part