

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

December 2, 1992 to July 14, 1993

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

The Department of Inland Fisheries and Wildlife shall pay transportation and testing costs for undomesticated animals. The owner of a domesticated ferret, domesticated wolf or domesticated wolf hybrid shall pay transportation and testing costs for that animal.

Sec. 24. Report. The Commissioner of Human Services shall submit a report on rabies prevention and protection efforts in the State to the Joint Standing Committee on Agriculture by January 15, 1994. The report must include a copy of the rules adopted to establish rabies response procedures. If statutory changes or enactment of new provisions relating to rabies prevention and protection are recommended in the report, the commissioner must submit implementing legislation with the report.

Sec. 25. Revision clause. Wherever in the Maine Revised Statutes, Title 7, chapters 721, 723, 725, 729, 731, 733, 735, 737 and 739 the word "board" appears or reference is made to "board," that word is amended to read and mean "commissioner," and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

See title page for effective date.

CHAPTER 469

H.P. 1053 - L.D. 1405

An Act Concerning Tribal Protection Orders

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

Whereas, there exists a present inability to criminally prosecute violations of protection orders issued by the tribal courts of the Passamaquoddy Tribe and the Penobscot Nation; 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. 5 MRSA §4651, sub-§1, as amended by PL 1991, c. 760, §1, is further amended to read:

1. Court. "Court" means any District Court and, with regard to section 4659, the tribal court of the Passamaquoddy Tribe or the Penobscot Nation.

Sec. 2. 5 MRSA §4659, as amended by PL 1987, c. 695, §2, is further amended to read:

§4659. Violation

1. Crime committed. Violation of a temporary, emergency, interim or final protective order, an order of a tribal court of the Passamaquoddy Tribe or the Penobscot Nation or a court-approved consent agreement, when the defendant has prior actual notice of the order or agreement, is a Class D crime, except when the only provision that is violated concerns relief authorized under section 4655, subsection 1, paragraphs D to F. Violation of these paragraphs shall must be treated as contempt and punished in accordance with law.

2. Warrantless arrest. Notwithstanding any statutory provision to the contrary, an arrest for criminal violation as defined in this section of an order or consent agreement may be made without warrant upon probable cause whether or not the violation is committed in the presence of the law enforcement officer. The law enforcement officer may verify, if necessary, the existence of a protective order by telephone or radio communication with a law enforcement agency with knowledge of the order.

Sec. 3. 19 MRSA §762, sub-§3, as amended by PL 1991, c. 760, §4, is further amended to read:

3. Court. "Court" means any District Court and, with regard to section 769, the tribal court of the Passamaquoddy Tribe or the Penobscot Nation.

Sec. 4. 19 MRSA §769, sub-§1, as amended by PL 1989, c. 862, §20, is further amended to read:

1. Crime committed. Violation of a temporary, emergency, interim or final protective order, an order of a tribal court of the Passamaquoddy Tribe or the Penobscot Nation or a court approved consent agreement, when the defendant has prior actual notice, which may be notice by means other than service in hand, of the order or agreement, is a Class D crime, except when the only provision that is violated concerns relief authorized under section 766, subsection 1, paragraphs F to K. Violation of section 766, subsection 1, paragraphs F to K, must be treated as contempt and punished in accordance with law.

Sec. 5. 19 MRSA §770, sub-§5, as amended by PL 1991, c. 824, Pt. A, §29, 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 as defined in section 769 of a court-approved consent agreement or a protection order issued pursuant to this chapter or Title 15, chapter 12-A, or that a violation of Title 17-A, sec-

tion 208; has occurred between members of the same family or household, that enforcement officer shall arrest and take into custody the alleged offender.

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

Effective July 13, 1993.

CHAPTER 470

H.P. 1086 - L.D. 1465

An Act to Amend Statutory Provisions Regarding Risk Management Funds

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

Sec. 1. 5 MRSA §1728-A, as amended by PL 1991, c. 376, §21, is further amended to read:

§1728-A. Powers and duties of the director

1. Duties. The director shall provide insurance advice and services for all forms of insurance for the State Government and any department or agency thereof of State Government except for those departments or agencies and those types of insurance otherwise provided for by law through the self-insurance fund and to other entities designated as entitled to advice and services through the state-administered fund pursuant to section 1737 for all forms of insurance, except for those departments or agencies and those types of insurance otherwise provided for by law. ~~The director shall provide insurance advice and services for family foster homes, as defined in Title 22, section 8101, subsection 3; respite care providers, as defined in Title 34-B, section 6201, subsection 2-A; the Casco Bay Island Transit District created by Private and Special Law 1981, chapter 22; and commercial applicators and spray contracting firms that are required to provide proof of financial responsibility in custom application pursuant to Title 22, section 1471-D, subsection 4, and private applicators as defined in Title 22, section 1471-C, subsection 22, who may be required to provide proof of insurance.~~ The director is responsible for the acquisition and administration of all insurance purchased by the State, including the authority to purchase, ~~on a competitive bid basis,~~ insurance for the State for automobile, fire, liability and any other type of coverage necessary to protect the State from financial loss. The director may enter into contracts for various types of claims management services in order to ensure the most economically advantageous insurance protection in the operation of the State's insurance coverage program. In these regards, the director has the following duties:

A. To review annually the entire subject of insurance as it applies to all state property and activities and other persons pursuant to this section, and to provide to the ~~commissioner~~ Commissioner of Administrative and Financial Services a statement of its activities during the year ending the preceding June 30th. This report ~~shall~~ must include:

- (1) An evaluation of the state insurance program;
- (2) A complete statement of all types and costs of insurance in effect;
- (3) Names of agents and companies of record; and
- (4) Such other matters as the director determines ~~to be~~ appropriate and necessary or as the commissioner may request;

B. To recommend to the ~~commissioner~~ Commissioner of Administrative and Financial Services such insurance protection as the director ~~may deem~~ considers necessary or desirable for the protection of all state property or activities or other insureds under this section;

C. Pursuant to programs approved by the ~~commissioner~~ Commissioner of Administrative and Financial Services, to provide insurance protection for state property and liability ~~insurance~~ in accordance with the Maine Tort Claims Act, Title 14, section 8116, and premises liability, when required by a state lease or private property approved by the Attorney General, by self-insured retention, ~~as provided;~~ or purchase of insurance from companies or agents licensed to do business in this State, or by both, to effect the best possible contracts as to services, coverages and costs. The purchase of insurance under this section normally ~~shall~~ must be made upon competitive bidding, except that the director may, in appropriate circumstances, purchase insurance by negotiation;

~~In the event of the purchase of insurance upon competitive bidding by qualified insurers, the director shall announce the low bid at a meeting advertised for the opening of bids, which, when approved by the commissioner, shall constitute an award of a contract of insurance;~~

D. To determine and review the values of property in which the State has an insurable or legal interest and recommend limits and types of insurance protection for that property;

E. To establish and promote safety and other loss prevention programs;