

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SIXTEENTH LEGISLATURE

SECOND REGULAR SESSION

January 5, 1994 to April 14, 1994

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JULY 14, 1994

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
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must be available for inspection by the public at the academy during regular working hours.

Sec. 2. 25 MRSA §2804-C, sub-§1, as enacted by PL 1989, c. 521, §§5 and 17, is amended to read:

1. Required. As a condition to the continued employment of any person, as a full-time law enforcement officer by a municipality, a county, the State or any other nonfederal employer, that person must successfully complete, within the first 12 months of employment, a basic training course approved by the board. Thereafter, as a condition of continued employment as a full-time law enforcement officer, the officer must satisfactorily maintain the basic certification. The board, under extenuating and emergency circumstances in individual cases, may extend that period for not more than 90 days. ~~In addition, the~~ The board also, in individual cases, may waive ~~in individual cases~~ the basic training requirement when the facts indicate that an equivalent course has been successfully completed. This section does not apply to any person employed as a full-time law enforcement officer by a municipality on September 23, 1971, or by a county on July 1, 1972.

Sec. 3. 25 MRSA §2804-D, sub-§1, as enacted by PL 1989, c. 521, §§5 and 17, is amended to read:

1. Required. As a condition to the continued employment of any person as a full-time corrections officer by a municipality, a county, the State or any other nonfederal employer, that person must successfully complete, within the first 12 months of employment, a basic training course of not less than 80 hours as approved by the board. Thereafter, as a condition of continued employment as a full-time corrections officer, the officer must satisfactorily maintain the basic certification. The board, in individual cases, may waive basic training requirements when the facts indicate that an equivalent course has been successfully completed in another state or federal jurisdiction within the ~~last~~ last 2 years immediately preceding employment. This section applies to any person employed as a full-time corrections officer on or after July 6, 1978. Administrators of facilities where there are corrections officers who are not full-time are encouraged to develop an orientation program for those persons.

Sec. 4. 25 MRSA §2806, sub-§2, ¶A, as corrected by RR 1991, c. 2, §97, is amended to read:

A. For subsection 1, paragraph A and subsection 1, paragraph B, subparagraph (2), (4) or (5), ~~in accordance with Title 5, chapter 375, subchapter IV;~~

(1) In accordance with Title 5, chapter 375, subchapter IV; or

(2) Upon notice, through conducting an informal conference with the officer. If the board finds the factual basis of the complaint is true and that further action is warranted, it may enter into a consent agreement with the officer, which may contain provisions including voluntary surrender of the certificate and terms and conditions of recertification;

Sec. 5. 25 MRSA §2806, sub-§8 is enacted to read:

8. Confidentiality; access to documents. All complaints, charges or accusations of misconduct, replies to those complaints, charges or accusations and any other information or materials that may result in suspension or revocation of a certificate of eligibility are confidential. If action is taken pursuant to Title 5, chapter 375, subchapter IV, the board shall issue a written decision. This decision must state the conduct or other facts on the basis of which action is being taken and the reason for that action. Once issued, the written decision is not confidential regardless of whether it is appealed under subsection 3-A.

See title page for effective date.

CHAPTER 552

S.P. 602 - L.D. 1700

An Act to Maintain Confidentiality of Certain Information Received by Licensing Boards and Commissions

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

Sec. 1. 10 MRSA §8003-B, sub-§2-A is enacted to read:

2-A. Certain client records confidential. Notwithstanding subsections 1 and 2, a record provided to a licensing board or commission within or affiliated with the department during investigation of a person licensed by the department in a medical, mental health, substance abuse, psychological or health field that contains information personally identifying a licensee's client or patient is confidential during the pendency of the investigation and remains confidential upon the conclusion of the investigation. A record may be disclosed only if:

A. The client or patient executes a written release that states that:

(1) Unless the release provides for more limited disclosure, execution of the release may result in the record becoming a public record; or

(2) If the client or patient wishes, execution of the release allows disclosure to only the person or persons clearly identified in the release. The release must require the person or persons identified in the release not to make a disclosure to another person.

B. The disclosure is necessary under Title 22, chapter 857 concerning personnel and licensure actions;

C. The disclosure is necessary under Title 22, section 3474 concerning reports of suspected adult abuse or exploitation;

D. The disclosure is necessary under Title 22, section 4011 concerning reports of suspected child abuse or neglect; or

E. The disclosure is necessary under Title 22, section 7703 concerning reports of suspected child or adult abuse or neglect.

A release executed by a client or patient does not operate to disclose a record otherwise made confidential by law.

This subsection does not prevent disclosure of records pursuant to an order of a court of competent jurisdiction upon good cause shown.

Sec. 2. 10 MRSA §8003-B, sub-§4, as enacted by PL 1989, c. 173, is amended to read:

4. Violation. A person who knowingly or intentionally makes a disclosure in violation of this section or who knowingly violates a condition of a release pursuant to subsection 2-A commits a civil violation for which a forfeiture not to exceed \$1,000 may be adjudged.

See title page for effective date.

CHAPTER 553

H.P. 1283 - L.D. 1731

An Act Relating to the Ground Water Oil Clean-up Fund

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

Whereas, the amount of the import fees assessed on petroleum products is scheduled to be increased from January 1, 1994 to January 1, 1998 to fund the insurance program that is administered through the Ground Water Oil Clean-up Fund; and

Whereas, the vast majority of insurance claims that were projected to be made against the Ground Water Oil Clean-up Fund have been filed; and

Whereas, the Ground Water Oil Clean-up Fund is and will be sufficiently funded, without the imposition of additional fees, to cover future claims; and

Whereas, certain clarifications regarding the operation and administration of the Ground Water Oil Clean-up Fund need to be made in order to facilitate the 3rd-party claims process; 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. 38 MRSA §568-A, sub-§6 is enacted to read:

6. Reimbursement of 3rd-party damages paid. If a person claiming to have suffered property damage or actual economic damage directly or indirectly as a result of a discharge of oil to groundwater prohibited by section 543 files a claim for damages against the owner or operator of an underground or aboveground oil storage tank in a court of competent jurisdiction without simultaneously filing or previously having filed a 3rd-party damage claim pursuant to section 569-A, the owner or operator may file a claim with the commissioner to be reimbursed for damages paid or payable to that 3rd party under a settlement or judgment. Such a claim for reimbursement must be filed and processed as follows.

A. The claim for reimbursement must be filed with the commissioner. If the owner or operator has not previously filed an application for fund coverage pursuant to subsection 1, the person claiming reimbursement shall also make application. The application must comply with the requirements of subsection 1 and must be processed and judged by the standards set forth in that subsection except that it is not required to be filed within 180 days of reporting the discharge.