

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
1993

Any employer ~~shall be~~ is liable to the employee or employees for the amount of unpaid wages and health benefits. Upon a judgment being rendered in favor of any employee or employees, in any action brought to recover unpaid wages or health benefits under this subchapter, such judgment ~~shall include~~ includes, in addition to the unpaid wages or health benefits adjudged to be due, a reasonable rate of interest, costs of suit including a reasonable attorney's fee, and an additional amount equal to twice the amount of ~~such~~ unpaid wages as liquidated damages and costs of suit including a reasonable attorney's fee.

The action for unpaid wages or health benefits may be brought by either the affected employee or employees or by the Department of Labor. The Department of Labor is further authorized to supervise the payment of the judgment, collect the judgment on behalf of the employee or employees and collect fines incurred through violation of this subchapter. When the Department of Labor brings an action for unpaid wages or health benefits, this action and an action to collect a civil forfeiture may both be joined in the same proceeding.

See title page for effective date.

CHAPTER 649

S.P. 699 - L.D. 1897

An Act to Make Supplemental Allocations from the Highway Fund, Other Funds and Make Other Necessary Changes for the Proper Operation of State Government for the Fiscal Years Ending June 30, 1994 and June 30, 1995

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

Whereas, the 90-day period may not terminate until after the beginning of the next fiscal year; and

Whereas, certain obligations and expenses will become due and payable on or immediately after July 1, 1994; 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:

PART A

Sec. A-1. Allocation. The following funds are allocated from the Highway Fund for the fiscal years ending June 30, 1994 and June 30, 1995 to carry out the purposes of this Part.

	1993-94	1994-95
ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF		
Departments and Agencies - Statewide		
Unallocated		\$4,500,000
Provides for the allocation of funds from available surplus to satisfy the requirements of Public Law 1993, chapter 414, Part D, section 9.		
Departments and Agencies - Statewide		
Unallocated		(700,000)
Provides for the deallocation of funds through a departmentwide reduction of costs. The Commissioner of Transportation, the Commissioner of Public Safety and the Secretary of State in conjunction with the Commissioner of Administrative and Financial Services agree to mutually cooperate in the preparation of a fair and equitable departmental deallocation distribution plan, which must be submitted no later than January 1, 1995 to the joint standing committee of the Legislature having jurisdiction over transportation matters and include recommendations outlining proposed position eliminations and other programmatic deallocations necessary to achieve the deallocation in this section. The deallocations must be adjusted by the Legislature during the First Regular Session of the 117th Legislature based upon the plan submitted.		

**DEPARTMENT OF
ADMINISTRATIVE AND
FINANCIAL SERVICES
TOTAL**

3,800,000

**PUBLIC SAFETY,
DEPARTMENT OF**

Motor Vehicle Inspection

All Other 2,768

Provides for the allocation of funds for the replacement of protective vests for the officers of the Motor Vehicle Inspection Unit.

State Police

All Other 72,090

Provides for the allocation of funds for the replacement of protective vests for the officers of the State Police (87% Highway Fund share).

State Police

Capital Expenditures 603,127

Provides for the allocation for the replacement of 50 vehicles. Delayed equipment purchases have placed an excessive number of vehicles over the 100,000-mile mark (87% Highway Fund share).

Traffic Safety

All Other 2,210

Provides for the allocation of funds for the replacement of protective vests for the officers of the Traffic Safety Division.

**DEPARTMENT OF
PUBLIC SAFETY
TOTAL**

680,195

**SECRETARY OF STATE,
DEPARTMENT OF THE**

**Administration - Motor
Vehicle**

All Other \$535,468 525,716

Provides for the allocation of funds to cover additional costs associated with

increased and unbudgeted STA-CAP charges.

Fuel Use Decal Program

All Other 6,672 6,714

Provides for the allocation of funds to cover additional costs associated with increased and unbudgeted STA-CAP charges.

**DEPARTMENT OF THE
SECRETARY OF STATE
TOTAL**

542,140

532,430

**TRANSPORTATION,
DEPARTMENT OF**

**Administration and
Planning**

Positions - Legislative Count (6.0)
Personal Services 286,488

Provides for the allocation of funds for 3 Transportation Planning Specialist I positions and 3 Transportation Planning Specialist II positions to carry out the requirements of the Intermodal Surface Transportation Efficiency Act and the sensible transportation policy and clean air act.

Bond Interest - Highway

All Other 39,035 1,500,000

Provides for the allocation of funds for interest on a bond anticipation note that will be sold in April, 1994.

**Highway and Bridge
Improvement**

Capital Expenditures (699,643)

Provides for the deallocation of funds through a restructuring that will result in no construction delays.

Highway Maintenance

Capital Expenditures 1,000,000 3,300,000

Provides for the allocation of funds to continue the Highway Maintenance Resurfacing Program.

Radio Operations

All Other		50,400	
Capital Expenditures		(50,400)	
TOTAL		<u>-0-</u>	
Provides for a line category transfer from Capital Expenditures to All Other for the budgeted purchase of radio units, which no longer qualify as capital assets.			
Traffic Services			
All Other	(1,500,000)		
Provides for the deallocation of funds in the striping program, which was transferred from a federal-funded and state-funded matching program to a fully funded federal program.			
DEPARTMENT OF TRANSPORTATION TOTAL		<u>(460,965)</u>	<u>4,386,845</u>
PART A, SECTION 1 TOTAL ALLOCATIONS		<u>\$81,175</u>	<u>\$9,399,470</u>

PART B

Sec. B-1. Allocation. The following funds are allocated from the Highway Fund for the fiscal years ending June 30, 1994 and June 30, 1995, to the departments listed, to provide funding for approved reclassifications and range changes.

	1993-94	1994-95
ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF		
Transportation Building Maintenance		
Personal Services	\$1,514	\$2,441
DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES TOTAL	<u>1,514</u>	<u>2,441</u>
PUBLIC SAFETY, DEPARTMENT OF		
Motor Vehicle Inspection		
Personal Services	9,436	2,140
State Police		

Personal Services	3,658	2,327
DEPARTMENT OF PUBLIC SAFETY TOTAL	<u>13,094</u>	<u>4,467</u>
SECRETARY OF STATE, DEPARTMENT OF THE		
Administration - Motor Vehicle		
Personal Services	970	40,291
DEPARTMENT OF THE SECRETARY OF STATE TOTAL	<u>970</u>	<u>40,291</u>
PART B, SECTION 1 TOTAL ALLOCATIONS	<u>\$15,578</u>	<u>\$47,199</u>

PART C

Sec. C-1. Transportation Safety Fund; nonlapsing. Notwithstanding Public Law 1993, chapter 288, Part A, section 1 or any other provision of law, any unencumbered balance of the Transportation Safety Fund allocation in the Department of Public Safety, Traffic Safety - Commercial Vehicle Enforcement account at the end of fiscal year 1993-94 may not lapse but must be carried forward until June 30, 1995 and must be used to conduct the Maine State Police Training Academy.

Sec. C-2. Personal Services balances; nonlapsing. Notwithstanding the Maine Revised Statutes, Title 5, section 1589 or any other provision of law, any unencumbered Personal Services balances of Highway Fund allocations in the Department of Public Safety, Bureau of State Police account at the end of fiscal year 1993-94 may not lapse but must be carried forward until June 30, 1995 and must be used to conduct the Maine State Police Training Academy.

Sec. C-3. Funding for the Bureau of State Police. Notwithstanding Public Law 1993, chapter 410, Part P, section 4 or any other provision of law, the Legislature determines that for fiscal years 1993-94 and 1994-95, funding for the Department of Public Safety, Bureau of State Police, must be provided as follows: approximately 87% must be allocated from the Highway Fund and approximately 13% must be appropriated from the General Fund.

PART D

Sec. D-1. Allocation. The following funds are allocated from the Augusta State Airport funds for the fiscal year ending June 30, 1995 to carry out the purposes of this Part.

1994-95

**TRANSPORTATION,
DEPARTMENT OF**

Augusta State Airport

Positions - Other Count (-1.0)

Provides for the elimination of the headcount for one vacant and unfunded Planning and Research Associate I position.

PART E

Sec. E-1. Allocation. The following funds are allocated from the Island Ferry Service funds for the fiscal year ending June 30, 1995 to carry out the purposes of this Part.

1994-95

**TRANSPORTATION,
DEPARTMENT OF**

Island Ferry Service

Positions - Other Count (-1.0)

Provides for the elimination of the headcount for one vacant and unfunded Administrative Assistant position.

PART F

Sec. F-1. Allocation. The following funds are allocated from the Marine Ports fund for the fiscal year ending June 30, 1995 to carry out the purposes of this Part.

1994-95

**TRANSPORTATION,
DEPARTMENT OF**

**Ports and Marine
Transportation**

Positions - Other Count (-1.0)

Provides for the elimination of the headcount for one vacant and unfunded Planning and Research Associate I position.

PART G

Sec. G-1. Allocation. The following funds are allocated from the Highway Garage fund for the fiscal year ending June 30, 1995 to carry out the purposes of this Part.

1994-95

**TRANSPORTATION,
DEPARTMENT OF**

Motor Transport Service

Positions - Other Count (-3.0)
Personal Services (\$82,304)

Provides for the deallocation of funds through the elimination of one Clerk Typist I position, one Clerk Stenographer II position and one Accountant I position.

PART H

Sec. H-1. Department of Transportation; lease-purchase of highway maintenance equipment including trucks, motor graders, loaders, mowers and associated equipment. Pursuant to the Maine Revised Statutes, Title 5, section 1587, the Department of Transportation may enter into financing arrangements for the acquisition of highway maintenance equipment including trucks, motor graders, loaders, mowers and associated equipment in order to gain efficiencies and reduce the incidence of repair due to aged equipment. The financing agreement may not exceed 5 years in duration and \$20,000,000 in principal costs. The interest rate is estimated at 6.5% with total interest costs over the duration of the financing arrangement estimated at \$3,900,000. The annual principal and interest costs must be paid from the Capital Expenditures and All Other line category allocations to the Motor Transport Service account. The financing agreement must provide that the State will become the ultimate owner of the highway maintenance equipment and that future principal and interest payments may be discontinued if the Legislature does not allocate funds for this purpose.

PART I

Sec. I-1. Allocation. The following funds are allocated from Other Special Revenue for the fiscal year ending June 30, 1995 to carry out the purposes of this Part.

1994-95

**SECRETARY OF STATE,
DEPARTMENT OF THE**

**Administration - Motor
Vehicles**

Positions - Other Count	(1.0)
Personal Services	\$27,055
All Other	500
Total	<hr/> \$27,555

Provides for the allocation of funds for one Clerk Typist II position to handle additional work responsibilities associated with the suspension of driver's licenses of individuals who fail to pay child support. The Department of Human Services shall reimburse the account on a quarterly basis for costs associated with the license suspension program.

**PART I, SECTION 1
TOTAL ALLOCATIONS**

\$27,555

Sec. I-2. Report. The Secretary of State shall submit a report to the joint standing committee of the Legislature having jurisdiction over transportation matters by April 1, 1995 on the workload and costs associated with the suspension of operators' licenses under the family financial responsibility program.

PART J

Sec. J-1. 23 MRSA §4420, as amended by PL 1989, c. 503, Pt. B, §103, is further amended to read:

§4420. Purpose

The Maine Port Authority, as established by Title 5, section 12004-F, subsection 8, is constituted a public agency of the State for the general purpose of acquiring, constructing and operating any kind of port terminal facility and railroad facility within the State with all the rights, privileges and power necessary. Oil pipelines and other oil off-loading facilities ~~shall be~~ are limited to sites in Portland harbor.

Sec. J-2. 23 MRSA §4422, as enacted by PL 1981, c. 456, Pt. A, §88, is amended to read:

§4422. Agreements

The Maine Port Authority and the Department of Transportation may enter into such agreements as the directors and commissioner ~~deem~~ determine to be in the best interests of the State for the department to acquire, construct, maintain and operate any or all facilities funded from bonds issued under section 4423. The department may not operate a railroad that is constructed or acquired under this chapter. Any agreements ~~shall~~ must set forth the terms and conditions of the operation and be subject to all the terms and conditions of any trust indenture and covenants relating to revenue bonds. The Maine Port Authority or the department may establish, own, operate and maintain such navigational aids in coastal waters adjacent to the shores and harbors of the State as the directors or commissioner ~~deem~~ determine essential for safety. Any such navigational aids ~~shall~~ must conform to and be consistent with any and all federal regulation.

Sec. J-3. 23 MRSA §4423, sub-§§1 and 3, as enacted by PL 1981, c. 456, Pt. A, §88, are amended to read:

1. Authorization. The Maine Port Authority may provide by resolution from time to time for the issuance of bonds for the purpose of funding the establishment, acquisition or effectuation of port terminal facilities, railroad facilities and things incidental thereto, for construction of proposed facilities and improvement of existing or acquired facilities and for the fulfillment of other undertakings ~~which that~~ it may assume. The bonds of the Maine Port Authority do not constitute a debt of the State, or of any agency or political subdivision thereof, but are payable solely from the revenue of the authority, and neither the faith nor credit nor taxing power of the State, or any political subdivision thereof, is pledged to payment of the bonds. Any provision of any law to the contrary notwithstanding, any bonds issued pursuant to this subchapter ~~is~~ are fully negotiable. In case any director whose signature appears on the bond or coupons ceases to be a director before the delivery of those bonds, that signature is valid and sufficient for all purposes as if that director had remained a director until delivery.

3. Money received. All ~~moneys~~ money received from any bonds issued ~~shall~~ must be applied solely for the establishment, acquisition or effectuation of port terminal facilities, railroad facilities and things incidental thereto, for the construction of proposed facilities, improvement of existing or acquired facilities and the fulfillment of other undertakings ~~which that~~ are within the power of the authority. There is created

a lien upon the money until so applied in favor of the bondholders or any trustee as may be provided in respect of the bonds.

Sec. J-4. 23 MRSA §4425, as enacted by PL 1981, c. 456, Pt. A, §88, is amended to read:

§4425. Acquisition of land

Land required for improvement to existing facilities or construction of new facilities undertaken by the Maine Port Authority or in cooperation with the Department of Transportation may be acquired for these purposes in the same manner as provided in section 154 chapter 3, subchapter III.

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

Effective April 8, 1994.

CHAPTER 650

H.P. 1415 - L.D. 1925

An Act to Amend the Equine Licensing Laws

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

Whereas, this Act amends provisions of the equine industry certification laws, which the Department of Agriculture, Food and Rural Resources is in the process of implementing; 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. 7 MRSA §4102, sub-§§1 to 3, as enacted by PL 1991, c. 779, §41 and affected by §60, are amended to read:

1. Certification. A person who boards more than 2 equines for payment or operates a commercial riding facility with more than 2 equines ~~shall obtain a license~~ may apply for certification from the department and receive a certificate upon completion of the certification process. The ~~license~~ certificate expires December 31st annually.

~~**2. Equine activity permits.**—The department shall adopt rules for issuing a permit to an equine activity sponsor when the sponsor is not licensed under subsection 1.~~

3. Certification; criteria. ~~The department shall by rule establish license fees for boarding stables and commercial riding facilities and permit fees for equine activities sufficient to generate \$5,000 in revenue annually. A license or permit fee may not exceed \$50. The department, in establishing~~ consultation with an advisory committee representing the equine industry, shall establish fees and criteria for licensing certification facilities and permitting activities shall consult with the Maine Equine Advisory Council. The criteria must include promotion of the safety of a participant engaged in an equine activity. The department shall submit the criteria to the joint standing committee of the Legislature having jurisdiction over agriculture matters at least 6 months before they become effective for review and comment. The criteria may not become effective before January 1, 1996.

Sec. 2. 7 MRSA §4102, sub-§5 is enacted to read:

5. Equine activity. The department shall assist the equine industry to develop a plan to organize and promote equine activity throughout the State.

Sec. 3. 7 MRSA §4103, sub-§1, as enacted by PL 1991, c. 779, §41 and affected by §60, is amended to read:

1. Adherence to standards of care. Adherence by an equine activity sponsor or an equine professional with a valid ~~license or permit certificate~~ issued under section 4102 to the standards of care within the profession creates a rebuttable presumption that the conduct of the equine activity sponsor or equine professional was not negligent.

Sec. 4. 7 MRSA §4104, as enacted by PL 1991, c. 779, §41 and affected by §60, is repealed.

Sec. 5. 7 MRSA §4104-A is enacted to read:

§4104-A. Equine professional; contracts

1. Statement of inherent risks. A written contract entered into by an equine professional for the provision of professional services, instruction or the rental of equipment, tack or an equine to a participant, whether or not the contract involves equine activities on or off the location or site of the equine professional's business, must include a statement of the inherent risks of equine activities including, but not limited to: