

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

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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

2. Petition. A grandparent of a child may petition the court for standing and intervenor status in any child protection proceeding under this chapter. The standing and intervenor status is limited to that proceeding unless otherwise ordered by the court.

3. Criteria. The court shall grant standing and intervenor status when the court finds that the grandparent has an existing relationship or has made sufficient effort to establish a relationship with the child, that that status would be in the best interests of the child and that that status would also be consistent with the purposes of this chapter as set forth in section 4003.

4. Request for placement. In any proceeding when standing and intervenor status have been granted, the grandparent may request the court to order that the child be placed with the grandparent. In making a decision on the request, the court shall give the grandparents priority for consideration for placement if that placement is in the best interests of the child and consistent with the purposes listed in section 4003.

5. Procedure if child in jeopardy. Nothing in this section limits the department from removing the child from the grandparent's home if the child is in jeopardy.

See title page for effective date.

CHAPTER 698

S.P. 687 - L.D. 1873

An Act to Facilitate Collection of Tolls on the Maine Turnpike

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

Sec. 1. 23 MRSA §1973, sub-§3, as enacted by PL 1981, c. 595, §3, is amended to read:

3. Tolls. Tolls, or the fixing of tolls, shall is not be considered rulemaking and shall is not be subject to supervision or regulation by any state commission, board or agency. Subject to subsection 4, the authority may fix and revise from time to time tolls for the use of the turnpike and the different parts or sections thereof of the turnpike, and charge and collect the tolls, and contract with any person, partnership, association or corporation desiring the use of any part thereof of the turnpike, including the right-of-way adjoining the paved portion. The tolls shall must be so fixed and adjusted as to provide a fund at least sufficient with other revenues of the turnpike, if any, to pay for each fiscal year:

A. The cost of maintaining, repairing and operating the turnpike, and providing and maintaining reasonable reserves therefor for those costs;

B. The bonds and the interest thereon on those bonds, and all sinking fund requirements, and other requirements provided by the resolution authorizing issuance of the bonds or by the trust indenture or loan or a security agreement as they shall those bonds, interest, sinking fund requirements and other requirements become due;

C. Those sums for the purpose of maintaining, constructing or reconstructing access roads or portions thereof as shall of access roads that have been requested by the department and as in the sole discretion of the authority are from time to time determined in subsection 4, to warrant the expenditure to of turnpike revenues; and

D. The cost of maintaining, constructing or reconstructing interchanges.

The authority may use any method for assessing and collecting tolls, including but not limited to toll tickets, barrier toll facilities, billing accounts, commuter passes and electronic recording or identification devices. The display of a recording or identification device issued or authorized by the authority for these purposes on or near the windshield of a motor vehicle is not a violation of a law or rule, including but not limited to Title 29, sections 1369, 1369-A and 1370, unless the device is attached in a way that obstructs the driver's clear view of the highway or an intersecting highway.

Sec. 2. 23 MRSA §1980, sub-§§2-A and 2-B are enacted to read:

2-A. Toll violations. The registered owner's liability for toll violations is as follows.

A. If an operator of a vehicle fails to pay a toll, the registered owner of that vehicle is liable for payment of the toll. If the registered owner fails to pay the toll, the registered owner is subject to a civil penalty as follows:

(1) Fifty dollars, except as provided in subparagraph (2) or (3);

(2) One hundred dollars, if a failure to pay occurs within 18 months of a prior failure to pay; or

(3) One hundred fifty dollars, if a failure to pay occurs within 18 months of 2 or more prior failures to pay.

B. As used in this subsection, unless the context otherwise indicates, the following terms have the following meanings.

(1) "Electronic toll collection system" means a system of collecting tolls or charges that is capable of charging an account holder for the appropriate toll by transmission of information between a device on a motor vehicle and a toll collection facility.

(2) "Pay" means paying a toll by cash, by permitting a charge against a valid account with the authority or by another means of payment approved by the authority at the time.

(3) "Photo-monitoring system" means a motor vehicle sensor installed to work in conjunction with a toll collection facility that automatically produces a photograph, microphotograph, videotape or other recorded image of a motor vehicle when the operator of the motor vehicle fails to pay a toll.

(4) "Registered owner" means a person in whose name a motor vehicle is registered under the law of a jurisdiction, including a person issued a dealer or transporter registration plate, except as provided in paragraph E, and a person deemed to be a registered owner under the provisions of paragraph E.

(5) "Toll" or "tolls" means tolls or charges prescribed by the authority for the use of the turnpike.

Definitions of terms included in Title 29, section 1 apply to terms used in this subsection that are not specifically defined in this subsection.

C. The following procedures must be taken for the collection of tolls and civil penalties under this subsection.

(1) The authority shall send a notice of liability by first class mail to a person alleged to be liable as a registered owner under this subsection no later than 60 days after the alleged failure to pay. A manual or automatic record of the mailing prepared in the ordinary course of business of the authority is prima facie evidence of the mailing of the notice.

(2) A notice of liability must include the name and address of the person alleged to be liable as a registered owner for the fail-

ure to pay a toll under this subsection, the amount of the toll not paid, the registration number of the vehicle involved, the toll collection facility at which the failure occurred and the date and the approximate time of the failure.

(3) A notice of liability must include information advising the person liable under this subsection of the manner and the time in which the liability alleged in the notice may be contested and the statutory defenses described in paragraph E. The notice must also include a warning that failure to contest in the manner and time provided is an admission of liability and a waiver of available defenses, resulting in the entry of a default judgment of liability for the failure to pay and revocation of the registration certificate and plates issued for the vehicle.

(4) The authority may collect a toll and a civil penalty that is not paid by a registered owner who is liable under this subsection within 120 days after mailing the notice of liability by civil action commenced in the District Court or Superior Court in the county in which the alleged failure to pay occurred. Adjudication of liability under this subsection is based upon a preponderance of the evidence.

D. Except as provided in paragraph E, it is not a defense to liability under this subsection that a registered owner was not operating the motor vehicle at the time of the failure to pay.

E. Defenses to liability under this subsection are as follows.

(1) If a person other than the registered owner of the motor vehicle is adjudicated criminally or civilly responsible for the failure to pay an authority toll, then the registered owner is not liable under this subsection.

(2) If the registered owner is the lessor of motor vehicles and at the time of the failure to pay an authority toll the motor vehicle was in the possession of a lessee and the lessor provides the authority with a copy of the lease agreement containing the information required by Title 29, section 901, then the lessee, and not the lessor, is liable under this subsection.

(3) If the motor vehicle is operated using a dealer or transporter registration plate and

at the time of the failure to pay the motor vehicle was under the custody or control of a person other than the dealer or transporter, and if the dealer or transporter provides the authority with the name and address of the person who had custody or control over the motor vehicle at the time of the failure to pay, then that person and not the dealer or transporter is liable under this subsection.

(4) If a report that the motor vehicle was stolen is given to a law enforcement officer or agency before the failure to pay occurs or within a reasonable time after the registered owner becomes aware of the theft, then the registered owner is not liable under this subsection.

F. Nothing in this subsection may be construed to limit the liability of an operator of a motor vehicle for a failure to pay an authority toll. If a person who is liable for a failure to pay under this subsection was not the operator of the motor vehicle at the time of the failure to pay, that person may maintain an action for indemnification against the operator to recover all tolls and civil penalties under this subsection paid by that person.

G. If a registered owner does not satisfy a judgment under this subsection within 30 days after final adjudication of liability under paragraph C, in addition to any other method for enforcing the judgment, upon petition by the authority, the adjudicating court shall order the suspension of the registration for the vehicle involved in the failure to pay and forward the suspension to the Secretary of State. The Secretary of State shall proceed, in accordance with Title 29, section 55-B, to mail the required 10-day notice and suspend the registration certificate and plates issued for the vehicle in question. A notice under this paragraph is not effective with respect to a vehicle described in paragraph E, subparagraphs (1) to (4).

This subsection takes effect July 1, 1995.

2-B. Admissibility of photo-monitoring evidence. A photograph, microphotograph, videotape or other recorded image produced by a photo-monitoring device is admissible in a proceeding to collect a toll or other charge of the authority, to collect civil penalties imposed under subsection 2-A or to impose civil or criminal liability for a failure to pay the toll or charge.

A. An original or facsimile of a certificate, sworn to or affirmed by an agent of the authority that states that a failure to pay has occurred and

states that it is based upon a personal inspection of a photograph, microphotograph, videotape or other recorded image produced by a photo-monitoring system, as defined in subsection 2-A, is prima facie evidence of the facts contained in the certificate.

B. Notwithstanding any other provision of law, a photograph, micro-photograph, videotape or other recorded image prepared for enforcement of authority tolls is for the exclusive use of the authority in the discharge of its duties under this section. The material is not available to the public and, except as provided in this subsection or as may be necessary to prove a claim for indemnification under subsection 2-A, paragraph H, may not be used in a court in an action or proceeding.

This subsection takes effect July 1, 1995.

Sec. 3. 29 MRSA §55-B, as amended by PL 1989, c. 866, Pt. A, §1 and Pt. B, §26, is further amended by adding at the end a new paragraph to read:

Upon receipt of an order of suspension from the court in accordance with Title 23, section 1980, subsection 2-A, paragraph G, the Secretary of State shall promptly mail a notice to the person liable under that subsection for unpaid Maine Turnpike Authority tolls warning the person that, if the amount due the Maine Turnpike Authority is not paid within 10 days from the date of mailing the notice, suspension of the registration certificate and plates issued for the vehicle in question will result. If the person fails to pay the required amount within 10 days after mailing of the notice, the Secretary of State shall suspend, pursuant to chapter 17, the registration certificate and plates issued for the vehicle in question. This paragraph takes effect July 1, 1995.

See title page for effective date.

CHAPTER 699

H.P. 1273 - L.D. 1717

An Act to Amend the Laws Relating to Potatoes

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

Whereas, this legislation amends laws to improve the potato industry, an important agricultural industry in the State; and