

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

Sec. 1. 20-A MRSA §8465, first ¶, as amended by PL 1991, c. 518, §30, is further amended to read:

A region may issue bonds and notes for school construction purposes. For purposes of this section, school construction purposes include minor capital costs relating to maintenance of plant. The cooperative board shall decide whether the issuance of bonds or notes by the region for school construction purposes is necessary. The cooperative board shall administer the process of determining whether the issuance of bonds or notes is authorized, and, if so, it shall issue the bonds or notes and administer the proceeds of, and the payment of principal of and interest on, those bonds or notes after issuance. A region may issue bonds and notes for school construction purposes only under the following provisions.

See title page for effective date.

CHAPTER 743

H.P. 1484 - L.D. 2009

An Act Concerning Plastic Holding Devices

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

Sec. 1. 7 MRSA §18, sub-§2-B is enacted to read:

2-B. Vending machines; recycling connectors. Distributors of products connected by plastic holding devices shall ensure that any plastic holding devices removed from those products for the purpose of loading the products into a vending machine are collected and are either recycled by the distributor or delivered by the distributor to a person engaged in recycling plastics.

Sec. 2. 7 MRSA §18, sub-§3, as enacted by PL 1993, c. 341, §2, is amended to read:

3. Repeal. This section is repealed 90 days after the adjournment of the Second Regular Session of the ~~116th~~ 117th Legislature.

Sec. 3. 7 MRSA §18-A, sub-§4, as enacted by PL 1993, c. 341, §3, is amended to read:

4. Effective date. This section takes effect 90 days after the adjournment of the Second Regular Session of the ~~116th~~ 117th Legislature.

Sec. 4. Report. By February 1, 1996, persons who distribute in the State plastic holding devices or

products that are connected by plastic holding devices shall report to the Maine Waste Management Agency the number of plastic holding devices distributed by those persons in the State between the effective date of this Act and December 31, 1995. That report must also include the number of those plastic holding devices that was collected and recycled after removal from products sold in vending machines. By March 1, 1996, the Maine Waste Management Agency shall analyze that data and submit a report to the joint standing committee of the Legislature having jurisdiction over energy and natural resource matters on the total number of plastic holding devices distributed in the State between the effective date of this Act and December 31, 1995, the percent of that total that was collected and recycled after removal from products sold in vending machines and the agency's estimate of the percent of that total that was recycled through voluntary programs, the percent that was reused and the percent that was distributed but was not otherwise reported as collected or recycled. In preparing its report, the agency shall consult with interested parties, including the Maine Grocers Association and the Maine Municipal Association.

Sec. 5. Committee legislation authorized.

The joint standing committee of the Legislature having jurisdiction over energy and natural resource matters may report out legislation to the Second Regular Session of the 117th Legislature on any matter pertaining to plastic holding devices.

See title page for effective date.

CHAPTER 744

H.P. 828 - L.D. 1114

An Act to Amend the Laws Governing the Training and Certification of Law Enforcement Officers

Mandate preamble. This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, two thirds of all of the members elected to each House have determined it necessary to enact this measure.

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

Sec. 1. 25 MRSA §2802, as amended by PL 1985, c. 194, is further amended to read:

§2802. Board of trustees

There is created a board of trustees for the academy consisting of ~~45~~ 17 members as follows: The Commissioner of Public Safety, ex officio, the Attorney General, ex officio, the Game Warden Colonel in the Department of Inland Fisheries and Wildlife and the Commissioner of Corrections, ex officio, and the following to be appointed by the Governor: ~~A~~ a commissioned officer of the State Police, a county sheriff, a chief of a municipal police department, 2 officers of municipal police departments, an educator who is not and has never been a sworn member of a law enforcement agency, a representative from a criminal justice agency not involved in the general enforcement of Maine criminal laws, a representative of a federal law enforcement agency, ~~a citizen~~ 3 citizens each who are not and have never been sworn members of a law enforcement agency, a municipal ~~officer~~ official who is not and has never been a sworn member of a law enforcement agency and one nonsupervisory corrections officer representing a state or county correctional facility.

The Commissioner of Public Safety or ~~his~~ the commissioner's designee, and the Attorney General or ~~his~~ the Attorney General's designee, ~~shall be the Game Warden Colonel in the Department of Inland Fisheries and Wildlife or the Game Warden Colonel's designee and the Commissioner of Corrections or the commissioner's designee~~ are members of the board during their term terms of office. All of the other members of the board shall serve for a term of 3 years. Members of the board shall be compensated and are entitled to compensation in accordance with Title 5, chapter 379. Any vacancy on the board of trustees shall must be filled in the same manner as the original appointment, but for the unexpired term.

Sec. 2. 25 MRSA §2803-A, sub-§1, as enacted by PL 1989, c. 521, §§4 and 17, is amended to read:

1. Training and certification of all law enforcement officers in State. In accordance with this chapter, to establish training and certification standards for all law enforcement officers, ~~set requirements for board-approved courses, prescribe curriculum and certify both graduates of board-approved courses and persons for whom the board has waived the training requirements of this chapter.~~ Certification shall must be based on the officer's demonstration of having acquired specific knowledge and skills directly related to job performance.

No later than March 1, 1995, the board shall design joint training and certification standards combining into a single basic training course the present State Police course and the basic municipal and county course. The joint training course must equal or ex-

ceed any curriculum training requirements of the State Police effective on December 31, 1994. The board shall report its recommendations and the necessary implementing legislation for a basic training course to the Legislature by April 1, 1995. The Legislature must approve the associated costs of the joint training course before it may be implemented.

Until joint training and certification standards are implemented pursuant to this subsection, the Chief of the State Police shall approve the basic training requirements for enlisted personnel of the State Police for graduation from the academy. The board shall certify State Police enlisted personnel who meet the approved basic training requirements;

Sec. 3. 25 MRSA §2803-A, sub-§2, as enacted by PL 1989, c. 521, §§4 and 17, is amended to read:

2. Admission standards. In accordance with the requirements of this chapter, to establish standards for admission to the board-approved courses, taking into account state hiring standards and procedures applicable to all state departments; ~~set requirements for board-approved courses; prescribe curriculum; and certify both graduates of the board-approved courses and persons for whom the board has waived the training requirements of this chapter.~~ The board may not set standards for admission to the board-approved courses until July 1, 1990, for persons required to be trained under Title 30, section 6210, subsection 4, which standards are higher than those in force on September 23, 1983. The board shall set academic and physical admission standards that apply uniformly to all candidates applying for admission to the academy after December 31, 1995. These standards must equal or exceed any academic and physical admission standards, including standards of the State Police, in effect prior to January 1, 1996;

Sec. 4. 25 MRSA §2803-A, sub-§6, as enacted by PL 1989, c. 521, §§4 and 17, is repealed.

Sec. 5. 25 MRSA §2803-B is enacted to read:

§2803-B. Requirements of law enforcement agencies

1. Law enforcement policies. All law enforcement agencies shall adopt written policies regarding procedures to deal with the following:

- A. Use of force;
- B. Barricaded persons and hostage situations;
- C. Persons exhibiting deviant behavior;
- D. Domestic violence;

- E. Hate or bias crimes;
- F. Police pursuits;
- G. Citizen complaints of police misconduct; and
- H. Criminal conduct engaged in by law enforcement officers.

The chief administrative officer of each agency shall certify to the board that attempts are made to obtain public comment during the formulation of policies.

2. Minimum policy standards. The board shall establish minimum standards for each law enforcement policy no later than June 1, 1995.

3. Agency compliance. The chief administrative officer of each law enforcement agency shall certify to the board no later than January 1, 1996 that the agency has adopted written policies consistent with the minimum standards established by the board pursuant to subsection 2. This certification must be accompanied by copies of the agency policies. The chief administrative officer of each agency shall certify to the board no later than June 1, 1996 that the agency has provided orientation and training for its members with respect to the policies.

4. Penalty. An agency that fails to comply with any provision of subsection 3 commits a civil violation for which the State Government or local government entity whose officer or employee committed the violation may be adjudged a forfeiture not to exceed \$500.

5. Annual standards review. The board shall review annually the minimum standards for each policy to determine whether changes in any of the standards are necessary to incorporate improved procedures identified by critiquing known actual events or by reviewing new enforcement practices demonstrated to reduce crime, increase officer safety or increase public safety.

Sec. 6. 25 MRSA §2804-C, as amended by PL 1993, c. 551, §2, is further amended to read:

§2804-C. Basic law enforcement training; core curriculum requirements

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. The board also, in individual cases, may waive 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.

~~**2. Core curriculum requirements.** The board shall establish core curriculum requirements which must be satisfied by each law enforcement officer within 12 months of assuming law enforcement duties including the power to make arrests or the authority to carry a firearm in the course of duty. The board shall base the core curriculum requirements on the necessary knowledge, training and skills common to all law enforcement officers in this State. In establishing the requirements, the board shall cooperate with the State and local departments and agencies to which the preservice requirements apply to ensure that the standards are appropriate.~~

2-A. Probationary employment period. Upon being hired, a law enforcement officer shall complete an employment probationary period that lasts for at least one year after graduation from the academy or the date the board waives the basic training requirement.

3. Certification. The board shall certify each law enforcement officer who meets the core curriculum training requirements.

~~**4. Courses.** The board shall provide a training course, the successful completion of which meets core curriculum requirements. The board shall provide a basic training course designed primarily for municipal and county law enforcement officers.:~~

A. Provide a training course, the successful completion of which meets the basic training requirements;

B. Provide a structured residential program that balances the goals of professional policing with public services emphasis;

C. Incorporate a community policing philosophy in its training program; and

D. Review the basic training requirements of the current basic municipal and county training course and, no later than March 1, 1995, design a course of basic training for all law enforcement positions the content, quality and standards of which equal or exceed those of training courses established by the board prior to March 1, 1995, pursuant to this section, section 2803-A, subsection 1 and former section 2803-A, subsection 6.

5. Application to currently certified law enforcement officers. This section does not apply to any law enforcement officer certified as meeting the law enforcement training requirements or to any full-time law enforcement officer employed by a state agency, including the University of Maine System, as of July 1, 1990.

Sec. 7. 25 MRSA §2804-E, sub-§§1 and 2, as enacted by PL 1989, c. 521, §§5 and 17, are amended to read:

1. Required. As a condition to the continued employment of ~~any~~ a person as a law enforcement officer with the power to make arrests or the authority to carry a firearm in the course of duty by a municipality, county, the State or other nonfederal employer, that person must successfully complete a minimum number of hours of in-service recertification training as prescribed by the board.

2. Role of board. The board shall establish in-service recertification training requirements, consistent with subsection 1, coordinate delivery of in-service training with ~~post-secondary~~ postsecondary schools and other institutions and law enforcement agencies and administer in-service training programs. The in-service recertification training requirements ~~shall~~ must include information on new laws and court decisions and on new enforcement practices demonstrated to reduce crime or increase officer safety. The board shall consider and encourage the use of telecommunications technology in the development and delivery of in-service training programs. In establishing the recertification training requirements, the board shall cooperate with the ~~State~~ state and local departments and agencies to which the in-service requirements apply to ensure that the standards are appropriate. In-service training may not be applied to satisfy in-service recertification training requirements unless it is approved by the board.

Sec. 8. 25 MRSA §2804-E, sub-§4 is enacted to read:

4. Credit for continuing education. The board may grant in-service training credits to be applied to in-service recertification training requirements for courses completed at accredited colleges and universities.

Sec. 9. 25 MRSA §2804-G is enacted to read:

§2804-G. Qualifications

1. Age. An applicant must be 21 years of age or older to qualify for a position as a law enforcement officer unless the applicant has an associate's degree or 60 credit hours of postsecondary education, in

which case the applicant must be at least 20 years of age.

Sec. 10. 25 MRSA §2805-B, sub-§1, as enacted by PL 1989, c. 521, §§8 and 17, is amended to read:

1. Annual report and records. Within 30 days of the close of each calendar year, the highest elected official of each political subdivision and the head of each state department and agency employing law enforcement or corrections officers subject to this chapter shall provide the board with a report containing a list of the names and dates of employment of all law enforcement and corrections officers covered by this chapter. The official or department or agency head shall maintain records regarding the basic and in-service training of law enforcement and corrections officers as provided in sections 2804-C to 2804-F. The report provided to the board must include the total number of excessive force complaints received about law enforcement or corrections officers during the reporting year by the reporting jurisdiction and the total number of these complaints that were determined to be founded and unfounded. The board may adopt additional categories that law enforcement agencies shall record and include in their annual report to the board.

Sec. 11. 25 MRSA §2805-C is enacted to read:

§2805-C. Complaint review committee

1. Committee. The chair of the board shall appoint 3 members of the board to serve on the complaint review committee. One of the members must be one of the citizen members of the board. All members of the committee must be present for deliberations. A majority vote is necessary to recommend taking corrective or disciplinary action on a complaint.

2. Investigation. The committee shall investigate complaints regarding any violation of this chapter or rules established by the board by a law enforcement or corrections officer and recommend appropriate action to the board.

Sec. 12. 25 MRSA §2806, sub-§1, ¶B, as repealed and replaced by PL 1991, c. 790, §1, is amended to read:

B. May suspend or revoke the certificate issued pursuant to former section 2803, 2805 or 2805-A or section 2803-A, 2804-B, 2804-C or 2804-D of any person who:

- (1) Has been found guilty of murder or any crime classified in state law as a Class A, Class B, Class C or Class D crime or a

violation of any provision of the Maine Criminal Code, chapter 15, 19, 25 or 45;

(2) Has engaged in conduct that is prohibited or penalized by state law as murder or a Class A, Class B, Class C or Class D crime or by any provision of the Maine Criminal Code, chapter 15, 19, 25 or 45;

(3) Has been found guilty of conduct specified in subparagraph (2) in another state or other jurisdiction, unless that conduct is not punishable as a crime under the laws of that state or other jurisdiction in which it occurred;

(4) Has engaged in conduct specified in subparagraph (2) in another state or other jurisdiction, unless that conduct is not punishable as a crime under the laws of that state or other jurisdiction in which it occurred; ~~or~~

(5) Has falsified or misrepresented material facts in obtaining or maintaining the certificate; ~~and~~ or

(6) Has engaged in conduct that violates the standards established by the board pursuant to section 2803-B, subsection 1, provided that the conduct, when viewed in light of the nature and purpose of the person's conduct and circumstances known to the person, involves a gross deviation from the standard of conduct that a reasonable and prudent law enforcement officer would observe in the same situation; and

Sec. 13. 25 MRSA §2806, sub-§1-A, as enacted by PL 1991, c. 790, §2, is amended to read:

1-A. Investigation and notice of complaints.

Before proceeding with a hearing to suspend or revoke a law enforcement or corrections officer's certification under subsection 1, paragraph B, subparagraph (2) ~~or~~, (4) or (6), the board shall notify the chief administrative officer of the agency employing the officer that the board is contemplating suspension or revocation of the officer's certification. The chief administrative officer shall investigate ~~that~~ the alleged conduct and ~~shall~~ report its findings to the board within 30 days of receiving notice of the board's contemplation of suspension or revocation. The board shall proceed with any suspension or revocation action it determines appropriate after receiving the chief administrative officer's report. This subsection does not ~~prevent~~ preclude a chief administrative officer from investigating conduct that may give rise to grounds for suspension or revocation before receiving a request for an investigation from the board,

provided that the chief administrative officer notifies the board following that investigation if the investigation reveals reasonable cause to believe that an officer has engaged in conduct described in subsection 1, paragraph B, subparagraph (2) ~~or~~, (4) or (6). Nothing in this subsection ~~prevents~~ precludes the board from investigating conduct of a law enforcement officer on its own or referring a matter of such conduct to another agency for investigation.

Sec. 14. 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) or (6), in accordance with Title 5, chapter 375, subchapter IV;

Sec. 15. 30-A MRSA §2701, as amended by PL 1991, c. 182, is further amended to read:

§2701. Employee probation periods

Except as specifically provided otherwise by charter or ordinance, any reference to cause and hearing in this Part only applies to an employee who has completed a reasonable probation period established by the municipality. Periods of probation may not exceed 6 calendar months or the length of time in effect in a municipality on January 1, 1984, whichever is greater, except that in the case of police officers, ~~a longer probationary period not to exceed one year may be established as the result of collective bargaining or provided for by the municipality in the absence of a bargaining agent who upon being hired shall complete an employment probationary period that lasts for at least one year after graduation from the Maine Criminal Justice Academy or the date the board waives the basic training requirement.~~

Sec. 16. Transition provisions; Board of Trustees of the Maine Criminal Justice Academy; retroactivity. All current members of the existing Board of Trustees of the Maine Criminal Justice Academy may continue to serve as members of the board until their terms expire or until the terms are otherwise vacated, regardless of the changes defined in the Maine Revised Statutes, Title 25, section 2802. Any appointments made after April 1, 1994 must be made in accordance with Title 25, section 2802.

This section applies retroactively to April 1, 1994.

Sec. 17. Study of the use of reserve and part-time law enforcement officers. Subject to the available funding, the Board of Trustees of the Maine Criminal Justice Academy shall conduct a study that surveys and analyzes the demographics, number and use of reserve and part-time law en-

forcement officers in the State and that explores the appropriateness and sufficiency of the level of training presently required for those officers. The board shall invite the participation of the Maine Municipal Association, the Maine Chiefs of Police Association and the Maine Sheriffs Association in conducting its study. The board shall incorporate a report of its findings in its annual report to the Legislature in 1996.

Sec. 18. Study to create a plan to implement the transition of the student body of the Maine Criminal Justice Academy from individuals who are previously employed by law enforcement agencies to individuals who are not previously employed by law enforcement agencies. The Board of Trustees of the Maine Criminal Justice Academy shall create a plan to implement the transition of the Criminal Justice Academy's current student body of individuals employed by law enforcement agencies prior to enrollment to individuals who are not previously employed by law enforcement agencies prior to enrollment. The board shall evaluate the options of implementing a complete transition of its student body, so that all students are not employed by law enforcement agencies prior to enrollment and a partial transition of its student body, so that some students are previously employed by law enforcement agencies and some are not. The board shall compare the findings from both evaluations to the current system of enrollment and make recommendations regarding resources and procedures that would be necessary to accomplish the transition. The board shall report its findings and recommendations to the joint standing committee of the Legislature having jurisdiction over legal affairs and the Executive Director of the Legislative Council no later than January 1996.

Sec. 19. Study of the use of psychological examination for admission to the academy basic training course. Subject to available funding, the Board of Trustees of the Maine Criminal Justice Academy shall conduct a study to explore the requirement of successful completion of a psychological examination prior to admission to the Maine Criminal Justice Academy's basic training course. The report must include findings regarding the appropriateness of using psychological testing as a prerequisite to admission to the academy's basic training course, specific recommendations for the use of psychological testing, any legislation necessary to carry out its recommendations and the costs of any recommendations.

The Board of Trustees of the Maine Criminal Justice Academy shall submit its report and any proposed legislation to the joint standing committee of the Legislature having jurisdiction over legal

affairs and the Executive Director of the Legislative Council no later than November 1, 1994.

See title page for effective date.
