

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE

FIRST REGULAR SESSION
December 7, 1994 to June 30, 1995

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 29, 1995

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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Superior Court has jurisdiction, upon information filed by the Attorney General or the district attorney or upon complaint filed by not less than 7 legal voters of that county setting forth any of the facts contained in this section, to restrain, enjoin or abate the same, and an injunction for ~~such purpose~~ those purposes may be issued by the court. ~~Such an injunction forever runs against the building or other place or structure while titled in the name of the same owner under which the nuisance was initially enjoined. The injunction ceases to run against the building or other place or structure upon transfer of ownership to a bona fide purchaser. Following the issuance of such an injunction, if the Attorney General or district attorney has reasonable grounds to question whether a transfer of ownership is to a bona fide purchaser, the Attorney General or district attorney, within one year from the date of transfer of ownership, shall move the court to reinstate the injunction against the title of the new owner. The injunction or order to restrain, enjoin or abate the common nuisance forever runs against the building or other place or structure, except that, upon motion of an owner filed not sooner than 6 months from the date of the injunction or order, the Superior Court may remove or modify the injunction or order upon a showing by the owner, by a preponderance of evidence, that the nuisance has abated. No dismissal of such information or complaint may prevent action upon any information or complaint subsequently filed covering the same subject matter.~~

Sec. 3. 17 MRSA §2742, as amended by PL 1991, c. 797, §4, is further amended to read:

§2742. Penalties

~~Whoever keeps or maintains such nuisance keeps, allows or maintains any building, place or structure declared by the Superior Court to be a common nuisance upon the filing of information pursuant to section 2741 commits a Class E crime. Default in payment of a fine imposed under this section is a separate Class E crime.~~

Sec. 4. 17 MRSA §2743 is amended to read:

§2743. Lease void; remedy of owner

~~If any tenant or occupant, under any lawful title, of any building or tenement not owned by him the tenant or occupant uses ~~it~~ the building or tenement or any part thereof of the building or tenement for any purpose named in section 2741, he the tenant or occupant forfeits his right thereto all rights to the building or tenement, and the owner thereof may make immediate entry, without process of law, or may avail himself of the remedy provided in Title 14, chapter 709 of the building or tenement upon the commencement of an action under Title 14, chapter 709 may seek any remedy provided by chapter 709 or upon a declaration of a common nuisance by the~~

Superior Court upon the filing of information by the Attorney General, the district attorney or a prosecuting attorney assigned pursuant to Title 25, section 2955 may make immediate entry and take possession without further process of law or as otherwise ordered by the Superior Court.

Sec. 5. 17 MRSA §2744, as amended by PL 1991, c. 797, §4, is repealed.

See title page for effective date.

CHAPTER 67

H.P. 28 - L.D. 22

An Act to Decrease the Minimum Required Amount of Liability Insurance for Certain Intrastate Vehicles

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

Whereas, current liability requirements are cost prohibitive for many users of explosives; and

Whereas, the construction season will soon begin; 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. 25 MRSA §2110 is enacted to read:

§2110. Financial responsibility

1. Requirement. A person who transports a division 1.1, 1.2 or 1.3 explosive intrastate in a vehicle with a gross vehicle weight rating of less than 10,000 pounds shall maintain a financial responsibility policy of liability insurance or a surety bond in an amount of not less than \$1,000,000. The Commissioner of Public Safety may not adopt a rule requiring a person transporting a division 1.1, 1.2 or 1.3 explosive intrastate in a vehicle with a gross vehicle weight rating of less than 10,000 pounds to maintain a financial responsibility policy of liability insurance or a surety bond in excess of \$1,000,000.

For purposes of this section, division 1.1, 1.2 and 1.3 explosives have the same meanings as found in 49 Code of Federal Regulations, Part 173.50.

2. Exception. This section does not apply to a farmer who transports a division 1.1, 1.2 or 1.3 explosive for the farmer's own use to and from the farm or field within a 20-mile radius.

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

Effective May 11, 1995.

CHAPTER 68

H.P. 326 - L.D. 447

An Act Regarding the Expansion of Certain Waste Disposal Facilities

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

Sec. 1. 38 MRSA §1310-X, sub-§3, ¶B, as repealed and replaced by PL 1991, c. 297, §1, is amended to read:

B. The department determines that the proposed expansion is contiguous with the existing facility and is located on property owned on December 31, 1989 by the licensee or on September 30, 1989 or by a corporation or other business entity under common ownership or control with the licensee; and

See title page for effective date.

CHAPTER 69

S.P. 199 - L.D. 542

An Act to Include the Law Court's Imprisonment Sentencing Procedure in the Maine Criminal Code

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

Sec. 1. 17-A MRSA §1252-C is enacted to read:

§1252-C. Sentencing procedure relating to the imprisonment

In imposing a sentencing alternative pursuant to section 1152 that includes a term of imprisonment relative to murder, a Class A, Class B or Class C crime, in setting the appropriate length of that term as well as any unsuspended portion of that term accompanied by a period of probation, the court shall employ the following 3-step process:

1. The court shall first determine a basic term of imprisonment by considering the particular nature and seriousness of the offense as committed by the offender.

2. The court shall next determine the maximum period of imprisonment to be imposed by considering all other relevant sentencing factors, both aggravating and mitigating, appropriate to that case. These sentencing factors include, but are not limited to, the character of the offender and the offender's criminal history, the effect of the offense on the victim and the protection of the public interest.

3. The court shall finally determine what portion, if any, of the maximum period of imprisonment should be suspended and, if a suspension order is to be entered, determine the appropriate period of probation to accompany that suspension.

See title page for effective date.

CHAPTER 70

H.P. 12 - L.D. 6

An Act to Amend the Workers' Compensation Laws to Provide an Exemption from Coverage Requirements for Nonresident Employees

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

Sec. 1. 39-A MRSA §113 is enacted to read:

§113. Exemption for nonresident employees; reciprocity

1. Exemption. An employee who is employed in another state and that employee's employer are exempt from this Act with respect to that employee while the employee is temporarily in this State doing work for that employer if:

A. The employee is not a resident of this State and was not hired in this State;

B. The employer does not have a permanent place of business in the State;

C. The employee's presence in this State for purposes of conducting employment activities does not exceed any of the following periods:

- (1) Five consecutive days;
- (2) Ten days in any 30-day period; or
- (3) Thirty days in any 360-day period;