

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

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IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4

J.S. McCarthy Company
Augusta, Maine
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on-premise license or for renewal of an on-premise license within 60 days of the filing of an application, the application is deemed approved and ready for action by the bureau. For purposes of this paragraph, the date of filing of the application is the date the application is received by the municipal officers or county commissioners. This paragraph applies to all applications pending before municipal officers or county commissioners as of the effective date of this paragraph as well as all applications filed on or after the effective date of this paragraph.

D. If an application is approved by the municipal officers or the county commissioners but the bureau finds, after inspection of the premises and the records of the applicant, that the applicant does not qualify for the class of license applied for, the bureau shall notify the applicant of that fact in writing. The bureau shall give the applicant 30 days to file an amended application for the appropriate class of license, accompanied by any additional license fee, with the municipal officers or county commissioners, as the case may be. If the applicant fails to file an amended application within 30 days, the original application must be denied by the bureau. The bureau shall notify the applicant in writing of its decision to deny the application including the reasons for the denial and the rights of appeal of the applicant.

Sec. 6. 28-A MRSA §653, sub-§3, as amended by PL 1993, c. 730, §27, is further amended to read:

3. Appeal to bureau. Any applicant aggrieved by the decision of the municipal officers or county commissioners under this section may appeal to the bureau within 15 days of the receipt of the written decision of the municipal officers or county commissioners. The bureau shall hold a public hearing in the city, town or unincorporated place where the premises are situated. In acting on such an appeal, the bureau may consider all licensure requirements and findings referred to in subsection 2.

B. If the decision appealed from is an application denial, the bureau may issue the license only if it finds by clear and convincing evidence that the decision was without justifiable cause.

Sec. 7. 28-A MRSA §653, sub-§5, as amended by PL 1993, c. 730, §27, is further amended to read:

5. Appeal to Administrative Court. Any person or governmental entity aggrieved by a bureau decision under this section may appeal the decision to the Administrative Court within 30 days of receipt of the written decision of the bureau.

An applicant who files an appeal or who has an appeal pending shall pay the annual license fee the applicant would otherwise pay. Upon resolution of the appeal, if an applicant's license renewal is denied, the bureau shall refund the applicant the prorated amount of the unused license fee.

Sec. 8. 28-A MRSA §2519, sub-§2, ¶B, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

B. A ~~representative of the Bureau of Liquor Enforcement~~ liquor enforcement officer;

See title page for effective date.

CHAPTER 141

H.P. 231 - L.D. 311

An Act to Clarify Professional Liability

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

Sec. 1. 13 MRSA §708, as enacted by PL 1969, c. 411, is repealed.

Sec. 2. 13 MRSA §708-A is enacted to read:

§708-A. Interpretation; liability

1. Relationship between a professional and a recipient of services. This chapter does not modify the liability of a person rendering professional service and a person receiving professional service.

2. Shareholder liability for debts and claims. Except as provided in subsection 3, the liability of shareholders for the debts of and claims against a professional corporation is the same as that of shareholders of a business corporation.

3. Shareholder liability arising from rendering professional service. A shareholder is jointly and severally liable for claims arising from the rendering of a professional service by a professional corporation if that shareholder:

A. Personally and directly participated in rendering that portion of a professional service that was performed negligently or in breach of any other legal duty; or

B. Supervised or controlled that portion of a professional service rendered by another person

that was performed negligently or in breach of any other legal duty.

See title page for effective date.

CHAPTER 142

S.P. 233 - L.D. 598

An Act to Establish Landowner Recognition Day

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

Sec. 1. 1 MRSA §133 is enacted to read:

§133. Landowner Recognition Day

The 3rd Saturday of September of each year is designated as Landowner Recognition Day and the Governor shall issue annually a proclamation inviting and urging the people of the State to observe this day in suitable places with appropriate activity.

See title page for effective date.

CHAPTER 143

H.P. 611 - L.D. 821

An Act to Amend the Laws Regarding the Procedures for Emergency Admissions to a Mental Hospital

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

Whereas, current laws do not authorize a law enforcement officer to transfer custody of a person for whom emergency admittance to a mental health institution is sought to the chief administrative officer of a nonstate mental health institution or to the chief administrative officer's designee; and

Whereas, this deficiency in the laws is a tremendous burden on law enforcement agencies as it forces law enforcement personnel to wait many hours at mental health institutions for emergency admittances, resulting in the waste of precious law enforcement resources and jeopardizing the protection that law enforcement agencies provide; 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 preserva-

tion of the public peace, health and safety; now, therefore,

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

Sec. 1. 34-B MRSA §3863, sub-§2-A, as enacted by PL 1993, c. 592, §1, is amended to read:

2-A. Custody agreement. A state, county or municipal law enforcement agency may meet with representatives of those public and private health practitioners and health care facilities that are willing and qualified to perform the certifying examination required by this section in order to attempt to work out a procedure for the custody of the person who is to be examined while that person is waiting for that examination. Any agreement must be written and signed by and filed with all participating parties. In the event of failure to work out an agreement that is satisfactory to all participating parties, the procedures of section 3862 and this section continue to apply.

As part of an agreement the law enforcement officer requesting certification may transfer protective custody of the person for whom the certification is requested to another law enforcement officer ~~or~~ a health officer if that officer agrees or the chief administrative officer of a public or private health practitioner or health facility or the chief administrative officer's designee. Any arrangement of this sort must be part of the written agreement between the law enforcement agency and the health ~~care agency practitioner or health care facility.~~ In the event of a transfer, the law enforcement officer seeking the transfer shall provide the written application required by this section.

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

Effective May 23, 1995.

CHAPTER 144

S.P. 316 - L.D. 897

An Act to Ban the Tripping of Equines

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

Sec. 1. 7 MRSA §3972, sub-§1, ~~¶¶D and E,~~ as enacted by PL 1987, c. 383, §3, are amended to read: