

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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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:

D. Use any live animal as bait in any racing contest or in the training of animals for racing contests; ~~or~~

E. Tie, tether or restrain any animal in a manner that is inhumane or detrimental to its welfare; ~~or~~

Sec. 2. 7 MRSA §3972, sub-§1, ¶F is enacted to read:

F. Intentionally cause an equine to fall or lose its balance by any means whatsoever. For the purposes of this paragraph, the term "equine" means, but is not limited to, a horse, mare, pony, ass, donkey, burro, mule or hinny.

See title page for effective date.

CHAPTER 145

S.P. 332 - L.D. 913

An Act to Repeal the Sunset Provision Regarding Drug Recognition Technicians and Amend the Definition of Drugs in the Operating-under-the-influence Statutes

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

Whereas, the current law that gives drug recognition technicians their authority to conduct drug-impairment assessments expires on June 1, 1995; and

Whereas, the drug recognition technician program results in the prosecution of persons who operate motor vehicles while under the influence of drugs other than alcohol; and

Whereas, failure to prosecute this type of offender may result in a greater number of operating-under-the-influence motor vehicle accidents that cause death and serious personal injury; and

Whereas, highway safety will be significantly diminished if the law is allowed to expire; 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. 29-A MRSA §2401, sub-§4, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

4. Drugs. "Drugs" means scheduled drugs as defined under Title 17-A, section 1101. The term "drugs" includes any natural or artificial chemical substance that, when taken into the human body, can impair the ability of the person to safely operate a motor vehicle.

Sec. 2. 29-A MRSA §2525, sub-§4, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is repealed.

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

Effective May 23, 1995.

CHAPTER 146

H.P. 708 - L.D. 965

An Act to Protect Maine's Maritime Heritage

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

Sec. 1. 27 MRSA §373-A, sub-§3, as enacted by PL 1981, c. 55, §5, is amended to read:

3. Excavation. "Excavation" means any turning over, removal or disturbance of the soil, artifact in the soil or ground matrix or recovery or disturbance of artifacts from beneath that are fully or partially submerged in the water and tidal sites. "Excavation" ~~shall include~~ includes, but is not limited to, activities such as purposeful looting, material procurement ~~or~~ construction activities or vandalism. In the case of private property the term "excavation" on a site ~~shall~~ does not include activities associated with agriculture or forestry unless specifically provided for in the permit or the preservation agreement as defined in Title 33, section 1551, ~~sub-§ subsection 2.~~

Sec. 2. 27 MRSA §378, as enacted by PL 1981, c. 568, §4, is amended to read:

§378. Emergency site designation

In the case of an area containing archaeological materials or artifacts ~~on private property which~~ that is directly threatened with unauthorized excavation, the Director of the Maine Historic Preservation Commission, with the written permission of the landowner, may designate ~~such an~~ the area as a site ~~which shall be~~ that is subject to this chapter for a period not to exceed