

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
1995

Sec. 11. 5 MRSA §12004-I, sub-§55-A, as enacted by PL 1989, c. 304, §2, is repealed.

Sec. 12. 30-A MRSA c. 15, as amended, is repealed.

See title page for effective date.

CHAPTER 149

H.P. 592 - L.D. 802

An Act to Amend the General Sentencing Provisions

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

Sec. 1. 17-A MRSA §1151, sub-§8, as repealed and replaced by PL 1983, c. 480, Pt. B, §24, is amended to read:

8. To permit sentences ~~which that~~ do not diminish the gravity of offenses, with reference to the ~~factor~~ factors, among others, of ~~the age of the victim;~~

A. The age of the victim; and

B. The selection by the defendant of the person against whom the crime was committed or of the property that was damaged or otherwise affected by the crime because of the race, color, religion, sex, ancestry, national origin, physical or mental disability or sexual orientation of that person or of the owner or occupant of that property.

See title page for effective date.

CHAPTER 150

H.P. 207 - L.D. 266

An Act to Revise the Security Deposit and Reinsurance Requirements for Individual Self-insurers

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

Whereas, the 90-day period may not terminate in time to allow the Superintendent of Insurance to exercise the powers granted to the Superintendent of Insurance through this legislation in matters involving certain self-insurance applications; and

Whereas, current law may deny the Superintendent of Insurance the discretion contemplated by

this legislation with regard to the posting of bonds by self-insurers under certain circumstances; and

Whereas, the posting of bonds may involve considerable expense that might otherwise be avoided under the limited circumstances contemplated by this legislation; 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. 39-A MRSA §403, sub-§8, ¶A, as amended by PL 1993, c. 491, §1, is further amended to read:

A. The bond or security deposit required of an individual self-insurer must be at least an amount determined by the following formula or \$50,000, whichever is larger. The bond or security deposit must be in an amount equal to the loss and loss adjustment expense portion of the annual standard premium for the prospective fiscal coverage period or the outstanding loss reserves minus recoveries from all excess carriers and subrogation reduced to net collections plus 25% of annual standard premiums for the prospective fiscal coverage period, whichever is larger. The percentage factor used to determine the portion of annual standard premium allocated for loss and loss adjustment expenses must be acceptable to the Superintendent of Insurance. For the purposes of this paragraph, "annual standard premium" is as defined in section 404, subsection 4.

For individual self-insurers who have a net worth equal to or in excess of \$10,000,000; who have had positive net earnings demonstrated by certified statements of financial condition audited by a certified public accountant for at least 3 of the 5 latest fiscal years, including one of the 2 most recent years; and whose mean annual earnings for the 5 latest fiscal years are at least equal to the normal annual premium for the prospective fiscal coverage period, the minimum security deposit or bond must be an amount determined by the formula in this paragraph or as adjusted for applicable levels of working capital funds.

An employer meeting the standards of this paragraph may deduct from the penal value of its surety bond or from the market value of securities deposited an amount not exceeding demonstrated working capital in such current statement

of financial condition; the bond or deposit must be at least \$100,000.

Self-insurers that are unable to meet the preceding standards shall deposit acceptable funds or a surety bond in that amount produced by the formula described in this paragraph written by a corporate surety that meets the qualifications prescribed by rules adopted by the superintendent. The minimum security deposit or bond amount may be adjusted for applicable levels of working capital funds if the self-insurer was eligible to make an alternative election, under Statement of Financial Accounting Standard No. 106, Employers' Accounting for Postretirement Benefits Other Than Pensions, that would have otherwise caused the self-insurer to have both positive net earnings for at least 3 of the 5 latest fiscal years, including one of the 2 most recent years, and mean annual earnings for the 5 latest fiscal years equal to the normal annual premium for the prospective fiscal coverage period.

Within 30 days after notice by the superintendent, the self-insurer shall post the deposit indicated. This deadline may be extended by the superintendent for good cause, but in no event may exceed one year from the deadline for compliance as stated in the notice given to the self-insurer.

A bond or security deposit in excess of the amount prescribed by this subsection may be required if the superintendent determines that the self-insurer has experienced a deterioration in financial condition that adversely affects the self-insurer's ability to pay expected losses.

No judgment creditor other than claimants for benefits under this Act has a right to levy upon the self-insurer's assets held in deposit pursuant to this paragraph.

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

Effective May 25, 1995.

CHAPTER 151

H.P. 134 - L.D. 182

An Act to Increase Safety in Highway Construction and Work Maintenance Areas

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

Whereas, the work environment along the State's highways is dangerous and the protection of employees who must work in this environment is paramount; and

Whereas, speed is a major factor in accidents in construction and maintenance zones; and

Whereas, the construction and maintenance season begins in the early summer; 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 §2075, sub-§2, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

2. Public ways under construction. The Commissioner of Transportation may restrict the speed limit on a public way under construction or during maintenance and the Executive Director of the Maine Turnpike Authority may restrict the speed limit on any portion of the turnpike under construction or during maintenance when a lower rate of speed would minimize the danger of accident. A person may not operate a motor vehicle in excess of these speeds, as long as notice of the maximum speed has been given by standard black and white speed limit signs on the way. This subsection does not apply to the Maine Turnpike. Signs erected pursuant to this subsection must be covered or removed during hours when the speed limit is not restricted.

The penalty for a violation of this subsection is a fine equal to twice the amount of the fine designated in accordance with Title 4, section 164, subsection 12 for a similar speeding violation under section 2073.

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

Effective May 25, 1995.

CHAPTER 152

H.P. 861 - L.D. 1192

An Act Concerning the Office of Geographic Information Systems