

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

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

Sec. 1. 5 MRSA §8051, as amended by PL 1989, c. 297, §1, is further amended to read:

§8051. Adoption of rules of practice

In addition to other rule-making requirements imposed by law, each agency shall adopt rules of practice governing the conduct of adjudicatory proceedings, licensing proceedings and the rendering of advisory rulings, except to the extent that such rules are provided by law. The first time after October 1, 1995 that an agency proposes to adopt or modify the rules of practice governing the conduct of adjudicatory proceedings or licensing proceedings, the agency shall also propose any rules reasonably necessary to promote, when appropriate, the efficient and cost-effective use of alternative dispute resolution techniques, including the use of neutral facilitators, mediators or arbitrators. If the agency determines that it is unnecessary or inappropriate to propose these rules, it shall so state in the notice of rulemaking required under section 8053. A written explanation of the reasons for the agency's determination must be included in the basis statement of rule. Any agency rule of practice ~~which~~ that imposes a time period or deadline for the filing of any submission or for the service of any paper ~~shall~~ must provide that filing or service is complete:

1. Upon an agency. Upon an agency, when the agency receives the submission or the paper by mail, in-hand delivery or any other means specified by the agency; or

2. Upon a party. Upon a party, when the paper is mailed to the party or the party's attorney, ~~upon~~ by in-hand delivery to the recipient or by delivery to the recipient's office.

See title page for effective date.

CHAPTER 250

S.P. 370 - L.D. 1047

An Act to Allow Towns to Register Vehicles on Loan through the Federal Excess Property Program without Local Title

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

Sec. 1. 29-A MRSA §652, sub-§1, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

1. United States' vehicle. A vehicle owned by the Federal Government, unless it is registered in this State or, at the discretion of the Secretary of State, a vehicle owned by the Federal Government that is loaned to the State or a municipality for forest fire control activities;

See title page for effective date.

CHAPTER 251

H.P. 1057 - L.D. 1486

An Act to Add Types of Pharmacies That Are Subject to Record Seizure

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

Sec. 1. 32 MRSA §13723, sub-§7, as amended by PL 1991, c. 274, §2, is further amended to read:

7. Investigatory powers. The board shall notify the Department of the Attorney General upon receipt of a complaint. Upon receipt of the notifications, the Attorney General shall notify the department within a timely period if the alleged violation requires criminal investigation. If a case does not require criminal investigation, the board or its authorized representatives may investigate and gather evidence concerning alleged violations of this Act or of the rules of the board. The board or an officer authorized pursuant to paragraph A may remove from any ~~drug outlet or wholesaler premises~~ premises authorized for inspection pursuant to section 13721, subsection 1, paragraph D certain original records relating to scheduled drugs or controlled substances, including, but not limited to, prescription records, shipping and delivery records, patient profiles, inventories and other drug records for the purposes of analysis, duplication and furthering the investigation. A signed inventory receipt of any records being removed must be furnished to the ~~drug outlet or wholesaler premises~~ by the board or an authorized officer. When a means of producing legible photocopies is readily available at the site of the records being removed, an authorized officer removing the records shall leave photocopies of the records as part of an inventory receipt in accordance with this subsection. Except when photocopies are left as part of an inventory receipt, the board or an authorized officer removing records from a ~~drug outlet or wholesaler premises~~ shall, within 48 hours from the time of removal, provide to a representative of the ~~drug outlet or wholesaler premises~~ photocopies of any removed records, together with a certificate identifying the agency in possession of the records, or return the original records. Inventory receipts and photocopies of any

removed records provided by the board or an authorized officer are admissible as evidence if offered by ~~the drug outlet or wholesaler~~ any representative of the premises to prove compliance with any rule of the board or requirement of law.

A. Prescriptions, orders and records required by this chapter and stocks of prescription and legend drugs are open only to the board, the board's inspectors and investigators, federal and state law enforcement officers whose duty it is to enforce the laws of this State or of the United States relating to scheduled drugs or controlled substances and other law enforcement officers authorized by the board or the Attorney General for the purposes of inspecting, investigating and gathering evidence of violations of law or any rule of the board. No officer having knowledge by virtue of the officer's office of any such prescription, order or record may divulge that knowledge, except before a licensing or registration board or officer or in connection with a prosecution or proceeding in court.

B. The Bureau of Health, the board, their officers, agents, inspectors and representatives, all peace officers within the State and all prosecuting attorneys shall enforce all provisions of this chapter, except those specifically delegated, and shall cooperate with all agencies charged with the enforcement of the laws of the United States, of this State and of all other states relating to prescription or legend drugs or their equivalent.

See title page for effective date.

CHAPTER 252

H.P. 842 - L.D. 1173

An Act to Amend the Maine Criminal Code Sentence Alternative for Forfeiture of Firearms

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

Sec. 1. 17-A MRSA §1158, as amended by PL 1989, c. 815, is further amended to read:

§1158. Forfeiture of firearms

As part of every judgment of conviction and sentence imposed, every firearm that constitutes the basis for conviction under Title 15, section 393 or under section 1105, subsection 1, paragraph C or that is used by the defendant or any accomplice during the commission of any murder or Class A, Class B or Class C crime or any Class D crime defined in chapter 9, 11 or 13 must be forfeited to the State and the court

shall so order, unless another person can satisfy the court prior to the judgment and by a preponderance of the evidence that such other person had a right to possess the firearm, to the exclusion of the defendant, at the time of the offense. The Attorney General shall adopt rules in accordance with Title 5, chapter 375, governing the disposition to state, county and municipal agencies of firearms forfeited under this section.

See title page for effective date.

CHAPTER 253

S.P. 466 - L.D. 1262

An Act to Make Certain Changes to the Maine Juvenile Code

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

Sec. 1. 15 MRSA §3310, sub-§5, ¶B, as enacted by PL 1977, c. 520, §1, is repealed and the following enacted in its place:

B. Following the issuance of the order of adjudication, a dispositional hearing must be commenced. Upon motion of any interested party or on the court's own motion, the time for the commencement of the dispositional hearing may be increased to 2 weeks or, upon cause shown, for a longer period. Once commenced, the dispositional hearing may be continued one or more times for any of the reasons specified in section 3312, subsection 3 or, upon cause shown, for any other reason.

Sec. 2. 15 MRSA §3311, sub-§3, as amended by PL 1983, c. 480, Pt. B, §16, is further amended to read:

3. Requirement for dispositional hearing. ~~Unless waived~~ If ordered by the court, the Department of Corrections shall make a social study and prepare a written report on every juvenile adjudicated as having committed a juvenile crime and shall present that report to the juvenile court prior to that juvenile's dispositional hearing. The person who prepared the report may be ordered to appear, as provided in subsection 1.

Sec. 3. 15 MRSA §3312, sub-§1, as amended by PL 1979, c. 681, §28, is further amended to read:

1. Evidence of proper disposition. After making an order of adjudication, the court shall hear evidence on the question of the proper disposition best serving the interests of the juvenile and the public. ~~¶~~