

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE

SECOND SPECIAL SESSION
September 5, 1996 to September 7, 1996

ONE HUNDRED AND EIGHTEENTH LEGISLATURE

FIRST REGULAR SESSION
December 4, 1996 to March 27, 1997

FIRST SPECIAL SESSION
March 27, 1997 to June 20, 1997

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 26, 1997

FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 19, 1997

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
1997

In the administration of the powers to appropriate appreciation, to make and retain investments and to delegate investment management of institutional funds, members of a governing board shall exercise ordinary business care and prudence under the facts and circumstances prevailing at the time of the action or decision. ~~In so doing~~ When exercising ordinary business care and prudence, they shall consider long-term and short-term needs of the institution in carrying out its educational, religious, philanthropic or other charitable purposes; its present and anticipated financial requirements; expected total return on its investments; price-level trends; and general economic conditions. Unless explicitly stated otherwise by the donor, appreciation on investments of endowment funds, until appropriated pursuant to proper governing board action, must be considered a donor restricted asset.

See title page for effective date.

CHAPTER 303

H.P. 713 - L.D. 977

An Act to Establish the Rider Safety Act

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

Sec. 1. 8 MRSA c. 29 is enacted to read:

CHAPTER 29

RIDER SAFETY

§801. Short title

This chapter may be known and cited as the "Rider Safety Act."

§802. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Amusement owner. "Amusement owner" means a person, the State or a political subdivision of the State that owns an amusement ride or, if the amusement ride is leased, the lessee.

2. Amusement ride. "Amusement ride" means:

A. A device that is intended to give amusement, excitement, pleasure or thrills to passengers whom the device carries along or around a fixed or restricted course or within a defined area; or

B. A structure that gives amusement, excitement, pleasure or thrills to people who move around, over or through the structure without the aid of a moving device integral to the structure.

"Amusement ride" does not include a device or structure that is devoted principally to exhibitions related to agriculture, the arts, education, industry, religion or science.

3. Parent or guardian. "Parent or guardian" means each parent, custodian or guardian responsible for the control, safety, training or education of a minor rider.

4. Rider. "Rider" means any person who is:

A. Waiting in the immediate vicinity to get on an amusement ride;

B. Getting on an amusement ride;

C. Using an amusement ride;

D. Getting off an amusement ride; or

E. Leaving an amusement ride and still in its immediate vicinity.

"Rider" does not include employees, agents or servants of the amusement owner while engaged in the duties of their employment.

5. Sign. "Sign" means any symbol or language reasonably calculated to communicate information to riders or their parents or guardians, including placards, prerecorded messages, live public address, stickers, pictures, pictograms, video, verbal information and visual signals.

§803. Rider conduct

1. Reports. A rider or the rider's parent or guardian shall report in writing to the amusement owner or the amusement owner's designee any injury sustained on an amusement ride before leaving the amusement owner's premises, including:

A. The name, address and phone number of the injured person;

B. A brief description of the incident, the injury claimed and the location, date and time of the injury;

C. The cause of the injury, if known; and

D. The names, addresses and phone numbers of any witnesses to the incident.

If the rider or the rider's parent or guardian is unable to file a report because of the severity of the rider's injuries, the rider or the rider's parent or guardian shall

file the report as soon as reasonably possible. The failure of a rider or the rider's parent or guardian to report an injury under this section does not affect the rider's right to commence a civil action.

2. Code of conduct. A rider shall at a minimum:

A. Obey the reasonable safety rules posted in accordance with this Act and oral instructions for an amusement ride issued by the amusement owner or the amusement owner's employee or agent, unless:

(1) The safety rules are contrary to this Act; or

(2) The oral instructions are contrary to this Act or the safety rules; and

B. Refrain from acting in any manner that may cause or contribute to injuring the rider or others, including:

(1) Exceeding the limits of the rider's ability;

(2) Interfering with safe operation of the amusement ride;

(3) Not engaging any safety devices that are provided;

(4) Disconnecting or disabling a safety device except at the express instruction of the ride operator;

(5) Altering or enhancing the intended speed, course or direction of an amusement ride;

(6) Using the controls of an amusement ride designed solely to be operated by the ride operator;

(7) Extending arms and legs beyond the carrier or seating area except at the express direction of the ride operator;

(8) Throwing, dropping or expelling an object from or toward an amusement ride except as permitted by the ride operator;

(9) Getting on or off an amusement ride except at the designated time and area, if any, at the direction of the ride operator or in an emergency; and

(10) Not reasonably controlling the speed or direction of the rider's person or an amusement ride that requires the rider to

control or direct the rider's person or a device.

3. Rider qualifications. A rider may not get on or attempt to get on an amusement ride unless the rider or the rider's parent or guardian reasonably determines that, at a minimum, the rider:

A. Has sufficient knowledge to use, get on and get off the amusement ride safely without instruction or has requested and received before getting on the ride sufficient information to get on, use and get off safely;

B. Has located, reviewed and understood any signs in the vicinity of the ride and has satisfied any posted height, medical or other restrictions;

C. Knows the range and limits of the rider's ability and knows the requirements of the amusement ride will not exceed those limits;

D. Is not under the influence of alcohol or any drug that affects the rider's ability to safely use the amusement ride or obey the posted rules or oral instructions; and

E. Is authorized by the amusement owner or the amusement owner's authorized servant, agent or employee to get on the amusement ride.

§804. Notice to riders

1. General signs. An amusement owner shall display signs indicating the applicable safety responsibilities of riders set forth in section 803 and the location of stations to report injuries. The signs must be located at:

A. Each station for reporting an injury;

B. Each first aid station; and

C. Either:

(1) At least 4 other locations on the premises, including each premises entrance and exit, if there are no more than 4 entrances or exits for riders;

(2) At least 4 other locations on the premises, including the 4 premises entrances and exits most commonly used by riders, if there are more than 4 entrances and exits for riders; or

(3) Each amusement ride.

2. Individual amusement ride signs. An amusement owner shall post a sign at each amusement ride that includes:

A. Operational instructions, if any;

B. Safety guidelines for riders, if any;

C. Restrictions on the use of the amusement ride, if any;

D. Behavior or activities that are prohibited, if any; and

E. A legend providing that "State law requires riders to obey all warnings and directions for this ride and behave in a manner that will not cause or contribute to injuring themselves or others. Riders must report injuries before leaving. Failure to comply is punishable by fine and imprisonment."

Any sign required by this section must be prominently displayed at a conspicuous location, clearly visible to the public and bold and legible in design.

§805. Construction

Nothing in this chapter may be construed to preclude a criminal prosecution or civil action available under any other law.

§806. Uniformity of interpretation

This Act must be interpreted and construed as to effectuate its general purpose to make uniform the law of those states that enact it.

See title page for effective date.

CHAPTER 304

S.P. 244 - L.D. 813

An Act to Define the Projects That Public Works Departments May Undertake Without Procuring the Services of a Registered Professional Engineer

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

Sec. 1. 32 MRSA §1254 is repealed and the following enacted in its place:

§1254. Public works

1. Use of registered professional engineer not required. Except as provided in subsection 2, any department of this State or any of its political subdivisions, any county, city, town, township or plantation may engage in construction of any public work involving professional engineering without procuring the services of a registered professional engineer, as long as the contemplated expenditure for the completed project does not exceed \$100,000 and the work,

both as performed and as completed, does not create an undue risk to public safety or welfare.

2. Exception. A department of this State may require the services of a registered professional engineer for any public works project if the services of the professional engineer are required to comply with any provision of law or rule.

See title page for effective date.

CHAPTER 305

S.P. 133 - L.D. 412

An Act to Require the Purchaser of Tobacco Products to Produce Suitable Identification

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

Sec. 1. 22 MRSA §1552-A, sub-§2, as enacted by PL 1995, c. 470, §9 and affected by §19, is amended to read:

2. Display of prohibition against sales to juveniles. All licensees shall post notice of the prohibition on tobacco sales to juveniles pursuant to section ~~1555~~ **1555-B**. Notices must be publicly and conspicuously displayed in the licensee's place of business in letters at least 3/8 inches high. Signs required by this section must be provided at cost by the department. Any person who violates this subsection commits a civil violation for which a forfeiture of not less than \$50 nor more than \$200 may be adjudged for any one offense.

Sec. 2. 22 MRSA §1553-A, sub-§1, as enacted by PL 1995, c. 470, §9 and affected by §19, is amended to read:

1. Vending requirements. When the sale of cigarettes or any other tobacco product is made from a vending machine the following is required.

A. Only cigarettes or any other tobacco products may be dispensed by that machine.

B. A sign must be affixed conspicuously to the front of the machine. The sign must:

(1) Contain lettering that is at least 3/8 inches in height; and

(2) State the following: "WARNING. It is unlawful for any person under the age of 18 to purchase cigarettes in this State."

C. At all times during the hours the vending machine is accessible, it must be located within the