

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

(39) Services performed by a direct seller as defined in 26 United States Code, Section 3508, Subsection (b), Paragraph (2). This subparagraph does not include a person selling major improvements or renovations to the structure of a home, business or property; and

Sec. 2. 26 MRSA §1043, sub-§11, ¶F, as corrected by RR 1995, c. 2, §62, is further amended by adding a new subparagraph (40) to read:

(40) Services performed by lessees of taxicabs, as long as that employment is not subject to federal unemployment tax. This subparagraph may not be construed to affect a determination regarding a lessee's status as an independent contractor for workers' compensation purposes.

See title page for effective date.

CHAPTER 350

S.P. 175 - L.D. 504

An Act to Amend Certain Provisions Dealing with Juvenile Summonses

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

Sec. 1. 15 MRSA §3301, sub-§5, ¶C, as amended by PL 1985, c. 439, §11, is further amended to read:

C. If the juvenile caseworker determines that the facts are sufficient for the filing of a petition, he the juvenile caseworker may request the prosecuting attorney to file a petition. If this alternative is chosen, the juvenile caseworker shall issue and may serve a summons in accordance with section 3304. If the juvenile caseworker does not make service before requesting the prosecuting attorney to file a petition, the juvenile caseworker shall request a law enforcement officer to serve the summons in accordance with section 3304.

Sec. 2. 15 MRSA §3304, sub-§1, as enacted by PL 1977, c. 520, §1, is amended to read:

1. Issuance and contents. After a petition has been filed, the court shall promptly issue a summons. The summons shall briefly recite the substance of the petition issued by the juvenile caseworker must include the signature of the juvenile caseworker, a brief description of the alleged juvenile crime, the time and place of the alleged juvenile crime and the time and place the juvenile is to appear in court. The

summons ~~shall~~ must also include a statement of the constitutional rights of the juvenile, including the right to have an attorney present at the hearing on the petition and to have an attorney appointed, if indigent.

Sec. 3. 15 MRSA §3304, sub-§3, as amended by PL 1989, c. 741, §12, is further amended to read:

3. Service. The summons must be directed to and served, pursuant to Rule 4 (c)(4) of the Maine Rules of Criminal Procedure, upon the following persons:

- A. The juvenile; and
- B. The juvenile's parents, guardian or legal custodian, if the juvenile is not emancipated. Service upon a parent, guardian or legal custodian who is out of state may be by a reasonable method ordered by the court.

Sec. 4. 15 MRSA §3304, sub-§4, as enacted by PL 1977, c. 520, §1, is amended to read:

4. Service at least 48 hours before appearance demanded. The summons ~~shall~~ must require the person on whom it is served to appear for a hearing at ~~a~~ the time and place specified. The time ~~shall~~ may not be less than ~~2 days~~ 48 hours after service of the summons. If the juvenile is not detained by an order of the court, the summons ~~shall required~~ must require the custodian to produce the juvenile at that time and place. ~~A copy of the petition shall be attached to the summons.~~

See title page for effective date.

CHAPTER 351

H.P. 443 - L.D. 593

An Act to Strengthen the Laws Concerning Resisting Arrest

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

Sec. 1. 17-A MRSA §108, sub-§1-A is enacted to read:

1-A. A person is not justified in using nondeadly force against another person who that person knows or reasonably should know is a law enforcement officer attempting to effect an arrest or detention, regardless of whether the arrest or detention is legal. A person is justified in using the degree of nondeadly force the person reasonably believes is necessary to defend the person or a 3rd person against a law enforcement officer who, in effecting an arrest or detention, uses

nondeadly force not justified under section 107, subsection 1.

Sec. 2. 17-A MRSA §751, as enacted by PL 1975, c. 499, §1, is amended to read:

§751. Obstructing government administration

1. A person is guilty of obstructing government administration if ~~he~~ the person uses force, violence, or intimidation or engages in any criminal act with the intent to interfere with a public servant performing or purporting to perform an official function.

2. This section ~~shall~~ does not apply to:

A. Refusal by a person to submit to an arrest or detention; or

B. Escape by a person from official custody, as defined in section 755.

3. Obstructing government administration is a Class D crime.

Sec. 3. 17-A MRSA §751-A is enacted to read:

§751-A. Refusing to submit to arrest or detention

1. A person is guilty of refusing to submit to an arrest or a detention if, with the intent to hinder, delay or prevent a law enforcement officer from effecting the arrest or detention, that person:

A. Uses physical force against the law enforcement officer; or

B. Creates a substantial risk of bodily injury to the law enforcement officer.

2. It is a defense to prosecution under this section that:

A. The person knew that the law enforcement officer knew that the arrest or detention was illegal; or

B. The person reasonably believed that the person attempting to effect the arrest or detention was not a law enforcement officer.

3. Refusing to submit to an arrest or a detention is a Class D crime.

See title page for effective date.

CHAPTER 352

H.P. 646 - L.D. 899

An Act Regarding Terminal Rental Adjustment Clauses Vehicle Leasing

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

Sec. 1. 10 MRSA c. 209-A is enacted to read:

CHAPTER 209-A

VEHICLE LEASES THAT ARE NOT SALES OR SECURITY INTERESTS

§1305. Terminal rental adjustment clauses; vehicle leases that are not sales or security interests

Notwithstanding any other provision of law, in the case of motor vehicles or trailers, a transaction does not create a sale or security interest merely because the agreement provides that the rental price is permitted or required to be adjusted upward or downward by reference to the amount realized upon sale or other disposition of the motor vehicle or trailer.

See title page for effective date.

CHAPTER 353

H.P. 648 - L.D. 901

An Act to Allow Minors under 16 Years of Age to Work at Certain Commercial Places of Amusement

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

Whereas, low rates of unemployment in southern Maine have caused a severe shortage of labor in recent tourist seasons that has made it difficult for tourist businesses to recruit workers; and

Whereas, the summer tourist season will begin within 30 days of adjournment; and

Whereas, if this legislation does not become effective until the normal effective date, a number of seasonal tourist businesses will not be able to benefit this year from the change in law this legislation would enact; 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