

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

before an official authorized to take oaths. If a determination of paternity has been made by a court of competent jurisdiction, then the name of the father as determined by the court must be entered on the birth certificate without the father's or the mother's consent. If the putative father executes an acknowledgement of paternity with the department and the putative father is either named in writing by the mother as the father or is presumed to be the father based on the results of blood or tissue-typing tests, the name of the father must be entered on the birth certificate without the father's or the mother's consent. All voluntary acknowledgments and adjudications of paternity in this State must be filed with the Office of Vital Statistics for comparison with information in the state registry of support orders as established in Title 19-A, section 2104.

Sec. 58. 26 MRSA §1048-A is enacted to read:

§1048-A. Disclosure of wage and unemployment compensation information to National Directory of New Hires

Notwithstanding any other provision of law, the commissioner shall provide quarterly data, contained in the department's records of wages and unemployment compensation benefits paid to individuals who are reported to the Department of Human Services pursuant to Title 19-A, section 2154, to the Department of Human Services for transmission to the federal Secretary of Health and Human Services as required by Section 313(g)(2) of the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 110 Stat. 2105. The cost of complying with the requirements of this section must be paid for by the federal Department of Health and Human Services to the maximum extent permitted by law, with any remaining cost paid for by the Department of Human Services.

Sec. 59. 29-A MRSA §1301, sub-§6 is enacted to read:

6. Social security number. The social security number of an applicant for a commercial license must be recorded on the application.

Sec. 60. 36 MRSA §191, sub-§2, ¶O, as amended by PL 1995, c. 178, §1, is further amended to read:

O. The disclosure to an authorized representative of the Department of Human Services of ~~the most recent address of a delinquent payor of child support~~ an individual's residence, employer, income and assets for child support enforcement purposes as required by the Social Security Act, 47 United States Code, Chapter 7, subchapter IV, Part D (1966), when a written re-

~~quest containing the payor's Social Security social security number is made by the department;~~

Sec. 61. Department of Human Services; computer programming costs. The Department of Human Services shall reimburse the Bureau of Taxation \$5,000 annually in fiscal years 1997-98 and 1998-99 for the additional computer programming costs associated with child support enforcement.

Sec. 62. Effective date. This Act takes effect October 1, 1997.

Effective October 1, 1997.

CHAPTER 538

S.P. 150 - L.D. 429

An Act to Protect the Potato Industry from the Spread of Serious Disease

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

Whereas, the need to ensure the proper disposal of cull potatoes and to prevent the importation of potato diseases is immediate; 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. 7 MRSA §1007-A, as enacted by PL 1995, c. 261, §2, is repealed and the following enacted in its place:

§1007-A. Improperly maintaining potato cull piles; public nuisance

1. Declaration of public nuisance. The Legislature declares that the A2 strain of late blight and other potato diseases constitute a clear and present danger to the potato industry in the State, which is a significant part of the State's economy. Control of the A2 strain of potato blight and other potato diseases requires the proper disposal of potato cull piles. The Legislature finds it necessary to exercise the police power of the State to require proper disposal of cull potatoes and potato cull piles and to provide procedures for the disposal of these potatoes by the department when the owner fails to comply with the

requirements of this section. In addition to constituting a civil violation as prescribed in this section, potato cull piles that are not managed and disposed of in accordance with these requirements are considered a public nuisance.

2. Disposal requirements. The owner or lessee of any real property on which potatoes are grown, or on which potato cull piles are maintained or disposed of, shall properly dispose of potato culls and cull piles in order to destroy the A2 strain of potato blight and other potato diseases. The commissioner shall adopt rules in accordance with subsection 3 to prescribe the proper disposal of potato culls and potato cull piles. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A. Proper disposal must occur on or before June 10th of each year. No cull piles may be maintained between June 10th and October 1st of each year. By emergency or other rule-making procedures, the commissioner may vary these dates when the type of disposal method or other circumstances require that cull piles be destroyed in order to prevent the spread of significant disease.

3. Rules. The commissioner may adopt any rules necessary to implement this section in accordance with the Maine Administrative Procedure Act, except that the commissioner may shorten or suspend the notice and hearing requirements as necessary to respond to any threat of disease. Prior to adopting any rules under this section, the commissioner shall consult with the Maine Potato Board except in an emergency. In addition, the commissioner may determine best management practices for the handling of cull potatoes and cull piles in accordance with Title 17, section 2805.

4. Department action. The commissioner may take action to properly dispose of potato culls and cull piles that violate the requirements of this section or any rules of the commissioner adopted to implement this section. The commissioner or the commissioner's designee is authorized to enter any property to inspect potato cull piles and to take any action required to secure their proper disposal. Designated representatives of the commissioner may, without search warrant, enter at reasonable times any real property, other than a building, where potatoes are grown, stored, packed, loaded for shipment or handled, and may enter any building, either with the consent of the owner, lessee, occupant or agent or pursuant to an administrative search warrant. Notwithstanding the Maine Rules of Civil Procedure, Rule 80E, paragraph (b), the commissioner or the commissioner's designee may obtain an administrative search warrant pursuant to this section by describing the premises to be entered and the purpose of the inspection or other authorized action and by demonstrating that the entry is necessary in order to inspect potato cull piles or otherwise carry

out the requirements of this section. This demonstration is deemed to be a demonstration of probable cause.

The costs incurred by the department in removing and properly disposing of cull potatoes and cull piles must be reimbursed by the owner or lessee of the property on which the potatoes were found or any other person responsible for the potatoes, each of whom is jointly and severally liable for those costs to the department. The department, its employees and agents and any person acting on behalf of the department are not liable for any action taken pursuant to this section.

5. Potato Cull Removal Fund. The Potato Cull Removal Fund is established to be used by the department to administer and enforce the provisions of this section and to pay any expenses of potato cull removal and disposal. The commissioner may receive funds from any source to be deposited into this fund, which does not lapse. If at any time the balance of the fund falls below \$15,000, any penalties collected under this section must be deposited into the fund. Otherwise, penalties collected must be deposited into the General Fund.

6. Civil penalties. Any person who violates any of the requirements of this section or any rules adopted under this section commits a civil violation for which a forfeiture of not more than \$1,000 for each violation, together with not more than \$200 for each succeeding day of a continuing violation, may be adjudged.

Sec. 2. 7 MRSA §2103-A, sub-§1, as enacted by PL 1987, c. 336, is amended to read:

1. Certification required. Seed potatoes shall may not be certified beyond 5 generations of the seed originally acquired from a nuclear seed generation source meeting criteria established by the department's rules. Seed potatoes imported into the State shall must meet the State's certification standards and all import certificates shall must designate the imported seed's generation, which shall must equal and compare to a state certified seed designation. The imported seed shall must "flush out" at the same rate as the equivalent state seed generation. The commissioner may test, or cause to be tested, a seed lot imported into the State if the commissioner has reason to believe the seed lot is, or may be infected with a potato disease that poses a risk to the well-being of the State's potato industry. A person importing seed or receiving imported seed that the commissioner indicates must be tested shall submit a sample for testing. A person may not plant seed from an imported seed lot required to be tested under this subsection until the seed sample is tested and meets allowable disease standards for seed potatoes produced in the State.

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

Effective June 12, 1997.

CHAPTER 539

S.P. 368 - L.D. 1227

An Act to Require the Department of Transportation to Improve the Conditions of Any Road That May be Turned Over to a Municipality

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

Whereas, current law allows the Department of Transportation to transfer certain roads to municipalities, regardless of the conditions of those roads; and

Whereas, a municipality receiving responsibility for these roads could incur major expenses to repair these roads; and

Whereas, these expenses could be a financial burden to the municipality; and

Whereas, it is inequitable that the State should be allowed to transfer roads in a state of disrepair and avoid the responsibility of repairing the roads; and

Whereas, it is necessary that this legislation take effect as soon as possible to avoid further inequities; 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. 23 MRSA §754, as amended by PL 1989, c. 46, §2, is further amended to read:

§754. Town maintenance in compact areas

Except as otherwise provided, all state and state aid highways within compact or built-up sections of towns having a population of 6,000 and over, as determined by the department, ~~shall~~ must be maintained in good repair by the town in which the highways are located at the expense of the town. For the purposes of this section, compact or built-up sections include compact areas as determined by the

department in which compact sections may be intermittent and separated by a short interval or intervals of sections that are not compact. Municipalities ~~shall~~ must be notified one year in advance of changes in compact or built-up sections ~~which that~~ place additional maintenance responsibilities on the municipalities. Whenever any town neglects to maintain the highways within 14 days after notice given its municipal officers by the department, the department may proceed to make necessary repairs to that way, which ~~shall~~ must be paid for by the State and the cost thereof ~~shall~~ must be withheld from funds due the town under chapter 19, subchapter VI, Local Road Assistance Program. The amounts collected from these towns ~~shall~~ must be added to the fund for maintenance of state and state aid highways. The department may take over the maintenance of portions of controlled access highways within compact sections as it determines advisable. The department may grant these towns financial assistance as it determines advisable to carry out the purposes of this section.

When the responsibility for maintenance of a section of state or state aid highway is to be transferred to a municipality as a result of population growth, the department shall prepare a capital and maintenance plan to ensure that the section of state or state aid highway is in good repair at the time of transfer. The plan must be developed in consultation with the affected municipality. For the purpose of this section, "good repair" means actions intended to reasonably avoid nonroutine maintenance activities for a minimum of 10 years and includes consideration of ditching, culverts, major structural defects and pavement condition ratings of 3.3 or greater.

Sec. 2. Application. This Act applies to sections of state or state aid highways scheduled to be transferred to municipalities on January 1, 1997 or later because of population growth.

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

Effective June 12, 1997.

CHAPTER 540

S.P. 137 - L.D. 416

An Act to Amend the Definition of Personal Watercraft, to Prohibit the Imprudent Operation of Watercraft on Inland Waters of the State and to Assess the Effectiveness of Industry-sponsored Watercraft Safety Training and Education Programs