

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND EIGHTEENTH LEGISLATURE

SECOND REGULAR SESSION
January 7, 1998 to March 31, 1998

SECOND SPECIAL SESSION
April 1, 1998 to April 9, 1998

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 30, 1998

SECOND SPECIAL SESSION
NON-EMERGENCY LAWS IS
JULY 9, 1998

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

notice of the application to any owners and mortgagees of the property at least 10 days before the hearing. Payment by the receiver of the amount determined by the court to be reasonable is a defense to an action against the receiver for payment or for the possession of the subject goods or real estate by a person who received that notice.

Notwithstanding this subsection, there may not be a foreclosure or eviction during the receivership by any person if the foreclosure or eviction would, in view of the court, serve to defeat the purpose of the receivership.

4. Closing of facility or provider. The receiver may not close the facility or provider without leave of the court. In ruling on the issue of closure, the court shall consider:

- A. The rights and best interests of the residents or clients;
- B. The availability of suitable alternative placements;
- C. The rights, interest and obligations of the owner and licensee;
- D. The licensure status of the facility or provider; and
- E. Any other factors that the court considers relevant.

When a facility or provider is closed, the receiver shall provide for the orderly transfer of residents or clients to mitigate transfer trauma.

§13005. Termination of receivership

The receivership terminates when the court certifies that the conditions that prompted the appointment are corrected or, in the case of a discontinuance of operation, when the residents or clients are safely relocated. The court shall review the necessity of the receivership at least semiannually.

A receivership may not be terminated in favor of the former or the new licensee, unless that person assumes all obligations incurred by the receiver and provides collateral or other assurances of payment considered sufficient by the court.

§13006. Liability of receiver

A person may not bring suit against a receiver appointed under section 13003 without first securing leave of the court. Except in cases of gross negligence or intentional wrongdoing, the receiver is liable in the receiver's official capacity only and any judgment rendered must be satisfied out of receivership assets.

§13007. Court order to have effect of license

An order appointing a receiver under section 13003 has the effect of a license for the duration of the receivership. The receiver is responsible to the court for the conduct of the facility or provider during the receivership, and a violation of regulations governing the conduct of the facility or provider, if not promptly corrected, must be reported by the department to the court.

§13008. Rule-making authority to implement receivership law

The department may adopt rules as necessary to implement this chapter. Rules adopted pursuant to this chapter are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

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

Effective March 20, 1998.

CHAPTER 611

S.P. 775 - L.D. 2102

An Act to Update the Guide Dog Access Law

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

Sec. 1. 17 MRSA §1312, sub-§3, as enacted by PL 1971, c. 58, §1, is amended to read:

3. Guide and personal care dogs. Every totally or partially blind or otherwise physically disabled person ~~shall have~~ has the right to be accompanied by a guide or personal care dog, especially trained for the purpose, in any of the places listed in subsection 2 without being required to pay an extra charge for the guide or personal care dog, ~~provided that he shall be~~ ; however, the person is liable for any damage done to the premises or facilities by such dog.

Sec. 2. 17 MRSA §1312, sub-§4, as enacted by PL 1981, c. 584, §1, is amended to read:

4. Especially trained guide dog trainer or personal care dog trainer; access to public facilities; responsibilities. An especially trained guide dog trainer or personal care dog trainer, while engaged in the actual training process and activities of guide or personal care dogs, ~~shall have~~ has the same rights, privileges and responsibilities described in this section with respect to access to and use of public facilities as

are applicable to a blind, visually handicapped or otherwise physically disabled person.

Sec. 3. 17 MRSA §1312, sub-§5, as enacted by PL 1987, c. 104, §1, is amended to read:

5. Housing accommodations; persons with guide or personal care dogs. Every blind or visually handicapped or otherwise physically disabled individual who has a sight-assistance or assistance animal, such as a guide or personal care dog, is entitled to full and equal access to all housing accommodations provided for in this section. Blind or visually impaired or otherwise physically disabled individuals may not be required to pay extra compensation to keep sight-assistance or personal care animals. A blind or visually impaired or otherwise physically disabled person ~~shall be~~ is liable for any damages done to the premises by the animal.

Sec. 4. 17 MRSA §1312, sub-§7 is enacted to read:

7. Personal care dog; definition. As used in this section, "personal care dog" means a dog that provides assistance with activities of daily living for a person who is physically disabled.

Sec. 5. 17 MRSA §1313, as enacted by PL 1971, c. 58, §1, is amended to read:

§1313. Motor vehicle drivers

The driver of a vehicle approaching a totally or partially blind or otherwise physically disabled pedestrian who is carrying a cane predominantly white or metallic in color, with or without a red tip, or using a guide or personal care dog as defined in section 1312 shall take all necessary precautions to avoid injury to ~~such~~ that blind or otherwise physically disabled pedestrian, and any driver who fails to take such precautions ~~shall be~~ is liable in damages for any injury caused ~~such~~ the pedestrian. A totally or partially blind or otherwise physically disabled pedestrian, not carrying such a cane or using a guide or personal care dog in any of the places, accommodations or conveyances listed in section 1312, ~~shall have~~ has all of the rights and privileges conferred by law upon other persons, and the failure of a totally or partially blind or otherwise physically disabled pedestrian to carry such a cane or to use a guide or personal care dog in any such places, accommodations or conveyances ~~shall may~~ not be held to constitute nor be evidence of contributory negligence.

See title page for effective date.

CHAPTER 612

S.P. 788 - L.D. 2115

An Act to Allow the Department of Transportation to Provide Privately Contracted Ferry Services

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

Whereas, extensive repairs to facilities that support the Maine State Ferry Service are scheduled for April and May of 1998; and

Whereas, the Department of Transportation needs to ensure that ferry routes of the Maine State Ferry Service are maintained while these repairs are made; 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 §4401, as amended by PL 1989, c. 544, §1, is further amended to read:

§4401. Ferry service for North Haven, Vinalhaven, Islesboro, Matinicus Isle, Swan's Island and Frenchboro

It is the duty of the Department of Transportation to operate a ferry route or routes between the mainland and the towns of North Haven, Vinalhaven, Islesboro, Matinicus Isle and Swan's Island for the purpose of transporting vehicles, freight and passengers to and from these towns, and the department may operate the ferry route or routes to and from Frenchboro. Ferry service to Matinicus Isle ~~shall~~ must be at least 12 times per year and may be up to 24 times per year and may be provided by state-owned or ~~privately contracted~~ privately contracted vessels. These ferry routes ~~shall be~~ are designated as the "Maine State Ferry Service." During periods of facility repair or maintenance or during periods of extraordinary demand, the department may carry out its responsibilities by utilizing privately contracted vessels to provide additional or substitute service to islands served by the Maine State Ferry Service as long as the use of privately contracted vessels is in accordance with an agreement between the department and the State's collective bargaining agent as defined in Title 26, section 979-A, subsection 1.