

# 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.**

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**J.S. McCarthy Company**  
**Augusta, Maine**  
**1997**

subsection 7 or that prohibit residential out-of-door burning of highly combustible trash.

See title page for effective date.

## CHAPTER 673

S.P. 813 - L.D. 2195

### **An Act Concerning Enforcement of Parking Spaces for Persons with Physical Disabilities**

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

**Sec. 1.** 29-A MRSA §521, sub-§8, as repealed and replaced by PL 1995, c. 482, Pt. A, §4, is repealed.

**Sec. 2.** 29-A MRSA §521, sub-§9-A is enacted to read:

**9-A. Enforcement of handicapped parking restrictions.** Local or county law enforcement agencies may enforce handicapped parking restrictions on private off-street parking areas. The State Police shall enforce handicapped parking restrictions at service facilities established on the Maine Turnpike and on the interstate highway system in the State.

**Sec. 3.** 30-A MRSA §3009, sub-§1, ¶D, as amended by PL 1997, c. 60, §1, is further amended to read:

D. The following provisions apply to the establishment and policing of parking spaces for handicapped persons.

(1) Municipal public parking areas are subject to any applicable requirements of the Maine Human Rights Act, Title 5, chapter 337, subchapter V. The municipality shall post a sign adjacent to and visible from each handicapped parking space established by the municipality. The sign must display the international symbol for accessibility.

~~(2) Owners of private off street parking shall arrange for private enforcement or shall enter into agreements with local or county law enforcement agencies to enforce handicapped parking restrictions. Under these agreements, unauthorized vehicles will be ticketed. An owner of private off street parking who fails to arrange for private enforcement or to enter into an agreement with a law enforcement agency commits a civil violation for which a forfeiture of not less than \$50 may be adjudged.~~

~~Under these agreements, public law enforcement officials may ensure that parking spaces designated for the handicapped are used appropriately by handicapped persons, whether the designated handicapped parking spaces are located on public lots or on private lots open to the public. Handicapped parking restrictions in private lots may also be enforced by county or municipal volunteer parking enforcement specialists as provided in sections 471 and 472.~~

~~Where service facilities are established on the Maine Turnpike and on the interstate highway system in the State, the State Police shall enforce any handicapped parking restrictions at those facilities.~~

(2-A) Enforcement of handicapped parking restrictions must be in accordance with Title 29-A, section 521, subsection 11.

(3) Any vehicle or motorcycle parked in a parking space clearly marked as a handicapped parking space and that does not bear a special registration plate or placard issued under Title 29-A, section 521 or 523, or a similar plate issued by another state, must be cited for a forfeiture of not less than \$100. "Clearly marked" includes painted signs on pavement and vertical standing signs that are visible in existing weather conditions.

See title page for effective date.

## CHAPTER 674

H.P. 1566 - L.D. 2199

### **An Act to Make Supplemental Allocations from the Highway Fund and Other Funds and Changing Certain Provisions of the Law Necessary to the Proper Operation of State Government for the Fiscal Years Ending June 30, 1998 and June 30, 1999**

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

**Whereas,** the 90-day period may not terminate until after the beginning of the next fiscal year; and

**Whereas,** certain obligations and expenses will become due and payable prior to July 1, 1998; 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:**

### PART A

**Sec. A-1. Allocation.** The following funds are allocated from the Highway Fund for the fiscal years ending June 30, 1998 and June 30, 1999 to carry out the purposes of this Part.

	1997-98	1998-99
<b>ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF</b>		
Salary Plan		
Personal Services	(\$1,890,565)	(\$2,209,435)
Provides for the deallocation of funds no longer required to meet collective bargaining costs.		
Departments and Agencies - Statewide		
Personal Services	(359,991)	(359,991)
Provides for the deallocation of funds resulting from higher than anticipated savings in workers' compensation.		
<b>DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES TOTAL</b>	<u>(2,250,556)</u>	<u>(2,569,426)</u>
<b>TRANSPORTATION, DEPARTMENT OF</b>		
Bond Interest - Highway		
All Other		1,396,150
Provides for the allocation of funds for increased bond interest costs due to the anticipated May 1998 Highway Fund obligated bond sale of \$30,000,000.		
Bond Retirement - Highway		
All Other	(640,000)	

Provides for the deallocation of funds that are no longer required as originally allocated.		
Bond Retirement - Highway		
All Other		2,360,000
Provides for the allocation of funds for increased bond retirement costs due to the anticipated May 1998 Highway Fund obligated bond sale.		
Departmentwide		
Personal Services	150,000	150,000
Provides for the allocation of funds in order to offset a deallocation of funds authorized in Public Law 1997, chapter 25, Part H.		
Highway Maintenance		
Personal Services	(28,800)	(57,600)
Provides for the deallocation of funds for emergency relief, which is a continuation of the capital improvement program resulting from the southern Maine flood of October 1996. These funds are available through federal funds.		
Highway Maintenance		
Personal Services	(60,000)	(235,000)
Provides for the deallocation of Highway Fund Personal Services funds due to the increased allocation of federal Personal Services within the Collector Road Development Award Program.		
State Infrastructure Bank		
Capital Expenditures	433,800	101,600
Provides for the allocation of funds for the state match of federal funds for the State Infrastructure Bank. These funds will be transferred to the dedicated account.		
Island Town Refunds - Highway		

All Other	(33,047)	
Provides for the deallocation of funds that are no longer required as originally allocated.		
Local Road Assistance		
Capital Expenditures	(3,661)	
Provides for the deallocation of funds that are no longer required as originally allocated.		
<b>DEPARTMENT OF TRANSPORTATION</b>		
<b>TOTAL</b>	(181,708)	3,715,150
<b>SECTION</b>		
<b>TOTAL ALLOCATIONS</b>	(2,432,264)	1,145,724

**Sec. A-2. Allocation.** The following funds are allocated from the Federal Expenditures Fund for the fiscal years ending June 30, 1998 and June 30, 1999 to carry out the purposes of this Part.

	1997-98	1998-99
<b>TRANSPORTATION, DEPARTMENT OF</b>		
Collector Road Program		
Personal Services	60,000	235,000
Capital Expenditures	(60,000)	(235,000)
<b>TOTAL</b>	-0-	-0-
Provides for the allocation of Personal Services funds for the federal reimbursement of engineering services within the Collector Road Demonstration Award Program and the deallocation of Capital Expenditures funds.		
Highway and Bridge Improvement		
All Other	577,200	3,861,000
Capital Expenditures	2,000,000	15,000,000
<b>TOTAL</b>	2,577,200	18,861,000
Provides for the allocation of Federal Expenditures funds (FHWA) for the supplemental reconstruction program, a total federal value of \$38,800,000.		

Highway and Bridge Improvement		
All Other	1,758,733	2,952,463
Capital Expenditures	18,330,310	32,767,088
<b>TOTAL</b>	20,089,043	35,719,551
Provides for the allocation of additional Federal Expenditures funds due to the passage of the bridge bond program.		
Highway Maintenance		
Personal Services	28,800	57,600
All Other	180,000	14,400
Capital Expenditures	100,000	216,000
<b>TOTAL</b>	308,800	288,000
Provides for the allocation of funds for emergency relief grants, a continuation of the capital improvement program resulting from the southern Maine flood of October 1996.		
State Infrastructure Bank		
All Other	(4,900,000)	
Provides for the deallocation of funds that are no longer needed as originally budgeted.		
Local Bridges		
All Other	31,812	452,452
Capital Expenditures	116,972	2,761,717
<b>TOTAL</b>	148,784	3,214,169
Provides for the allocation of additional Federal Expenditures funds due to the passage of the bridge bond program.		
<b>DEPARTMENT OF TRANSPORTATION</b>		
<b>TOTAL</b>	18,223,827	58,082,720
<b>SECTION</b>		
<b>TOTAL ALLOCATIONS</b>	18,223,827	58,082,720

**Sec. A-3. Allocation.** The following funds are allocated from Other Special Revenue funds for the fiscal years ending June 30, 1998 and June 30, 1999 to carry out the purposes of this Part.

	1997-98	1998-99	SECTION		
<b>TRANSPORTATION, DEPARTMENT OF</b>			<b>TOTAL ALLOCATIONS</b>	\$2,861,000	\$1,761,000
			<b>PART B</b>		
Highway Maintenance			<b>Sec. B-1. Allocation.</b>	The following funds are allocated from the Highway Fund for the fiscal years ending June 30, 1998 and June 30, 1999 to the departments listed to provide funding for approved reclassifications and range changes to carry out the purposes of this Part.	
All Other	250,000	250,000			
Provides for the allocation of All Other funds to accommodate municipal and state cost-sharing agreements.					
Highway Maintenance				<b>1997-98</b>	<b>1998-99</b>
All Other	10,000	10,000	<b>PUBLIC SAFETY, DEPARTMENT OF</b>		
Provides for the allocation of All Other funds to establish a repair and maintenance budget for state-owned equipment in accordance with specific leaseback agreements. Any interest income earned on money in this equipment leaseback account must be retained in the account and used for the purpose of the account.			State Police		
			Personal Services	\$591	\$1,193
			All Other	(591)	(1,193)
			TOTAL	-0-	-0-
			Provides for the allocation of funds for approved reclassifications and range changes.		
			<b>DEPARTMENT OF PUBLIC SAFETY</b>		
			<b>TOTAL</b>	-0-	-0-
State Infrastructure Bank			<b>TRANSPORTATION, DEPARTMENT OF</b>		
All Other	2,400,000	1,200,000	Bridge Maintenance		
Provides for the allocation of funds to create the municipal and state loan program for federal highway projects.			Personal Services	14,339	10,356
			All Other	(14,339)	(10,356)
			TOTAL	-0-	-0-
State Infrastructure Bank			Provides for the allocation of funds for approved reclassifications and range changes.		
All Other	1,000	1,000	Highway and Bridge Improvement		
Provides for the allocation of funds to create the municipal and state loan program for Federal Transit Authority projects.			Personal Services	25,568	27,224
State Infrastructure Bank			All Other	(25,568)	(27,224)
All Other	200,000	300,000	TOTAL	-0-	-0-
Provides for the allocation of funds to create the municipal and state loan program for transportation projects.			Provides for the allocation of funds for approved reclassifications and range changes.		
<b>DEPARTMENT OF TRANSPORTATION TOTAL</b>	<b>2,861,000</b>	<b>1,761,000</b>	Highway Maintenance		
			Personal Services	1,926	2,973
			All Other	(1,926)	(2,973)

TOTAL	-0-	-0-
Provides for the allocation of funds for approved reclassifications and range changes.		
Traffic Service		
Personal Services	24,593	17,520
All Other	(24,593)	(17,520)
TOTAL	-0-	-0-
Provides for the allocation of funds for approved reclassifications and range changes.		
DEPARTMENT OF TRANSPORTATION		
TOTAL	-0-	-0-
SECTION		
TOTAL ALLOCATIONS	\$-0-	\$-0-

### PART C

**Sec. C-1. PL 1997, c. 25, Pt. R** is repealed.

**Sec. C-2. Lease-purchase authorized for engineering vehicles or equipment.** Pursuant to the Maine Revised Statutes, Title 5, section 1587, the Department of Transportation, Highway Fund, is authorized to establish lease-purchase contracts for the procurement of engineering vehicles or equipment. The term of the contracts may not be more than 7 years. The cumulative total principal value of the lease-purchase contracts may not exceed \$10,000,000. The interest rate may not exceed 6% and the total interest may not exceed \$2,400,000.

**Sec. C-3. Lease-purchase authorized for vehicles or equipment.** Pursuant to the Maine Revised Statutes, Title 5, section 1587, the Department of Transportation, Motor Transport Service, is authorized to establish lease-purchase contracts for the procurement of vehicles or equipment. The term of the contracts may not be more than 7 years. The cumulative total principal value of the lease-purchase contracts may not exceed \$12,000,000. The interest rate may not exceed 6% and total interest costs may not exceed \$2,880,000.

**Sec. C-4. Retiree health; lapsed balances.** Notwithstanding any other provision of law, \$98,558 of unencumbered balance forward from fiscal year 1996-97 in the Highway Fund, Statewide-Retiree Health account in the Department of Administrative and Financial Services lapses to the Highway Fund in fiscal year 1997-98.

**Sec. C-5. Transfer authorized.** Notwithstanding the Maine Revised Statutes, Title 5, section 1585 or any other provision of law, for the fiscal years ending June 30, 1998 and June 30, 1999, the Commissioner of Transportation is authorized to transfer, by financial order upon the recommendation of the State Budget Officer and approved by the Governor, identified Personal Services Highway Fund savings to any other program or line category within the Highway Fund to cover any nonrecurring program costs. The financial order must identify the specific savings in Personal Services after assuming all costs for that program including collective bargaining costs. The Commissioner of Transportation shall provide a report to the members of the Joint Standing Committee on Transportation detailing the financial adjustments to the Highway Fund.

**Sec. C-6. Transfer to the Department of Transportation.** Notwithstanding the Maine Revised Statutes, Title 5, section 1585 or any other provision of law, the State Controller shall transfer an amount up to 75% from the balance remaining in the Highway Fund at the end of fiscal year 1997-98 after the deduction of all allocations, financial commitments, other designated funds or any other transfer authorized in statute but not exceeding \$5,100,000 to the Highway Fund account within the Department of Transportation's Highway and Bridge Improvement Program. The Commissioner of Transportation is authorized to allot these funds, by financial order, upon approval of the Governor and the State Budget Officer, within the Highway and Bridge Program's Highway Fund account. Within 30 days of acceptance of the financial order, the Commissioner of Transportation shall provide to the members of the Joint Standing Committee on Transportation a report detailing the financial status of the Highway and Bridge Improvement Program.

**Sec. C-7. Creation of project positions.** Notwithstanding any other provision of law, the Secretary of State may establish Highway Fund limited-period, project or any other temporary positions within the Bureau of Motor Vehicles by financial order. The end date for these positions may not be later than June 30, 1999. The Secretary of State shall identify funds available, within any line category within the Bureau of Motor Vehicles, necessary for the funding of those temporary positions. The Secretary of State shall provide a report to the members of the Joint Standing Committee on Transportation detailing the number of project positions created as well as final adjustments to the Highway Fund.

### PART D

**Sec. D-1. Allocation.** The following funds are allocated from the Highway Fund for the fiscal

years ending June 30, 1998 and June 30, 1999 to carry out the purposes of this Part.

	1997-98	1998-99
<b>TRANSPORTATION, DEPARTMENT OF</b>		
Administration and Planning		
Personal Services	(\$33,000)	(\$66,000)
Provides for the deallocation of funds no longer needed in the Highway Fund. These funds are being reallocated in the Federal Fund - Bureau of Transportation Services account to properly expense Federal Transit Administration administrative costs.		
Highway Maintenance		
Personal Services	(1,000,000)	
Provides for the deallocation of Personal Services funds due to salary savings in the maintenance program.		
Highway and Bridge Improvement		
Capital Expenditures	1,000,000	
Provides for the allocation of funds necessary to provide sufficient funding for the fiscal year 1997-98 Supplemental Reconstruction program.		
<b>DEPARTMENT OF TRANSPORTATION TOTAL</b>	<u>(33,000)</u>	<u>(66,000)</u>
<b>SECTION TOTAL ALLOCATIONS</b>	<u>(33,000)</u>	<u>(66,000)</u>

**Sec. D-2. Allocation.** The following funds are allocated from the Federal Expenditures Fund for the fiscal years ending June 30, 1998 and June 30, 1999 to carry out the purposes of this Part.

	1997-98	1998-99
<b>TRANSPORTATION, DEPARTMENT OF</b>		
Transportation Service		
Personal Services	33,000	66,000

Provides for the allocation of funds in order to properly expense administrative salaries funded through current Federal Transit Administration grants. These funds are being deallocated from the Highway Fund - Administration account.

<b>DEPARTMENT OF TRANSPORTATION TOTAL</b>	<u>33,000</u>	<u>66,000</u>
<b>SECTION TOTAL ALLOCATIONS</b>	<u>33,000</u>	<u>66,000</u>

**Sec. D-3. Allocation.** The following funds are allocated from the Other Special Revenue funds for the fiscal years ending June 30, 1998 and June 30, 1999 to carry out the purposes of this Part.

	1997-98	1998-99
<b>TRANSPORTATION, DEPARTMENT OF</b>		
Transportation Service		
All Other	11,615,000	11,615,000
Provides for the allocation of funds for revenue received by the National Passenger Corporation to finance "qualified expenses" as defined in the federal Taxpayer Relief Act of 1997 (H.R.2014).		
<b>DEPARTMENT OF TRANSPORTATION TOTAL</b>	<u>11,615,000</u>	<u>11,615,000</u>
<b>SECTION TOTAL ALLOCATIONS</b>	<u>\$11,615,000</u>	<u>\$11,615,000</u>

## PART E

**Sec. E-1. Allocation.** The following funds are allocated from the Highway Fund for the fiscal years ending June 30, 1998 and June 30, 1999 to carry out the purposes of this Part.

	1997-98	1998-99
<b>TRANSPORTATION, DEPARTMENT OF</b>		
Bridge Maintenance		
Personal Services	(\$400,000)	



Provides for the deallocation of Personal Services funds due to salary savings in the Bridge Maintenance program.		
Highway and Bridge Improvement		
Personal Services	(2,000,000)	(200,000)
Capital Expenditures	2,000,000	200,000
TOTAL	-0-	-0-

Provides for the deallocation of Personal Services funds due to salary savings in the Highway and Bridge Improvement program and the allocation of Capital Expenditures funds necessary to provide sufficient funding for the Highway and Bridge Improvement program.

Local Bridge		
Personal Services	100,000	200,000
Capital Expenditures		(200,000)
TOTAL		-0-

Provides for the allocation of Personal Services funds necessary to provide required engineering services to the expanded Local Bridge program and the deallocation of Capital Expenditures funds no longer needed.

Highway Maintenance		
Personal Services	(1,500,000)	
All Other	1,000,000	
Capital Expenditures	1,000,000	
TOTAL	500,000	

Provides for the deallocation of Personal Services funds due to salary savings in the Highway Maintenance program; the allocation of All Other funds necessary for additional spring clean-up costs due to the

ice storm of 1998; and the allocation of Capital Expenditures funds necessary for full funding of the 1998 paving program.

Traffic Service	
Personal Services	(200,000)
Provides for the deallocation of Personal Services funds due to salary savings in the Traffic Services program.	

<b>DEPARTMENT OF TRANSPORTATION</b>		
<b>TOTAL</b>	-0-	-0-
<b>SECTION</b>		
<b>TOTAL ALLOCATIONS</b>	-0-	-0-

**Sec. E-2. Allocation.** The following funds are allocated from the Federal Expenditures Fund for the fiscal years ending June 30, 1998 and June 30, 1999 to carry out the purposes of this Part.

	1997-98	1998-99
<b>TRANSPORTATION, DEPARTMENT OF</b>		
Highway and Bridge Improvement		
Personal Services	(300,000)	(200,000)
Provides for the deallocation of Personal Services funds no longer needed.		
Local Bridge		
Personal Services	150,000	200,000
Provides for the allocation of Personal Services funds due to the increased level of activity in the Local Bridge program.		
Traffic Service		
Personal Services	150,000	
Provides for the allocation of Personal Services funds due to the increased level of activity in the Traffic Service program.		
<b>DEPARTMENT OF TRANSPORTATION</b>		
<b>TOTAL</b>	-0-	-0-

## SECTION

TOTAL ALLOCATIONS	\$-0-	\$-0-
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**Emergency clause.** In view of the emergency cited in the preamble, this Act takes effect when approved.

Effective April 2, 1998.

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## CHAPTER 675

### H.P. 1545 - L.D. 2174

#### An Act to Implement the Recommendations of the Commission to Study Insurance Fraud

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

**Sec. 1. 24-A MRSA §2183**, as amended by PL 1997, c. 341, §§1 and 2, is repealed.

**Sec. 2. 24-A MRSA §§2186 and 2187** are enacted to read:

#### **§2186. Insurance fraud prevention**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Fraudulent insurance act" means any of the following acts or omissions when committed knowingly and with intent to defraud:

(1) Presenting, or causing to be presented, or preparing any information containing false representations as to a material fact with knowledge or belief that the information will be presented by or on behalf of an insured, claimant or applicant to an insurer, insurance producer or other person engaged in the business of insurance concerning any of the following:

(a) An application for the issuance or renewal of an insurance policy;

(b) The rating of an insurance policy;

(c) A claim for payment or benefit pursuant to an insurance policy;

(d) Payments made in accordance with an insurance policy; or

(e) Premiums paid on an insurance policy;

(2) Presenting, or causing to be presented, or preparing any information containing false representations as to a material fact with knowledge or belief that the information will be presented to or by an insurer, insurance producer or other person engaged in the business of insurance concerning any of the following:

(a) A document filed with the superintendent or the insurance regulatory official or agency of another jurisdiction;

(b) The financial condition of an insurer;

(c) The formation, acquisition, merger, reconsolidation, dissolution or withdrawal from one or more lines of insurance in all or part of this State by an insurer;

(d) The issuance of written evidence of insurance; or

(e) The reinstatement of an insurance policy;

(3) Soliciting or accepting new or renewal insurance risks on behalf of an insurer or other person engaged in the business of insurance by a person who knows or should know that the insurer or other person responsible for the risk is insolvent at the time of the transaction;

(4) Removing, concealing, altering or destroying the assets or records of an insurer or other person engaged in the business of insurance;

(5) Embezzling, abstracting, purloining or converting money, funds, premiums, credits or other property of an insurer or other person engaged in the business of insurance;

(6) Transacting the business of insurance in violation of laws requiring a license, certificate of authority or other legal authority for the transaction of the business of insurance; or

(7) Attempting to commit, aiding or abetting in the commission of, or conspiring to commit the acts or omissions described in this subsection.

B. "Insurer" means a reinsurer, surplus lines insurer, unauthorized insurer, nonprofit hospital and medical service organization, health mainte-