

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND NINETEENTH LEGISLATURE

FIRST REGULAR SESSION
December 2, 1998 to June 19, 1999

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 18, 1999

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
1999

be held within 10 days of the request unless a longer period is mutually agreed to in writing, and it must be conducted in the Augusta area.

A hearing held under this subsection is informal. At the hearing, the appellant may present any evidence concerning the criteria listed in subsection 2 that might justify issuing a license to the person and the commissioner may request any additional information the commissioner considers necessary. Any medical information provided as part of the appeal is a confidential record for the purposes of Title 1, section 402, subsection 3, paragraph A.

Issuance of a license on appeal is at the discretion of the commissioner, except that a license may not be issued unless the criteria in subsection 2 are met. Decisions of the commissioner must be in writing.

Sec. 6. Report; general appeals process.

The Department of Marine Resources shall develop a proposed appeals process to be used when a license is denied under any limited-entry fishery, including the lobster, sea urchin and elver fisheries. The department shall submit a report with its recommendation and any draft legislation necessary to implement the proposed appeals process to the Joint Standing Committee on Marine Resources by January 15, 2000. The Joint Standing Committee on Marine Resources may report out legislation to the Second Regular Session of the 119th Legislature regarding a license appeals process.

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

Effective May 25, 1999.

CHAPTER 331

H.P. 1096 - L.D. 1543

An Act to Create a Bicycle Safety Education Act

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

Sec. 1. 29-A MRSA c. 20 is enacted to read:

CHAPTER 20

BICYCLE SAFETY ACT

§2321. Short title

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

§2322. Definitions

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

1. Bicycle. "Bicycle" means a vehicle primarily propelled by human power, operated by a person usually seated on a seat and driven on the ground on wheels by the operator.

2. Bicycle helmet. "Bicycle helmet" means a piece of protective headgear intended for bicyclists that meets or exceeds the Consumer Products Safety Commission's standards.

3. Bicycle passenger. "Bicycle passenger" means any person who is traveling on a bicycle, a bicycle trailer or a similar product but is not an operator.

4. Bicycle passenger seat. "Bicycle passenger seat" means a seat separate from the saddle or seat for the operator of the bicycle or bicycle trailer or similar product that is securely fastened to the frame of the bicycle and is specifically designed for bicycle passenger use.

5. Bicycle taxi. "Bicycle taxi" means a bicycle designed to carry passengers.

6. Bicycle taxi passenger. "Bicycle taxi passenger" means a person who is traveling on a bicycle taxi but is not the operator of the bicycle taxi.

7. Bikeway. "Bikeway" means a vehicle way, paved or unpaved, upon which bicycles, unicycles or other vehicles propelled by human power may be pedaled. The bikeway may be part of a road or highway or it may be adjacent to a road or highway. A bikeway is a right-of-way under the jurisdiction and control of the State or a local subdivision of the State for use primarily by bicyclists and pedestrians.

8. Operator. "Operator" means a person who travels on and controls a bicycle.

9. Public roadway. "Public roadway" means a right-of-way under the jurisdiction and control of the State or a local political subdivision of the State for the use primarily by motor vehicular traffic.

§2323. Bicycle helmet use; passenger seat use

1. Use of helmet. A person under 16 years of age who is an operator or a passenger on a bicycle on a public roadway or a public bikeway shall wear a helmet of good fit, positioned properly and fastened securely upon the head by helmet straps.

2. Passenger seat. A bicycle passenger must be seated properly in a bicycle passenger seat.

§2324. Obligation of businesses renting bicycles

A person who is in the business of renting bicycles shall post or make available to a person renting a bicycle a written notice explaining the provisions of this chapter and shall provide an appropriate helmet to an operator or passenger who is under 16 years of age. A reasonable fee may be charged for the helmet rental.

§2325. Limitation of liability

A person who is in the business of selling or renting bicycles who complies with this chapter is not liable in a civil suit for damages for any physical injuries sustained by a bicycle operator or passenger as a result of the operator's or passenger's failure to use a helmet.

§2326. Violations and enforcement

A law enforcement officer may provide bicycle safety information to a person who is in violation of section 2323. The officer may also inform that person's parent about the provisions of this chapter and about where to obtain a protective bicycle helmet.

§2327. Exemption

Bicycle taxi passengers are exempt from this Act.

§2328. Evidence

In an accident involving a bicycle, the nonuse of a helmet by the operator or passenger is not admissible as evidence in a civil or criminal trial.

Sec. 2. Bicycle safety guidelines. The Department of Education shall develop bicycle safety guidelines that meet the performance indicators within the health education standards outlined in the State's learning results. The guidelines must also meet the requirements of the 1984 Education Reform Act, specifically the rules and regulations for Comprehensive School Health Education. The department shall also develop a list of exemplary bicycle safety resources for distribution to schools working on bicycle safety education. In developing the guidelines and identifying the resources, the department shall work with experts in bicycle safety, including, but not limited to: the Bicycle Coalition of Maine; the Department of Transportation; the Department of Public Safety, the Maine Transportation Safety Coalition; the Maine Coalition for Safe Kids; a cycling instructor certified by a national league of American bicyclists; and the Bureau of Health.

Sec. 3. Municipal ordinance. A municipality may by ordinance establish a more comprehensive

bicycle safety program than that developed by the Department of Education.

See title page for effective date.

CHAPTER 332

H.P. 1445 - L.D. 2066

An Act to Amend the Laws Relating to Slash Disposal along Highways and Railroad and Utility Corridors

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

Sec. 1. 12 MRSA §§9332 and 9333, as enacted by PL 1979, c. 545, §3, are repealed and the following enacted in their place:

§9332. Disposal along highways

A stumpage owner, operator, landowner or agent who cuts or causes or permits to be cut any forest growth on lands that are within or border the right-of-way of a public highway within the State shall dispose of the slash that is within the right-of-way or within 50 feet of the nearer side of the shoulder of the right-of-way as provided in this section.

1. Slash may not remain. Except as provided in this section, slash may not remain on the ground within the right-of-way or within 50 feet of the nearer side of the shoulder of the right-of-way.

2. Slash with diameter of 3 inches or less. Slash with a diameter of 3 inches or less must be hauled away, burned or chipped.

3. Slash more than 3 inches in diameter. Slash that is more than 3 inches in diameter must be removed or limbed and placed on the ground surface so that the pieces are separated and not piled one piece over another. Usable timber products generated from right-of-way maintenance may be piled within the right-of-way but must be removed within 30 days.

§9333. Disposal along railroads and utility lines

1. Stumpage owner. A stumpage owner, operator, landowner or agent who cuts or causes or permits to be cut any forest growth on lands that are within or border the right-of-way of a railroad, a pipeline or an electric power, telegraph, telephone or cable line may not place slash or allow it to remain on the ground within the right-of-way or within 25 feet of the nearer side of the right-of-way.

2. Construction. Slash accumulated by the construction and maintenance of a railroad, a highway, a pipeline or an electric power, telegraph,