

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

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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

5. Lien. Any person taking possession of a dog as provided in this section ~~shall have~~ has a lien on that dog in accordance with Title 17, section 1021, subsection 6.

6. Treble damages. If a dog, whose owner or keeper refuses or neglects to comply with the order, wounds any person by a sudden assault or wounds or kills any domestic animal, the owner or keeper shall pay the person injured treble damages and costs to be recovered by a civil action.

7. Class D crime. If the owner refuses or neglects to comply with an order issued under subsection 1 or 4-A, the owner commits a Class D crime.

Sec. 3. 22 MRSA §1313, sub-§1, as enacted by PL 1993, c. 468, §23, is amended to read:

1. Establishment of procedures. The commissioner, in consultation with the Commissioner of Agriculture, Food and Rural Resources and the Commissioner of Inland Fisheries and Wildlife shall adopt rules, in accordance with the Maine Administrative Procedure Act, establishing procedures for responding to a report of an animal suspected of having rabies. The procedures must include provisions for the transportation, quarantine, euthanasia and testing of an animal suspected of having rabies and, when that animal has bitten a person, provisions for the notification of the animal control officer in the locality where the bite occurred. The procedures may differ based on the perceived public health threat determined in part by consideration of the following factors:

- A. Whether the animal is a domesticated animal for which a known effective vaccine exists and, if so, can the animal's vaccination status be verified; and
- B. Whether the animal has bitten a person or exhibited other aggressive behavior.

See title page for effective date.

CHAPTER 351

H.P. 1250 - L.D. 1798

**An Act to Implement the
Recommendations of the
Commission to Study Providing
Educators with More Authority to
Remove Violent Students from
Educational Settings**

Mandate preamble. This measure requires one or more local units of government to expand or modify activities so as to necessitate additional

expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, two thirds of all of the members elected to each House have determined it necessary to enact this measure.

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

Sec. 1. 20-A MRSA §254, sub-§11 is enacted to read:

11. Statewide standards for behavior. In consultation with organizations representing school boards, school administrators, teachers, parents and other interested local officials and community members, the commissioner shall develop statewide standards for responsible and ethical student behavior. The standards must require annual reporting of incidents of violent and harmful behavior by or against students to the department by school administrative units. The department shall provide forms for reporting.

Sec. 2. 20-A MRSA §1001, sub-§§15 and 16 are enacted to read:

15. Adoption of student code of conduct. With input from educators, administrators, parents, students and community members, they shall adopt a district-wide student code of conduct consistent with the statewide standards for student behavior developed under section 254, subsection 11. The student code of conduct must:

- A. Define unacceptable student behavior;
- B. Establish standards of student responsibility for behavior;
- C. Prescribe consequences for violation of the student code of conduct, including first-time violations, when appropriate;
- D. Describe appropriate procedures for referring students in need of special services to those services;
- E. Establish criteria to determine when further assessment of a current individual education plan is necessary, based on removal of the student from class;
- F. Establish policies and procedures concerning the removal of disruptive or violent students from a classroom or a school bus, as well as student disciplinary and placement decisions, when appropriate; and
- G. Establish guidelines and criteria concerning the appropriate circumstances when the superin-

tendent or the superintendent's designee may provide information to the local police or other appropriate law enforcement authorities regarding an offense that involves violence committed by any person on school grounds or other school property.

The school board is responsible for ensuring that school officials inform students, parents and community members of the student code of conduct.

16. Crisis response plan. Working with local public safety, mental health and law enforcement officials, they shall develop a crisis response plan to deal with crises and potential crisis situations involving violent acts by or against students in each school in the school administrative unit.

Sec. 3. 20-A MRSA §6001-B is enacted to read:

§6001-B. Transfer of education records

1. Education records must follow students who transfer. Education records must follow students who transfer to a school in another school administrative unit in the State. The education records of students who transfer from out-of-state schools are also subject to this requirement.

2. Transfer of records. Upon application of a student to transfer to another school administrative unit in this State or to enroll at a school administrative unit in this State from a school outside of the State, and upon the written request of the superintendent of the school administrative unit into which the student seeks admission, school administrators at the school administrative unit from which the student is transferring shall provide all of the student's education records, including special education records, to school administrators at the school administrative unit to which the student is seeking a transfer.

3. Determination of disciplinary status of student applying for transfer; discretion of school to accept student. At the request of the superintendent of the school administrative unit into which a student seeks admission, the student's current or former school administrators shall provide, in a timely fashion, an oral or written report to the receiving school administrative unit indicating whether the student has been expelled or suspended or is the subject of an expulsion or suspension proceeding. In the case of a student who has been expelled or suspended or is the subject of an expulsion or suspension proceeding, the receiving school administrative unit may deny admission or participation in public school programs, facilities or activities as part of an equivalent instruction program pursuant to section 5021 until the school administrative unit is satisfied that the conditions of the expulsion or suspension have been met.

4. Notice to parents and guardians. Prior to the start of the 2000-01 school year and each school year thereafter, a school administrative unit shall send a written notice to parents or guardians of every student enrolled in the school administrative unit that education records must be sent to a school administrative unit to which a student applies for transfer. The notice provided to parents and guardians must comply with the standards of the federal Family Education Rights and Privacy Act of 1974, Public Law 93-380, as amended by Public Law 93-568.

Sec. 4. 20-A MRSA §6553, sub-§1, ¶A, as enacted by PL 1989, c. 531, is amended to read:

A. "Injurious hazing" means any action or situation ~~which~~, including harassing behavior, that recklessly or intentionally endangers the mental or physical health of any school personnel or a student enrolled in a public school.

Sec. 5. 26 MRSA §832, sub-§1, as amended by PL 1987, c. 402, Pt. B, §21, is further amended to read:

1. Employee. "Employee" means a person who performs a service for wages or other remuneration under a contract of hire, written or oral, expressed or implied, but does not include an independent contractor engaged in lobster fishing. ~~Employee~~ "Employee" includes school personnel and a person employed by the State or a political subdivision of the State.

Sec. 6. 26 MRSA §832, sub-§2, as reallocated by PL 1983, c. 583, §15, is amended to read:

2. Employer. "Employer" means a person who has one or more employees. ~~Employer~~ "Employer" includes an agent of an employer and the State, or a political subdivision of the State. "Employer" also means all schools and local education agencies.

Sec. 7. 26 MRSA §833, sub-§1, ¶B, as enacted by PL 1987, c. 782, §4, is amended to read:

B. The employee, acting in good faith, or a person acting on behalf of the employee, reports to the employer or a public body, orally or in writing, what the employee has reasonable cause to believe is a condition or practice that would put at risk the health or safety of that employee or any other individual. The protection from discrimination provided in this section specifically includes school personnel who report safety concerns to school officials with regard to a violent or disruptive student;

Sec. 8. Implementation of student behavior standards. The Commissioner of Education shall develop standards for responsible and ethical student behavior under the Maine Revised Statutes,

Title 20-A, section 254, subsection 11 for implementation by school administrative units beginning in school year 2000-2001. The commissioner shall report to the Joint Standing Committee on Education and Cultural Affairs by January 15, 2000 on the status of the development of the standards.

See title page for effective date.

CHAPTER 352

S.P. 397 - L.D. 1188

An Act to Amend Law Enforcement Powers of Maine Forest Rangers

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

Sec. 1. 12 MRSA §8901, sub-§3, as amended by PL 1991, c. 652, §2 and 1995, c. 502, Pt. E, §30, is repealed and the following enacted in its place:

3. Law enforcement powers. In addition to any law enforcement powers expressly provided to forest rangers by another law:

A. Forest rangers and the state supervisor, for the purpose of enforcing forest and forest preservation laws, laws of the Maine Land Use Regulation Commission and laws and rules relating to the lands under the jurisdiction of the Bureau of Parks and Lands, have statewide law enforcement powers equivalent to those of a sheriff, or a sheriff's deputy, in the sheriff's county, including the right to execute or serve criminal and civil violation processes against offenders, make warrantless arrests for crimes, investigate and prosecute offenders, require aid in executing forest ranger duties and deputize temporary aides;

B. The Director of the Bureau of Forestry, at the director's discretion, may authorize forest rangers and the state supervisor while on duty to arrest without a warrant a person who has committed or is committing in the ranger's or supervisor's presence any crime involving the use or threatened use of physical force against a person.

For the purposes of this paragraph, criminal conduct has been committed or is being committed in the presence of a law enforcement officer when one or more of the officer's senses afford that officer personal knowledge of facts that are sufficient to warrant a prudent and cautious law enforcement officer's belief that a crime involving the use or threatened use of physical force against a person is being or has just been committed and that the person arrested has commit-

ted or is committing that crime. An arrest made pursuant to this paragraph must be made at the time of the commission of the criminal conduct, or some part thereof, or within a reasonable time thereafter or upon fresh pursuit; and

C. Forest rangers and the state supervisor while on or off duty are authorized to provide assistance in a life-threatening emergency consistent with agency policies and within the scope of individual training.

Sec. 2. 12 MRSA §8901, sub-§3-A is enacted to read:

3-A. Liability. When a forest ranger or the state supervisor provides assistance under subsection 3, paragraph C, the forest ranger or the state supervisor has the same immunity from tort liability and all the pension, relief, disability, workers' compensation and insurance benefits and any other benefits the forest ranger or the state supervisor enjoys while performing duties under subsection 3, paragraphs A and B.

Sec. 3. Sale of bullet-proof vests, firearms and related equipment; Department of Conservation. Notwithstanding any other provision of law, the Commissioner of Conservation shall immediately proceed to sell all bullet-proof vests, firearms, if any, and related equipment, including, but not limited to, ammunition and boxes for storage, purchased by the Department of Conservation since July 1998 for the use of certain Bureau of Forestry employees. The materiel, including, but not limited to, ammunition, boxes for storage, bullet-proof vests and firearms, if any, must be offered at market value to any state, county or municipal law enforcement agency or the Military Bureau of the Department of Defense, Veterans and Emergency Management. Proceeds from the sale must be deposited in the General Fund as undedicated revenue. The commissioner shall report to the Joint Standing Committee on Agriculture, Conservation and Forestry and the Joint Standing Committee on Appropriations and Financial Affairs on the revenue generated by the sale no later than January 15, 2000.

Sec. 4. Prohibition. The Commissioner of Conservation may not purchase bullet-proof vests, firearms or related materiel, including, but not limited to, ammunition and boxes for storage, without specific authorization by the Legislature.

See title page for effective date.
