

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

term for the commission member from the Coastal Zone of Schoodic Point to Port Clyde is 2 years; the initial term for the commission member from the Coastal Zone of Port Clyde to Kittery is one year; the initial term of one member representing the maritime industry is 2 years; and the initial term of one member representing the public is 2 years.

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

Effective May 28, 1999.

CHAPTER 356

S.P. 381 - L.D. 1082

An Act to Reauthorize and Amend the Diesel-powered Motor Vehicle Emission Opacity Testing Program

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

Whereas, it is important that this Act takes effect before the diesel-powered motor vehicle emission opacity testing program is repealed on June 30, 1999, which may be before the expiration of the 90-day period; and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. 29-A MRS §2114, as enacted by PL 1997, c. 786, §7, is amended to read:

§2114. Diesel-powered Motor Vehicle Emission Opacity Testing Program

1. Program established. The Diesel-powered Motor Vehicle Emission Opacity Testing Program, referred to in this section as the "program," is established within the Department of Environmental Protection. The Department of Environmental Protection shall administer the program in cooperation with the Department of Public Safety.

2. Diesel-powered motor vehicle. As used in this section, "diesel-powered motor vehicle" refers only to diesel-powered motor vehicles that have a gross vehicle weight rating of ~~26,001~~ 18,000 or more

~~pounds and that are used in commerce.~~ "Diesel-powered motor vehicle" does not include a truck registered as a farm truck.

3. Testing and repair requirement; penalties.

A person who causes operation of a diesel-powered motor vehicle shall comply with the requirements of the program, including emission opacity standards and testing and repair requirements. Owners or operators of diesel-powered motor vehicles that have failed opacity standards for the first time have 30 days from the date that the operator was notified of the failure of the test to certify to the department that repairs were made to bring the vehicle into compliance with the opacity standards established pursuant to this section. If certification is not made within 30 days, then owners or operators are assessed a \$250 fine for the first violation; 2nd or subsequent violations are assessed a \$500 fine. A person may not be found in violation of this section until after January 1, 2000.

Only diesel-powered motor vehicles identified by certified inspectors as potential violators of the program's emission opacity standards are subject to testing under this section. Inspectors must be certified pursuant to the procedures for certification specified in 40 Code of Federal Regulations, Part 60, Appendix A, Method 9.

4. Standards and procedures. ~~The Commissioner~~ Board of Environmental Protection shall adopt rules, which are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A, that establish standards and procedures to implement ~~implement~~ continue the program. ~~The standards and procedures~~ These rules must include the following:

A. Emission opacity standards for diesel-powered motor vehicles that are consistent with emission opacity standards for diesel-powered motor vehicles recommended by an interstate association of air quality control divisions in the northeast states;

B. Standards and procedures, including testing methods and standards for test equipment, for safe and effective roadside testing of diesel-powered motor vehicles that operate on public ways of the State for the purpose of enforcing compliance with emission opacity standards;

C. Standards and procedures for the administration and enforcement of the program. The rules may establish reciprocity agreements with other states that recognize enforcement actions related to diesel-powered motor vehicle testing programs in other states; ~~and~~

D. Repair requirements and standards and procedures for certification of repairs; and

E. Standards and procedures for the enforcement of violations and the monitoring and certification of repairs made to bring a vehicle into compliance pursuant to this section.

5. Educational program. A person who causes operation of a diesel-powered motor vehicle that does not comply with the program's emission opacity standards must be given educational materials by the Department of Environmental Protection regarding the environmental and other benefits of a vehicle that is in compliance with the standards set forth in subsection 4.

~~**6. Implementation.** The Department of Environmental Protection shall implement the program no later than 7 days following the effective date of this section. An operator of a diesel powered motor vehicle that does not comply with the program's emission opacity standards is not subject to penalties.~~

7. Definition. As used in this section, "opacity" means the degree of light-obscuring capability of emissions of visible air contaminants expressed as a percentage. Complete obscuration must be expressed as 100% opacity.

~~As used in this section, "opacity" means the degree of light obscuring capability of emissions of visible air contaminants expressed as a percentage. Complete obscuration must be expressed as 100% opacity.~~

~~This section is repealed June 30, 1999.~~

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

Effective May 28, 1999.

CHAPTER 357

H.P. 1326 - L.D. 1909

An Act to Provide Continuing Financial Support for the Maine Community Policing Institute at the University of Maine at Augusta

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

Sec. 1. 4 MRSA §116, as amended by PL 1997, c. 24, §115, is further amended to read:

§116. Funds of court

All revenue received by the Supreme Judicial or Superior Court, whether directly or pursuant to an agreement entered into with the Department of

Administrative and Financial Services, Bureau of Taxation, from fines, forfeitures, penalties, fees and costs accrues to the State, except as otherwise provided under ~~section~~ sections 1057 and 1057-A, Title 12, sections 3055 and 4508, Title 23, section 1653 and Title 29-A, section 2602.

Funds received by the clerk as bail in criminal cases must be deposited daily in a special account. The clerk shall deposit the funds in an interest-bearing account unless the clerk determines that it is not cost effective to do so. Interest accrued in such an account is the property of and accrues to the State. The forfeiture and setoff of bail is as otherwise provided by law.

Sec. 2. 4 MRSA §163, sub-§1, as amended by PL 1995, c. 65, Pt. A, §3 and affected by §153 and Pt. C, §15, is further amended to read:

1. District Court funds. Except as otherwise provided by law, all fines, forfeitures, surcharges, assessments and fees collected in any division of the District Court or by the violations bureau must be paid to the clerk of that District Court, who shall deposit them in a special account in a timely manner. Once each month, the clerk shall remit the sums to the Treasurer of State, who shall credit them to the General Fund. At the same time, the clerk shall remit the sums that have been collected in accordance with ~~section~~ sections 1057 and 1057-A; Title 5, chapter 316-A; and Title 29-A, section 2411, subsection 7. Funds received by the clerk as bail in criminal cases must be deposited daily in a special account. The clerk shall deposit the funds in an interest-bearing account unless the clerk determines that it is not cost effective to do so. Interest accrued in the account is the property of and accrues to the State. The forfeiture and setoff of bail is governed as otherwise provided by law.

The court shall file a monthly report with the State Auditor itemizing the amount of fines, surcharges and assessments imposed and to whom each is payable.

Sec. 3. 4 MRSA §1057-A is enacted to read:

§1057-A. Maine Community Policing Institute Surcharge Fund

1. Fund established. There is established a nonlapsing fund to be known as the Maine Community Policing Institute Surcharge Fund. The Treasurer of State shall maintain the fund for the purposes of funding the Maine Community Policing Institute.

2. Surcharge imposed. In addition to the 12% surcharge collected pursuant to section 1057, a 2% surcharge must be added to every fine, forfeiture or penalty imposed by any court in this State, which for the purposes of collection and collection procedures is