

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND NINETEENTH LEGISLATURE

SECOND REGULAR SESSION
January 5, 2000 to May 12, 2000

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
AUGUST 11, 2000

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
2000

installment payments as provided under Title 14, sections ~~3127~~ 3126-A to 3136. In enforcement actions under those sections, the person ordered to pay is deemed a judgment debtor and the person entitled to receive the payments a judgment creditor.

Sec. 13. 19-A MRSA §2603, sub-§2, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

2. Installment payments. Specified installment payments as provided under Title 14, sections ~~3127~~ 3126-A to 3136, without a separate disclosure hearing, if the court has already determined the judgment debtor's ability to pay and the debtor's receipt of money from a source other than a source that is otherwise exempt from trustee process, attachment and execution;

See title page for effective date.

CHAPTER 588

H.P. 704 - L.D. 971

An Act to Allow Three Hunters to Hunt Deer Together

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

Sec. 1. 12 MRSA §7458, sub-§10, as amended by PL 1989, c. 705, §2, is further amended to read:

10. Driving deer. A Except as provided in subsection 15, paragraph I, a person is guilty of driving deer if that person participates in a hunt for deer, during which an organized or planned effort is made to drive deer.

Sec. 2. 12 MRSA §7458, sub-§15, ¶I is enacted to read:

I. Notwithstanding subsection 10, 3 or fewer persons may hunt together as long as they do not use noisemaking devices.

See title page for effective date.

CHAPTER 589

S.P. 883 - L.D. 2298

An Act to Clarify the Law Relating to the Renewal of Liquor Licenses

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

Sec. 1. 28-A MRSA §653, sub-§1, ¶C, as enacted by PL 1995, c. 140, §5, is amended to read:

C. If the municipal officers or the county commissioners, as the case may be, fail to take final action on an application for a new on-premise license, for transfer of the location of an existing on-premise license or for renewal of an on-premise license within 60 days of the filing of an application, the application is deemed approved and ready for action by the bureau. For purposes of this paragraph, the date of filing of the application is the date the application is received by the municipal officers or county commissioners. This paragraph applies to all applications pending before municipal officers or county commissioners as of the effective date of this paragraph as well as all applications filed on or after the effective date of this paragraph. This paragraph applies to an existing on-premise license that has been extended pending renewal. The municipal officers or the county commissioners shall take final action on an on-premise license that has been extended pending renewal within 120 days of the filing of the application.

See title page for effective date.

CHAPTER 590

S.P. 922 - L.D. 2373

An Act to Prevent Misuse of Mortuary Trust Funds

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

Whereas, in the last year there have been incidents involving the misuse of mortuary trust funds by funeral directors; and

Whereas, the provisions in this Act amend the laws governing mortuary trust funds to limit the actual handling of mortuary trust funds by funeral directors; and

Whereas, this Act is needed for the protection of Maine consumers; 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. 32 MRSA §1401, sub-§1, ¶¶A, C, D and E, as enacted by PL 1999, c. 258, §2 and affected by §3, are amended to read:

A. All money paid during a person's lifetime to any individual, firm, association, partnership or corporation, by that person or by someone on behalf of that person, under an agreement that services will be performed or personal property will be delivered in connection with the disposition of that person's body after death must be deposited by the payee within 10 days after receipt of the money in a separate account in a financial institution or credit union authorized to do business in this State, as defined in Title 9-B, section 131, subsections 12-A and 17-A, in the name of the payee as mortuary trustee for the person for whose benefit the payment was made and must be held in that account together with interest if any. If money is paid by check, share draft or money order, the payee shall instruct the payor to make the instrument payable to the financial institution or credit union into which it is to be deposited and to include on the instrument the name of the mortuary trustee and the person for whose benefit the payment was made.

C. Within 30 days after the deposit of funds by the payee, the financial institution or credit union shall provide a written confirmation of the deposit, including the amount deposited, to the payor or the payor's legal representative. Nothing in this section may be construed to prevent the direct transfer of these funds to another financial institution or credit union by payee transfer, by financial institution or credit union merger or consolidation or by operation of law, provided that within 30 days after the direct transfer of the funds, the recipient financial institution or credit union shall provide a written confirmation of the deposit, including the amount deposited, to the payor or the payor's legal representative.

D. The agreement must be in writing and a copy must be furnished to the payor or the payor's legal representative by the payee when the agreement is executed. The agreement may be revocable or irrevocable; however, if irrevocable, there must be a provision to allow for the transfer of the account by the appointment of successor trustees. The agreement must clearly state the name of the initial financial institution or credit union into which the money will be deposited and must direct the payor to send a copy of the agreement to the named financial institution or credit union. The agreement must clearly state terms providing for disposition of excess funds after funeral goods and services have been provided. The agreement must clearly state any fees that may be charged against the account; fees

must be reasonable, as defined by the board, and may be charged only:

- (1) Upon transfer of the account by the appointment of a successor trustee;
- (2) Upon revocation of the agreement if the agreement is revokable; and
- (3) For the actual financial and tax administration of the account.

The payee shall maintain a complete record of the deposit of all funds, including principal and interest. The record must be available for inspection by the payor, the payor's legal representative, the commissioner's designee or an inspector for the board and must contain the name and address of the financial institution or credit union currently in possession of the funds and the dates and amounts of deposits.

E. The funds may be ~~withdrawn~~ directed by the payee to another financial institution or credit union or directed back to the payor or the payor's legal representative, if otherwise lawful and permitted by contract, ~~by the payee~~ on written instructions of the payor or the payor's legal representative ~~or~~. The funds may only be withdrawn by the payee on the presentation of a certified copy of the death certificate of the person for whose benefit the funds were paid, in which event they must be used in accordance with the agreement.

Sec. 2. 32 MRSA §1401, sub-§3, as enacted by PL 1999, c. 258, §2 and affected by §3, is amended to read:

3. Financial institution or credit union liability. The financial institution or credit union is discharged from liability for direct payment of the funds in an account under subsection 1 to another financial institution or credit union or to the payor, upon presentation of a written consent to withdrawal signed by the payor or the payor's legal representative and by the payee or upon withdrawal of the funds by the payee upon presentation of proof a certified copy of the death certificate of the person for whose benefit the funds were paid.

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

Effective March 28, 2000.
