

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND TWENTIETH LEGISLATURE
FIRST REGULAR SESSION
December 6, 2000 to June 22, 2001

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 21, 2001

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
2001

1. Agricultural enterprise. "Agricultural enterprise" means a person or business located in this State and engaged in the commercial growing or harvesting of plants; raising of animals; growing or obtaining plant or animal by-products; aquaculture, as defined in Title 12, section 6001, subsection 1; or further processing, storing, packaging or marketing a raw product derived from plants, animals, plant or animal by-products or aquaculture, as defined in Title 12, section 6001, subsection 1, with the intent that the product be sold or otherwise disposed of to generate income. "Agricultural enterprise" includes a business or activity that attracts visitors to a farm for the purpose of supplementing income from the primary crop or livestock operation. "Agricultural enterprise" does not include a business engaged primarily in the growing, harvesting or further processing of forest species of trees for the purpose of producing pulp or other materials used in the paper manufacturing or wood manufacturing process.

Sec. 2. 7 MRSA §435, sub-§3, as enacted by PL 1995, c. 658, §1, is amended to read:

3. Interest rate. ~~The commissioner, by rule, may establish an interest rate for a loan, except that this rate may not be less than loans is 5% per year. If the commissioner does not establish an interest rate, the rate on a loan is a rate that is 2% less than the prime rate of interest as is determined by the commissioner.~~

Sec. 3. 7 MRSA §435, sub-§5 is enacted to read:

5. Report. The commissioner shall submit an annual report on or before March 1st of each year to the joint standing committee of the Legislature having jurisdiction over agricultural matters. The report must include a summary of loans made during the previous calendar year and loans outstanding categorized by the types of agricultural enterprises receiving the loans.

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

Effective May 14, 2001.

CHAPTER 153

H.P. 502 - L.D. 642

An Act Concerning the Administration of Medications in County Jails

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

Sec. 1. 30-A MRSA §1559, sub-§§1 and 2, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, are further amended to read:

1. Administration of medication by sheriff or deputy. The sheriff of any county may administer to any prisoner in custody any oral or topical medication as prescribed by a licensed physician, nurse practitioner, physician assistant or dentist and approved by the facility health care provider or, if requested by a prisoner, any nonprescription medication in accordance with the directions on its container. The sheriff may delegate this authority to administer medication to the ~~deputy who is in charge of the county jail or to the master or keeper of the county jail administrator or the jail administrator's designee or the facility health care provider.~~

2. Limitations on administration of medication. The sheriff or the sheriff's delegate may not administer any prescription or nonprescription medication to any prisoner who has been incarcerated in the county jail for less than 24 hours, unless the sheriff or the delegate has consulted with and received permission to administer that medication from a licensed physician, nurse practitioner, physician assistant or dentist or the facility health care provider.

See title page for effective date.

CHAPTER 154

S.P. 417 - L.D. 1361

An Act to Allow the Maine Turnpike Authority to Levy an Administrative Fee against Toll Evaders

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

Sec. 1. 23 MRSA §1980, sub-§2-A, ¶A, as enacted by PL 1993, c. 698, §2, is amended to read:

A. If an operator of a vehicle fails to pay a toll, the registered owner of that vehicle is liable for payment of the toll and an administrative fee. If the registered owner fails to pay the toll, the registered owner is subject to a civil penalty as follows:

- (1) Fifty dollars, except as provided in subparagraph (2) or (3);
- (2) One hundred dollars, if a failure to pay occurs within 18 months of a prior failure to pay; or

(3) One hundred fifty dollars, if a failure to pay occurs within 18 months of 2 or more prior failures to pay.

Sec. 2. 23 MRSA §1980, sub-§2-A, ¶B, as amended by PL 1995, c. 65, Pt. A, §64 and affected by §153 and Pt. C, §15, is further amended to read:

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

(1) "Electronic toll collection system" means a system of collecting tolls or charges that is capable of charging an account holder for the appropriate toll by transmission of information between a device on a motor vehicle and a toll collection facility.

(2) "Pay" means paying a toll by cash, by permitting a charge against a valid account with the authority or by another means of payment approved by the authority at the time.

(3) "Photo-monitoring system" means a motor vehicle sensor installed to work in conjunction with a toll collection facility that automatically produces a photograph, microphotograph, videotape or other recorded image of a motor vehicle when the operator of the motor vehicle fails to pay a toll.

(4) "Registered owner" means a person in whose name a motor vehicle is registered under the law of a jurisdiction, including a person issued a dealer or transporter registration plate, except as provided in paragraph E, and a person deemed to be a registered owner under the provisions of paragraph E.

(5) "Toll" or "tolls" means tolls or charges prescribed by the authority for the use of the turnpike.

(6) "Administrative fee" means the fee imposed pursuant to paragraph C, subparagraph (3).

Definitions of terms included in Title 29-A, section 101 apply to terms used in this subsection that are not specifically defined in this subsection.

Sec. 3. 23 MRSA §1980, sub-§2-A, ¶C, as enacted by PL 1993, c. 698, §2, is amended to read:

C. The following procedures must be taken for the collection of tolls, administrative fees and civil penalties under this subsection.

(1) The authority shall send a notice of liability by first class mail to a person alleged to be liable as a registered owner under this subsection no later than 60 days after the alleged failure to pay. A manual or automatic record of the mailing prepared in the ordinary course of business of the authority is prima facie evidence of the mailing of the notice.

(2) A notice of liability must include the name and address of the person alleged to be liable as a registered owner for the failure to pay a toll under this subsection, the amount of the toll not paid, the registration number of the vehicle involved, the toll collection facility at which the failure occurred and the date and the approximate time of the failure.

(3) A notice of liability must include information advising the person liable under this subsection of the manner and the time in which the liability alleged in the notice may be contested and the statutory defenses described in paragraph E. The notice must also include a warning that failure to contest in the manner and time provided is an admission of liability and a waiver of available defenses, resulting in the entry of a default judgment of liability for the failure to pay and revocation of the registration certificate and plates issued for the vehicle. The notice must also include information advising that the person may avoid further prosecution by paying, within 90 days of the notice of liability sent pursuant to subparagraph (1), the amount of the toll for which the person is liable and an administrative fee of \$20 for each toll for which the person is liable but has not paid.

(4) The authority may collect a toll, administrative fee and a civil penalty that is not paid by a registered owner who is liable under this subsection within 120 days after mailing the notice of liability by civil action commenced in the District Court or Superior Court in the county in which the alleged failure to pay occurred. Adjudication of liability under this subsection is based upon a preponderance of the evidence.

(5) The registered owner has the burden of proving that a toll and administrative fee have been paid. A receipt issued by the

authority or a cancelled check made out to the authority constitutes prima facie evidence of payment.

Sec. 4. 23 MRSA §1980, sub-§2-A, ¶H is enacted to read:

H. Combinations of vehicles involving a motor vehicle and one or more trailers or semitrailers equipped with a total of 3 or more axles, including motor vehicles with 6 or more tires towing a trailer, but not including motor vehicles with 4 tires or fewer towing a trailer, are not subject to an administrative fee under this subsection.

See title page for effective date.

CHAPTER 155

H.P. 730 - L.D. 950

An Act to Eliminate the Fees Imposed on Purple Heart Recipients for Special Registration Plates

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

Sec. 1. 29-A MRSA §515-B, first ¶, as enacted by PL 1999, c. 734, §1, is amended to read:

The Secretary of State, on application and upon evidence of payment of the excise tax required by Title 36, section 1482; and the registration fee required by section 515 and a one-time additional fee of \$5, shall issue a registration certificate and a set of Purple Heart motorcycle registration plates, to be used in lieu of regular registration plates, to a person who is a Purple Heart medal recipient. ~~The one-time additional fee of \$5 is credited to the Highway Fund for administrative and production costs.~~ Notwithstanding section 468, the Secretary of State may issue fewer than 2,000 of the plates authorized by this section, and this plate does not require a sponsor.

Sec. 2. 29-A MRSA §524, sub-§4, as amended by PL 1995, c. 645, Pt. B, §11, is further amended to read:

4. Purple Heart medal recipients; special license plates. The Secretary of State, on application and upon evidence of payment of the excise tax required by Title 36, section 1482; and the registration fee required by section 501 and a one-time additional fee of \$10, shall issue a registration certificate and a set of Purple Heart registration plates, to be used in lieu of regular registration plates, to a person who is a Purple Heart medal recipient. ~~The one-time additional fee of \$10 is credited to the Highway Fund for administrative and production costs.~~

An application for Purple Heart plates must be accompanied by proof that the applicant has been awarded the Purple Heart medal. The Secretary of State shall verify the documentation presented by the applicant. Misrepresentation of documents is in violation of section 2103, subsection 5.

The Secretary of State may only issue Purple Heart plates for display on an automobile or pickup truck. A Purple Heart recipient may be issued Purple Heart plates for no more than 2 vehicles.

The surviving spouse of a Purple Heart recipient issued plates in accordance with this subsection may retain and display the Purple Heart plates as long as the surviving spouse remains unmarried. Upon remarriage, the surviving spouse may not use the Purple Heart plates on a motor vehicle, but may retain them as a keepsake. Upon the death of the surviving spouse, the family may retain the Purple Heart plates, but may not use them on a motor vehicle.

The Secretary of State shall determine the design of the Purple Heart plate. Upon request and as provided by section 453, the Secretary of State shall issue Purple Heart plates that are also vanity plates. Purple Heart vanity plates are issued in accordance with this section and section 453. The annual service fee of \$15 for vanity plates is credited to the Highway Fund.

A Purple Heart recipient or the surviving spouse of a Purple Heart recipient, who does not operate a motor vehicle or register a motor vehicle and who otherwise qualifies for the issuance of special Purple Heart registration plates may apply to the Secretary of State for a special single plate recognizing that award.

The Secretary of State shall design and identify these single plates for recognition purposes only. Single Purple Heart plates may not be attached to a motor vehicle. Only one plate may be issued to each recipient and a one-time fee of \$5 charged.

The Secretary of State shall begin issuing Purple Heart plates in accordance with this subsection no later than November 1, 1995.

See title page for effective date.

CHAPTER 156

H.P. 1110 - L.D. 1479

An Act to Allow Flexibility in Payment of School Year Employee Wages

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