

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

3. False promises. Promise performance that the transient seller of consumer merchandise does not intend to perform or knows will not be performed.

§14716. Telemarketers

1. Incorporation of federal standards. Violation of any provision of the Federal Trade Commission's Telemarketing Sales Rule, 16 Code of Federal Regulations, Part 310, as in effect on January 1, 2000, by a transient seller of consumer merchandise is a violation of this subchapter.

2. Additional prohibitions. A transient seller of consumer merchandise who is a telemarketer, as defined in the Federal Trade Commission's Telemarketing Sales Rule, 16 Code of Federal Regulations, Section 310.2, as in effect on January 1, 2000, and who initiates telephone contact with a consumer may not procure the services of any professional delivery courier or other pick-up service to obtain immediate receipt or possession of a consumer's payment, unless the goods are delivered with the opportunity to inspect before any payment is collected.

3. Do-not-call list. A transient seller of consumer merchandise who is a telemarketer, as defined in the Federal Trade Commission's Telemarketing Sales Rule, 16 Code of Federal Regulations, Section 310.2, as in effect on January 1, 2000:

A. Shall semiannually obtain subscription listings of consumers in this State who have arranged to be included on the national do-not-call list maintained by the Telephone Preference Service of the Direct Marketing Association, Inc., Farmingdale, New York or its successor organization; and

B. May not call any consumer in this State whose name is on the national do-not-call list unless the seller has an established business relationship with the consumer at the time the call is made.

A person is not in violation of paragraph B if the person obtained the listing of a consumer in accordance with paragraph A but called that consumer as the result of a good faith error.

4. Other applicable law. A transient seller of consumer merchandise who is a telemarketer, as defined in the Federal Trade Commission's Telemarketing Sales Rule, 16 Code of Federal Regulations, Section 310.2, as in effect on January 1, 2000, is subject to and shall comply with the provisions of chapter 69, subchapter V.

See title page for effective date.

CHAPTER 325

H.P. 1165 - L.D. 1565

An Act to Expand the Collection of DNA Samples from Convicted Offenders

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

Sec. 1. 25 MRSA §1574, sub-§1, as repealed and replaced by PL 1997, c. 608, §2, is amended to read:

1. Conviction subsequent to effective date. A person convicted, on or after January 1, 1996 and before October 1, 2001, of a crime listed in subsection 4 or a person convicted on or after October 1, 2001, of a crime listed in subsection 5 shall submit to having a DNA sample drawn and at the time of sentencing the court shall enter an order directing that the DNA sample be drawn. If the convicted person's sentence includes a straight term of imprisonment or a split term of imprisonment, the DNA sample may be drawn at any time following the commencement of the straight term or initial unsuspended portion of the term of imprisonment. If the convicted person's sentence includes a period of probation but no immediate imprisonment, the DNA sample may be drawn at any time following commencement of the probation period as directed by the probation officer. If the convicted person's sentence includes a period of probation, the court may attach the duty to submit to having a DNA sample drawn as a condition of probation.

Sec. 2. 25 MRSA §1574, sub-§2, as enacted by PL 1995, c. 457, §1, is amended to read:

2. Conviction prior to effective date. A person convicted and incarcerated prior to January 1, 1996, as a result of a conviction for a crime listed in ~~this section~~ subsection 4, shall must have a DNA sample drawn before release from the corrections system.

Sec. 3. 25 MRSA §1574, sub-§3, as enacted by PL 1995, c. 457, §1, is repealed.

Sec. 4. 25 MRSA §1574, sub-§4, as amended by PL 1997, c. 608, §3, is further amended to read:

4. Applicable offenses after January 1, 1996 and before October 1, 2001. This section applies to a person convicted after January 1, 1996 and before October 1, 2001 of one or more of the following offenses or an attempt of one or more of the following offenses:

A. Murder or criminal homicide in the first or 2nd degree;

- B. Felony murder;
- C. Manslaughter;
- D. Aggravated assault;
- D-1. Elevated aggravated assault;
- E. Gross sexual assault, including that formerly denominated as gross sexual misconduct;
- E-1. Rape;
- F. Sexual abuse of a minor;
- G. Unlawful sexual contact;
- G-1. Visual sexual aggression against a child;
- G-2. Sexual misconduct with a child under 14 years of age;
- H. Kidnapping;
- I. Criminal restraint;
- J. Burglary;
- K. Robbery;
- L. Arson;
- M. Aggravated criminal mischief; or
- N. Any lesser included offense of any crime identified in paragraphs A to M if the greater offense is initially charged. "Lesser included offense" has the same meaning as in Title 17-A, section 13-A.

Sec. 5. 25 MRSA §1574, sub-§5 is enacted to read:

5. Applicable offenses effective October 1, 2001. This section applies to a person convicted after October 1, 2001 of one or more of the following offenses or an attempt of one or more of the following offenses:

- A. Murder;
- B. A Class A, B or C crime;
- C. Sexual abuse of a minor;
- D. Unlawful sexual contact;
- E. Visual sexual aggression against a child;
- F. Sexual contact with a child under 14 years of age;
- G. Solicitation of a child by a computer to commit a prohibited act; or

H. Any lesser included offense of any crime identified in paragraphs A to G if the greater offense is initially charged. "Lesser included offense" has the same meaning as in Title 17-A, section 13-A.

See title page for effective date.

CHAPTER 326

H.P. 1163 - L.D. 1563

An Act to Amend School Immunizations Requirements

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

Sec. 1. 20-A MRSA §6353, sub-§3, as enacted by PL 1983, c. 661, §8, is amended to read:

3. Disease. "Disease" means ~~diphtheria, measles, mumps, pertussis, poliomyelitis, rubella and tetanus~~ those conditions that are preventable by immunizing agent, as specified in rules.

Sec. 2. 20-A MRSA §6355, as enacted by PL 1983, c. 661, §8, is amended to read:

§6355. Enrollment in school

~~No~~ A superintendent may not permit any child to be enrolled in or to attend school without a certificate of immunization for each disease or other acceptable evidence of required immunization or immunity against the disease, except as follows.

1. Written assurance. The parent provides a written assurance the child will be immunized within 90 days by private effort or provides, where applicable, a written consent to the child's immunization by a health officer, physician, nurse or other authorized person in public or private employ.

2. Medical exemption. The parent or the child provides a physician's written statement that immunization against one or more of the diseases may be medically inadvisable.

3. Philosophical or religious exemption. The parent states in writing a sincere religious belief ~~which~~ that is contrary to the immunization requirement of this subchapter or an opposition to the immunization for ~~moral, philosophical or other personal~~ reasons.

Sec. 3. 20-A MRSA §6358, sub-§1, as enacted by PL 1983, c. 661, §8, is amended to read:

1. Rules authorized. The commissioner and the Director of the Bureau of Health, Department of Human Services, shall jointly issue rules necessary for