

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals
(may include minor formatting differences from printed original)

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

(b) The defendant is an appropriate candidate for an intensive supervision program, but would be ineligible to participate under a sentence imposed under paragraph A; or

(c) The defendant's background, attitude and prospects for rehabilitation and the nature of the victim and the offense indicate that imposition of a sentence under paragraph A would frustrate the general purposes of sentencing set forth in section 1151.

If the court imposes a sentence under this paragraph, the court shall state in writing its reasons for its findings and for imposing a sentence under this paragraph rather than under paragraph A; and

C. If the court imposes a sentence under paragraph B, the minimum sentence of imprisonment, which ~~shall~~ may not be suspended, ~~shall be~~ is as follows: When the sentencing class is Class A, the minimum term of imprisonment ~~shall be~~ is 9 months; when the sentencing is Class B, the minimum term of imprisonment ~~shall be~~ is 6 months; and, with the exception of trafficking or furnishing marijuana under section ~~4405, 1105-A or 1105-C~~, when the sentencing class is Class C, the minimum term of imprisonment ~~shall be~~ is 3 months.

Sec. 152. 17-A MRSA §1301, sub-§5, as enacted by PL 1985, c. 699, is amended to read:

5. Notwithstanding any other provision of this section, any person convicted of a crime under section 1103, ~~4405~~ 1105-A, 1105-B, 1105-C, 1105-D, 1106 or 4407 ~~1107-A~~ may be sentenced to pay a fine of an amount equal to the value at the time of the offense of the scheduled drug or drugs upon which the conviction is based.

When the court imposes a fine under this subsection, the court shall make a finding as to the value of the scheduled drug or drugs. If the record does not contain sufficient evidence to support a finding, the court may conduct, in connection with its imposition of a sentence, a hearing on this issue.

Sec. 153. 34-A MRSA §11203, sub-§6, ¶B, as enacted by PL 1999, c. 437, §2, is amended to read:

B. A violation under Title 17-A, section 253, subsection 2, paragraph E, F, G, H, I or J; Title 17-A, section 254; Title 17-A, section ~~255~~ 255-A, subsection 1, paragraph A, ~~E, F, G B, I or J, K, L, M, N, O, R, S or T~~; Title 17-A, section 256; Title 17-A, section 258; Title 17-A, section 301, unless the actor is a parent of the

victim; Title 17-A, section 302; Title 17-A, section 511, subsection 1, paragraph D; Title 17-A, section 556; Title 17-A, section 852, subsection 1, paragraph B; or Title 17-A, section 855; or

Sec. 154. 34-A MRSA §11203, sub-§7, ¶A, as enacted by PL 1999, c. 437, §2, is amended to read:

A. A conviction for or an attempt to commit an offense under Title 17-A, section 253, subsection 1; Title 17-A, section 253, subsection 2, paragraph A, B, C or D; or Title 17-A, section ~~255~~ 255-A, subsection 1, paragraph ~~B, C, D or E, F, G, H, O or P~~; or

Sec. 155. Corrective legislation. The Joint Standing Committee on Judiciary shall review statutory changes enacted by the 120th Legislature that may conflict with this Act and shall prepare corrective legislation before December 1, 2002 for introduction in the 121st Legislature. This section takes effect January 1, 2002.

Sec. 156. Effective date. Except as otherwise provided, this Act takes effect January 31, 2003.

Effective January 31, 2003, except as otherwise indicated.

CHAPTER 384

H.P. 1359 - L.D. 1814

An Act Regarding the Use of Tokens or Tickets for Games of Chance at Agricultural Fairs

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

Whereas, agricultural fairs need more time to adjust to the requirements of Public Law 1999, chapter 716; 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. 17 MRSA §341, sub-§§3 and 4, as enacted by PL 1999, c. 716, §10, are amended to read:

3. Games conducted at agricultural fairs. Beginning January 1, ~~2001~~ 2002, games of chance

conducted at agricultural fairs may be conducted only with tickets, tokens or other device approved by the Chief of the State Police by rule distributed by the agricultural fair society.

4. Games conducted at agricultural fairs by members of agricultural society or bona fide nonprofit. Beginning January 1, ~~2001~~ 2002, games of chance operated and conducted solely by members of an agricultural fair society or games of chance operated and conducted by members of bona fide nonprofit organizations on the grounds of the agricultural society and during the annual fair of the agricultural society may use cash, tickets, tokens or other device approved by the Chief of the State Police by rule.

Notwithstanding any other provision of this section, the tickets, tokens or other device approved by the Chief of the State Police must be unique to the agricultural society and may be in denominations from 25¢ to 50¢. The tickets, tokens or device approved by the Chief of the State Police may be sold and redeemed only by a person who has been a member or active volunteer of the agricultural society for at least 2 fair seasons. The agricultural society has the burden of proof for demonstrating the qualification of members or active volunteers.

Sec. 2. Review by January 15, 2002 and 2003. The Chief of the State Police or the chief's designee and a representative from the Department of Agriculture, Food and Rural Resources shall report regarding the operation of games of chance at agricultural fairs to the joint standing committee of the Legislature having jurisdiction over games of chance by January 15, 2002 and again by January 15, 2003.

Sec. 3. Retroactivity. This Act applies retroactively to January 1, 2001.

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

Effective June 11, 2001.

CHAPTER 385

S.P. 429 - L.D. 1409

An Act to Address the Health Effects of Mercury Fillings

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

Sec. 1. 32 MRSA §1094-C is enacted to read:

§1094-C. Brochure and poster

1. Display. Beginning July 1, 2002, a dentist who uses mercury or a mercury amalgam in any dental procedure shall display the poster adopted by the Department of Human Services, Bureau of Health under this section in the public waiting area of that dentist's office and must provide each patient with a copy of the brochure adopted by the bureau under this section.

2. Rules. The Director of the Bureau of Health within the Department of Human Services shall develop a brochure that explains the potential advantages and disadvantages to oral health, overall human health and the environment of using mercury or mercury amalgam in dental procedures. The brochure must describe what alternatives are available to mercury amalgam in various dental procedures and what potential advantages and disadvantages are posed by the use of those alternatives. The brochure may also include other information that contributes to the patient's ability to make an informed decision when choosing between the use of mercury amalgam or an alternative material in a dental procedure, including, but not limited to, information on the durability, cost, aesthetic quality or other characteristics of the mercury amalgam and alternative materials. The director shall also develop a poster that informs patients of the availability of the brochure.

The Director of the Bureau of Health shall, in consultation with the Department of Environmental Protection, adopt the brochure and the poster described in this subsection as major substantive rules pursuant to Title 5, chapter 375, subchapter II-A. The brochure and poster must be provisionally adopted and submitted to the Legislature for consideration during the Second Regular Session of the 120th Legislature. Copies of the brochure and poster must be provided to dentists in the State at cost.

See title page for effective date.

CHAPTER 386

S.P. 580 - L.D. 1758

An Act to Amend the Laws Pertaining to the Department of Corrections

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

Sec. 1. 17-A MRSA §101, sub-§5, as enacted by PL 1981, c. 324, §24, is amended to read:

5. For purposes of this chapter, use by a law enforcement officer ~~or~~, a corrections officer ~~or~~ a corrections supervisor of chemical mace or any similar substance composed of a mixture of gas and chemicals