

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

12-D. Dangerous dog. "Dangerous dog" means a dog that bites an individual who is not trespassing on the dog owner's or keeper's premises at the time of the bite or a dog that causes a reasonable and prudent person who is not on the dog owner's or keeper's premises and is acting in a reasonable and nonaggressive manner to fear imminent bodily ~~harm~~ injury by ~~attacking~~ assaulting or threatening to ~~attack~~ assault that individual or individual's domestic animal. "Dangerous dog" does not include a dog certified by the State and used for law enforcement use.

For the purposes of this definition, "dog owner's or keeper's premises" means the residence or residences, including buildings and land and motor vehicles, belonging to the owner or keeper of the dog.

Sec. 5. 7 MRSA §3952, sub-§1, as amended by PL 1999, c. 350, §2, is further amended to read:

1. Procedure. Any person who is assaulted or threatened with imminent bodily injury by a dog or any person witnessing an assault or threatened assault against a person or domesticated animal or a person with knowledge of an assault or threatened assault against a minor, within 30 days of the assault or threatened assault, may make written complaint to the sheriff, local law enforcement officer or animal control officer that the dog is a dangerous dog.

Upon investigation of the complaint, the sheriff, local law enforcement officer or animal control officer may issue a civil violation summons for keeping a dangerous dog.

If, upon hearing, the court finds that the dog is a dangerous dog as defined in section 3907, subsection 12-D, the court may impose a civil forfeiture and shall:

- A. Order the dog muzzled, restrained, confined to the premises of its owner or keeper or confined in a secure enclosure. The court may set standards for that enclosure; or
- B. Order the dog to be euthanatized if it has killed, maimed or inflicted serious bodily injury upon a person or has a history of a prior assault.

The court may order restitution in accordance with Title 17-A, chapter 54 for any damages inflicted upon a person or a person's property.

Sec. 6. 25 MRSA §1544, 2nd ¶, as amended by PL 1997, c. 47, §1, is further amended to read:

The bureau shall establish a category for abuse by adults of family or household members, a category for cruelty to animals and a category for crimes that manifest evidence of prejudice based on race, religion, disability, sexual orientation or ethnicity that are

supplementary to its other reported information. The bureau shall prescribe the information to be submitted in the same manner as for all other categories of the uniform crime reports.

Sec. 7. Application. That section of this Act that repeals and replaces the Maine Revised Statutes, Title 7, section 3906-C, subsection 1, changing the composition of the Animal Welfare Advisory Committee, must be fully implemented no later than September 1, 2001.

Sec. 8. Report by Commissioner of Agriculture, Food and Rural Resources to Joint Standing Committee on Agriculture, Conservation and Forestry. Before January 1, 2002, the Commissioner of Agriculture, Food and Rural Resources, in consultation with the Animal Welfare Advisory Council, shall submit recommendations regarding funding and implementation of the Department of Agriculture, Food and Rural Resources' responsibilities regarding animal welfare laws and rules and legislation necessary to implement the recommendations to the Joint Standing Committee on Agriculture, Conservation and Forestry. The Joint Standing Committee on Agriculture, Conservation and Forestry may report out legislation during the Second Regular Session of the 120th Legislature to make revisions to the animal welfare laws.

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

Effective June 13, 2001.

CHAPTER 400

S.P. 379 - L.D. 1217

An Act to Create Uniform Underwriting Standards for Determining Eligibility for Certain Group Policies

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

Sec. 1. 24-A MRSA §2808-B, sub-§1, ¶D, as repealed and replaced by PL 1997, c. 445, §12 and affected by §32, is amended to read:

D. "Eligible group" means any person, firm, corporation, partnership, association or subgroup engaged actively in a business that employed an average of 50 or fewer eligible employees during the preceding calendar year, more of whom are employed within this State than in any other state.

(1) If an employer was not in existence throughout the preceding calendar year, the determination must be based on the average number of employees that the employer is reasonably expected to employ on business days in the current calendar year.

(2) In determining the number of eligible employees, companies that are affiliated companies or that are eligible to file a combined tax return for purposes of state taxation are considered one employer.

(3) An employer qualifies as an eligible group for 2-person coverage if the employer provides a carrier with the following information demonstrating that the employer's business and employees meet the minimum qualifications for group coverage in paragraph C:

(a) A copy of the most recent quarterly combined filing for income tax withholding and unemployment contributions, Form 941/CN1-ME;

(b) For an employee claimed to be an employee eligible for group coverage whose name is not listed on Form 941/CN1-ME, a copy of the employer's payroll records for the most recent 3 months showing tax withholding or a wage report from a payroll company showing wages paid to that employee for the most recent quarter with tax withholding;

(c) If an employer is exempt from filing Form 941/CN1-ME for group coverage, documentation of that exemption and a copy of the employer's payroll records for the most recent 3 months showing tax withholding or a wage report from a payroll company showing wages paid to that employee for the most recent quarter with tax withholding; or

(d) If the name of the business owner or employee does not appear on Form 941/CN1-ME, a copy of one of the following:

(i) Federal income tax Form Schedule C or Schedule F;

(ii) Federal income tax Form 1120S, Schedule K-1;

(iii) Federal income tax Form 1065, Schedule K-1;

(iv) A workers' compensation insurance audit or evidence of a waiver of benefits under Title 39-A;

(v) A description of operations in a commercial general liability insurance policy or equivalent insurance policy providing coverage for the business; or

(vi) A signature card from a financial institution or credit union authorizing the employee to sign checks on a business checking or share draft account that is at least 6 months old; a notarized affidavit from the employer describing the duties of the employee and the average number of hours worked by the employee and attesting that the employer is not defrauding the carrier and is aware of the consequences of committing fraud or making a material misrepresentation to the carrier, including a loss of coverage and benefits; and, if the group coverage is purchased through a producer, a notarized affidavit from the producer affirming the producer's belief that the employer qualifies as an eligible group for coverage.

In determining if a new business or a business that adds an owner or a new employee to payroll during the course of a year qualifies as an eligible group for 2-person coverage under this subparagraph, the employer must submit an affidavit stating that all employees meet the criteria in this subparagraph and that the documentation and forms required under this subparagraph will be provided to the carrier when payroll records become available, when ownership distribution forms become available or the first renewal date of the coverage, whichever date is earlier. A false affidavit or misrepresentation on an affidavit submitted by an employer may result in the loss of group coverage and repayment of claims paid. This subparagraph may not be construed to prohibit a carrier from recognizing an employer as an eligible group if the employer has not produced the documentation required in this subparagraph.

Sec. 2. Application. This Act applies only to an employer applying for group health insurance

coverage as a 2-person group on or after October 1, 2001.

See title page for effective date.

CHAPTER 401

S.P. 314 - L.D. 1082

An Act to Amend the State's Overtime Law

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

Sec. 1. 26 MRSA §603, sub-§5 is enacted to read:

5. Exception for nurse. Notwithstanding subsection 2, a nurse may not be disciplined for refusing to work more than 12 consecutive hours. A nurse may be disciplined for refusing mandatory overtime in the case of an unforeseen emergent circumstance when overtime is required as a last resort to ensure patient safety. Any nurse who is mandated to work more than 12 consecutive hours, as permitted by this section, must be allowed at least 10 consecutive hours of off-duty time immediately following the worked overtime.

This subsection does not apply to overtime for performance of services described in subsection 3, paragraph A or C.

See title page for effective date.

CHAPTER 402

S.P. 365 - L.D. 1203

An Act to Amend Certain Laws Pertaining to the Maine Land Use Regulation Commission

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

Sec. 1. 12 MRSA §682, sub-§15, as enacted by PL 1995, c. 386, §1, is repealed and the following enacted in its place:

15. Campsite. "Campsite" means a camping location containing tents, registered tent trailers, registered pickup campers, registered recreational vehicles, registered trailers or similar devices used for camping. "Campsite" does not include a camping location that has access to a pressurized water system or permanent structures other than outhouses, fireplaces, picnic tables, picnic tables with shelters or lean-tos. A campsite may be designed to contain a

maximum of 4 camping sites for transient occupancy by 12 or fewer people per site, or numbers of sites and occupancy rates consistent with a landowner's recreational policy filed with the commission. The commission may require a campsite permit if it determines that the recreational policy is inconsistent with the commission's comprehensive land use plan.

Sec. 2. 12 MRSA §682, sub-§18, as enacted by PL 1995, c. 386, §1, is repealed and the following enacted in its place:

18. Transient occupancy. "Transient occupancy" means occupancy that does not exceed 90 consecutive days.

Sec. 3. 12 MRSA §685-A, sub-§5, as amended by PL 1999, c. 530, §8, is further amended to read:

5. Considerations, application and exemptions. A land use standard may not deprive an owner or lessee or subsequent owner or lessee of any interest in real estate of the use to which it is lawfully devoted at the time of adoption of that standard. Year-round and seasonal single residences and operating farms in existence and use as of September 23, 1971, while so used, and new accessory buildings or structures or renovations of the buildings or structures that are or may be necessary to the satisfactory and comfortable continuation of these residential and farm uses are exempt from the requirements of section 685-B, subsection 1.

Land use standards adopted pursuant to this chapter for management districts may not limit the right, method or manner of cutting or removing timber or crops, the construction and maintenance of hauling roads, the operation of machinery or the erection of buildings, including buildings to store equipment and materials for maintaining roads, and other structures used primarily for agricultural or commercial forest product purposes, including tree farms. The commission may not require a permit for such activities in a management district. Notwithstanding this subsection, a permit from the commission is required for roads covering a ground area of 3 acres or more constructed in management districts, unless those roads are constructed and maintained in accordance with the guidelines of the commission's Land Use Handbook, Section 6, "Erosion Control on Logging Jobs," or as revised. The commission may require a person constructing a road to notify the commission of the location of the road within 21 days.

Land use standards adopted pursuant to this chapter must establish a minimum setback of 100 feet for all structures within a commercial sporting camp complex that are constructed solely for the housing of guests, including structures within a main sporting camp