

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
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TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Company
Augusta, Maine
2001

CHAPTER 426

H.P. 240 - L.D. 292

An Act to Add Prior Conviction for Burglary of a Motor Vehicle to Enhancement of Theft Penalties and to Include Burglary of a Motor Vehicle in the Presumption Provision for Theft

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

Sec. 1. 17-A MRSA §361, sub-§2, as amended by PL 1975, c. 740, §58, is further amended to read:

2. Proof that the defendant was in exclusive possession of property that had recently been taken under circumstances constituting a violation of this chapter or of chapter 27 ~~shall give~~ gives rise to a presumption that the defendant is guilty of the theft or robbery of the property, as the case may be, and proof that the theft or robbery occurred under circumstances constituting a violation of section 401 or 405 also ~~shall give~~ gives rise to a presumption that the defendant in exclusive possession of property recently so taken is guilty of the burglary or burglary of a motor vehicle, as the case may be.

Sec. 2. 17-A MRSA §362, sub-§3-A, as amended by PL 1987, c. 12, is further amended to read:

3-A. Theft, or any attempt at theft, is a Class C crime if the actor has 2 prior Maine convictions for any combination of theft, any violation of section 405, 702, 703 or 708 or any violation of section 401 in which the crime intended to be committed inside the structure is theft or of section 405 in which the crime intended to be committed inside the motor vehicle is theft, any violation of section 651 or attempts thereat. For purposes of this subsection, the dates of both of the prior convictions must precede the commission of the offense being enhanced by no more than 10 years, although both prior convictions may have occurred on the same day. This subsection does not apply if the commission of the 2 prior offenses occurred within a 3-day period. The date of a conviction ~~shall be~~ is deemed the date that sentence is imposed, even though an appeal was taken. The date of a commission of prior offenses ~~shall be~~ is presumed to be that stated in the complaint, information or indictment, notwithstanding the use of the words "on or about" or the equivalent.

See title page for effective date.

CHAPTER 427

H.P. 592 - L.D. 747

An Act to Ensure That State Employees Receiving Workers' Compensation and Filling a Limited Period Position Remain in Their Respective Bargaining Units

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

Sec. 1. 26 MRSA §979-S is enacted to read:

§979-S. Representation of employees in certain limited-period positions

This section governs limited-period positions created for former regular employees of the State who are receiving workers' compensation payments from the State when creation of the positions will enable those employees to return to productive employment with the State. A person placed in such a limited-period position retains the employment and bargaining unit status that person had attained under this chapter prior to the injury that resulted in workers' compensation payments. The scope of representation by the bargaining agent is limited to terms and conditions of employment unrelated to work capacity, the rehabilitation effort or any other matter prescribed or controlled by workers' compensation law unless such terms are specifically negotiated as authorized by Title 39-A, section 110. This section may not be construed to authorize the creation of limited-period positions or to limit the employee's right to designate the employee's collective bargaining agent as that employee's representative concerning matters arising under workers' compensation laws.

Sec. 2. Application. This Act applies to persons holding the limited-period positions described in this Act on and after the effective date of this Act, regardless of when the position was created.

See title page for effective date.

CHAPTER 428

S.P. 565 - L.D. 1725

An Act to Prevent Interstate and International Smuggling of Illegal Drugs Into the State by Creating the Crime of Illegal Importation of Scheduled Drugs

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

Sec. 1. 17-A MRSA §1118 is enacted to read:

§1118. Illegal importation of scheduled drugs

1. A person is guilty of illegal importation of scheduled drugs if the person intentionally or knowingly brings, carries or transports a scheduled drug other than marijuana into the State from another state or country, unless the person is authorized to import or to possess the scheduled drug under Title 22 or Title 32 or under any law of the United States, of another state or of a foreign country.

2. A violation of this section is:

A. A Class C crime if the drug is a schedule W drug; and

B. A Class D crime if the drug is a schedule X, Y or Z drug.

See title page for effective date.

CHAPTER 429

S.P. 588 - L.D. 1764

An Act to Amend the Crime of Endangering the Welfare of a Child

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

Sec. 1. 17-A MRSA §554, sub-§1, ¶B-1, as enacted by PL 1995, c. 694, Pt. C, §4 and affected by Pt. E, §2, is amended to read:

B-1. Being the parent, foster parent, guardian or other person having the care and custody of the child, cruelly treats that child by abuse, neglect or extreme punishment; or

Sec. 2. 17-A MRSA §554, sub-§1, ¶B-2 is enacted to read:

B-2. Being a parent, foster parent, guardian or other person responsible for the long-term general care and welfare of a child under 16, recklessly fails to take reasonable measures to protect the child from the risk of further bodily injury after knowing:

(1) That the child had, in fact, sustained serious bodily injury or bodily injury under circumstances posing a substantial risk of serious bodily injury; and

(2) That such bodily injury was, in fact, caused by the unlawful use of physical force by another person; or

Sec. 3. 17-A MRSA §554, sub-§3, as enacted by PL 1975, c. 499, §1, is amended to read:

3. Endangering the welfare of a child is a Class D crime, except that a violation of subsection 1, paragraph B-2 is a Class C crime.

See title page for effective date.

CHAPTER 430

H.P. 1013 - L.D. 1350

An Act to Amend the Laws Governed by the Commission on Governmental Ethics and Election Practices

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

Sec. 1. 1 MRSA §1002, sub-§1, ¶¶A and C, as repealed and replaced by IB 1995, c. 1, §1, are amended to read:

~~A. By March 31, 1997, and as needed after that date~~ As needed, the Governor, the President of the Senate, the Senate Minority Leader, the Speaker of the House and the House Minority Leader shall jointly establish and publish a nomination period during which members of the public, groups and organizations may nominate qualified individuals to the Governor for appointment to the commission. ~~The initial nomination period must close by May 1, 1997.~~

~~C. Two initial appointees are appointed for 1-year terms, two are appointed for 2-year terms and one is appointed for a 3-year term according to a random lot drawing under the supervision of the Secretary of State. Subsequent appointees~~ Appointees are appointed to serve 4-year terms. A person may not serve more than 2 terms.

Sec. 2. 1 MRSA §1004, as amended by PL 1977, c. 252, §1, is further amended to read:

§1004. Meetings

~~The President of the Senate and the Speaker of the House shall jointly call an organizational meeting of the commission within 10 days after the members have taken their oaths of office. Thereafter, the~~ The commission shall meet on the call of the ~~Secretary of State or of the~~ Speaker of the House or the President of the Senate to perform the duties required of it or as specifically provided in this chapter. The commission shall also meet at other times at the call of the ~~chairman~~ chair or at the call of a majority of the members, provided all members are notified of the