

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

nominees to the Commission on Governmental Ethics and Election Practices made after January 1, 2002 according to the Maine Revised Statutes, Title 1, section 1002, subsection 1-A.

Sec. 10. Allocation. The following funds are allocated from Other Special Revenue funds to carry out the purposes of this Act.

	2001-02	2002-03
ETHICS AND ELECTION PRACTICES, COMMISSION ON GOVERNMENTAL		
Commission on Governmental Ethics and Election Practices		
Positions	(1,000)	(1,000)
Personal Services	\$39,560	\$55,576
All Other	(\$39,560)	(\$55,576)
TOTAL	\$0	\$0
Allocates funds for one General Counsel position and deallocates funds from the Maine Clean Election Fund to fund the position.		
Commission on Governmental Ethics and Election Practices		
All Other	\$20,900	\$20,900
Allocates funds from the Maine Clean Election Fund for the per diem and other expenses associated with increasing the number of meetings of the commission and for increased overtime costs associated with extending the office hours of the commission prior to elections.		
COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES		
TOTAL	\$20,900	\$20,900

Sec. 11. Retroactivity. That section of this Act that amends the Maine Revised Statutes, Title 21-A, section 1020-A, subsections 4 and 5 applies retroactively to January 1, 2000.

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

Effective June 29, 2001.

CHAPTER 471

H.P. 30 - L.D. 30

An Act to Correct Errors and Inconsistencies in the Laws of Maine

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

Whereas, Acts of this and previous Legislatures have resulted in certain technical errors and inconsistencies in the laws of Maine; and

Whereas, these errors and inconsistencies create uncertainties and confusion in interpreting legislative intent; and

Whereas, it is vitally necessary that these uncertainties and this confusion be resolved in order to prevent any injustice or hardship to the citizens of Maine; 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:

PART A

Sec. A-1. 4 MRSA §152, sub-§4, as amended by PL 1999, c. 731, Pt. ZZZ, §4 and affected by §42 and amended by c. 778, §1, is repealed and the following enacted in its place:

4. Exclusive jurisdiction. Original jurisdiction, not concurrent with that of the Superior Court, of mental health commitment hearings under Title 34-B, chapter 3, subchapter IV, mental retardation certification hearings under Title 34-B, chapter 5, habitual truancy actions under Title 20-A, chapters 119 and 211 under which equitable relief may be granted, youth in need of services actions under Title 22, chapter 1071, subchapter XIV and small claims actions under Title 14, chapter 738;

Sec. A-2. Retroactivity. That section of this Act that repeals and replaces the Maine Revised Statutes, Title 4, section 152, subsection 4 applies retroactively to May 10, 2000.

Sec. A-3. 5 MRSA §3307-C, sub-§2, as amended by PL 1999, c. 758, §1, is further amended to read:

2. Reporting. Each owner or lessee of primary storage facilities ~~or petroleum products~~ in the State shall make an accurate report on the first and 3rd Monday of each month to the State Planning Office on a form provided by the director. This form ~~shall~~ must contain a conspicuous statement of the penalties provided in subsection 4 and ~~shall~~ must require the following information:

A. The total inventory of each petroleum product stored in the State, as measured within not more than 3 working days prior to the reporting date; and

B. The quantities of each petroleum product delivery expected into the State within 15 days of the reporting date or within any longer period established by the director.

Sec. A-4. 5 MRSA c. 319 is amended by repealing the chapter headnote and enacting in its place the following:

PART 10-A

FIRE PROTECTION SERVICES

CHAPTER 319

MAINE FIRE PROTECTION SERVICES COMMISSION

Sec. A-5. 5 MRSA §3371, sub-§8, ¶D, as enacted by PL 1999, c. 731, Pt. AAAA, §1, is repealed.

Sec. A-6. 5 MRSA c. 383, sub-c. II, art. 2-A, as enacted by PL 1999, c. 731, Pt. VVV, §1, is repealed.

Sec. A-7. 5 MRSA c. 383, sub-c. II, art. 2-B is enacted to read:

Article 2-B

MAINE MICROENTERPRISE INITIATIVE

§13063-J. Definitions

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

1. Community-based organization. "Community-based organization" means a nonprofit organization that has:

A. A viable plan for providing training and technical assistance to microenterprises;

B. Broad-based community support;

C. An adequate source of operating capital; and

D. A demonstrated need for funding to provide training and technical assistance to microenterprises.

2. Fund. "Fund" means the Maine Microenterprise Initiative Fund established in section 13063-K.

3. Microenterprise. "Microenterprise" means a business located in the State that produces goods or provides services and has fewer than 10 full-time equivalent employees.

§13063-K. Maine Microenterprise Initiative Fund

1. Fund established. The Maine Microenterprise Initiative Fund is established as a nonlapsing fund administered by the department. The fund consists of money appropriated to it by the Legislature from the General Fund and eligible investment earnings from fund assets. The fund must be held separate from all other money, funds and accounts, and all eligible investment earnings from fund assets must be credited to the fund.

2. Fund purposes. The department shall administer the fund to provide grants to community-based organizations to aid them in providing technical assistance and training to microenterprises.

§13063-L. Application process

1. Process established. The department shall adopt rules establishing an application process for fund grants for the purposes set forth in section 13063-K, subsection 2. In establishing the application process, the department shall consult with business experts involved with microenterprises in the State.

2. Process requirements. The application process must be competitive. An applicant shall specify whether a grant is sought for microenterprise technical assistance or training or a combination thereof. In making grants, the department shall give priority to applications that:

A. Are joint applications by 2 or more community-based organizations or otherwise provide for cooperation among community-based organizations;

B. Target aid to low-income individuals; or

C. Target aid to areas of high unemployment or to underserved areas of the State.

The department may establish additional criteria for assessing applications for fund grants.

§13063-M. Rules

The department shall adopt rules necessary to carry out this article. Rules adopted pursuant to this

article are routine technical rules as defined in chapter 375, subchapter II-A.

§13063-N. Report

The department shall submit to the joint standing committee of the Legislature having jurisdiction over business and economic development matters an update on the fund by January 1, 2001 and every year thereafter.

Sec. A-8. 5 MRSA §15321, sub-§2, ¶D, as enacted by PL 1999, c. 731, Pt. UUU, §3, is amended to read:

D. The Department of Economic and Community Development shall determine where the applied technology development centers are to be located. The Center for Environmental Enterprise in South Portland, the Target Technology Center in Orono, the Thomas M. Teague Biotechnology Park in Fairfield and the Loring Biotechnology Incubator in Limestone are exempt from a determination made under this paragraph.

Sec. A-9. 5 MRSA §15321, sub-§4, ¶B, as enacted by PL 1999, c. 731, Pt. UUU, §3, is amended to read:

B. An entity that requests initial funding for an applied technology development center shall obtain or must have obtained at least 25% of the funding from nonstate sources. These sources may include in-kind donations, federal grants, federal funding, local funding initiatives and private foundation grants. The Applied Technology Development Center System Coordinating Board shall determine whether the matching funds meet this requirement. The Center for Environmental Enterprise in South Portland, the Target Technology Center in Orono, the Thomas M. Teague Biotechnology Park in Fairfield and the Loring Biotechnology Incubator in Limestone must meet this requirement in order to receive funding under this subsection.

Sec. A-10. 7 MRSA §3152, sub-§4-A, as amended by PL 1999, c. 547, Pt. B, §22 and affected by §80 and amended by c. 679, Pt. B, §10 and affected by §14, is repealed and the following enacted in its place:

4-A. Eligible marketing cooperative. "Eligible marketing cooperative" means an association of milk producers organized to negotiate producer prices higher than the minimum producer prices established pursuant to the northeast marketing area milk marketing order and which the commissioner has determined will not, through its operation, evade, impair or undermine the purposes of this chapter. Notwithstanding Title 4, section 152, subsection 9 and Title 5,

section 10051, subsection 1, the commissioner may revoke the eligible status of a marketing cooperative upon a determination that it has through its operation evaded, impaired or undermined the purposes of this chapter.

Sec. A-11. Effective date. That section of this Act that repeals and replaces the Maine Revised Statutes, Title 7, section 3152, subsection 4-A takes effect March 15, 2001.

Sec. A-12. 10 MRSA §1023-J, first ¶, as amended by PL 1999, c. 593, §2 and c. 769, §7, is repealed and the following enacted in its place:

The Agricultural Marketing Loan Fund, referred to in this section as the "fund," is created. The fund must be deposited with and maintained by the Finance Authority of Maine. The fund must be administered by the Commissioner of Agriculture, Food and Rural Resources in accordance with Title 7, chapter 101, subchapter I-D. All money received by the Finance Authority of Maine from any source for the development and implementation of an improved agricultural marketing loan program must be credited to the fund. Any money credited to the fund from the issuance of bonds on behalf of the State for financing loans for agricultural enterprises may be used only for the following purposes: to provide assistance to agricultural enterprises in this State for the design, construction or improvement of commodity and storage buildings and packing and marketing facilities; for the purchase, construction or renovation of buildings, equipment, docks, wharves, piers or vessels used in connection with a commercial agricultural enterprise; for the purchase of land in connection with development of new cranberry acreage; for the purchase of land for irrigation reservoirs or to provide direct access to water for irrigation; for the purchase of land necessary for the start-up of a new agricultural enterprise; for the expansion of an existing agricultural enterprise when the land acquisition is necessary to comply with land use regulations; or for the development of a business plan in accordance with the provisions of Title 7, section 436-A. Repayment of these loans and interest on these loans must be credited to the fund and must be available for making additional loans for the same purposes, except that interest may be used for the purposes stated in Title 7, section 436. Interest earned on money in the fund and interest earned on loans made from the fund may be used to pay the administrative costs of processing loan applications, to the extent that these costs exceed the fee for administrative costs established by Title 7, section 435, subsection 4.

Sec. A-13. 10 MRSA §1114, sub-§2, as enacted by PL 1993, c. 461, §1, is amended to read:

2. Disclosure. Notwithstanding any contrary agreement, a contractor or subcontractor shall disclose to a subcontractor or material supplier the due date for receipt of payments from the owner before a contract between those parties is entered. Notwithstanding any other provision of this chapter, if a contractor or subcontractor fails to accurately disclose the due date to a subcontractor or material supplier, the contractor or subcontractor is obligated to pay the subcontractor or material supplier as though the 20-day due dates in section ~~2~~ 1113, subsection 3 were met.

Sec. A-14. 11 MRSA §2-210, sub-§(2-A), as enacted by PL 1999, c. 699, Pt. B, §7 and affected by §28, is repealed and the following enacted in its place:

(2-A) The creation, attachment, perfection or enforcement of a security interest in the seller's interest under a contract is not a transfer that materially changes the duty of or increases materially the burden or risk imposed on the buyer or impairs materially the buyer's chance of obtaining return performance within the purview of subsection (2) unless, and then only to the extent that, enforcement actually results in a delegation of material performance of the seller. Even in that event, the creation, attachment, perfection and enforcement of the security interest remain effective, but:

(a) The seller is liable to the buyer for damages caused by the delegation to the extent that the damages could not reasonably be prevented by the buyer; and

(b) A court having jurisdiction may grant other appropriate relief, including cancellation of the contract for sale or an injunction against enforcement of the security interest or consummation of the enforcement.

Sec. A-15. Effective date. That section of this Act that repeals and replaces the Maine Revised Statutes, Title 11, section 2-210, subsection (2-A) takes effect July 1, 2001.

Sec. A-16. 11 MRSA §9-1408, sub-§(1), ¶(b), as enacted by PL 1999, c. 699, Pt. A, §2 and affected by §4, is amended to read:

(b) Provides that the assignment or transfer or the creation, attachment or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the promissory note, health-care-insurance receivable or general intangible.

Sec. A-17. 11 MRSA §9-1408, sub-§(3), ¶(b), as enacted by PL 1999, c. 699, Pt. A, §2 and affected by §4, is amended to read:

(b) Provides that the assignment or transfer or the creation, attachment or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination or remedy under the promissory note, health-care-insurance receivable or general intangible.

Sec. A-18. Effective date. Those sections of this Act that amend the Maine Revised Statutes, Title 11, section 9-1408, subsection (1), paragraph (b) and subsection (3), paragraph (b) take effect July 1, 2001.

Sec. A-19. Effective date. That section of this Act that amends the Maine Revised Statutes, Title 11, section 9-1523, subsection (7) takes effect July 1, 2001.

Sec. A-20. 14 MRSA §3142, sub-§1, ¶C, as enacted by PL 1999, c. 743, §4, is amended to read:

C. The suspension of any license, certification, registration, permit, approval or other similar document evidencing the granting of authority to hunt, fish or trap or to engage in a profession, occupation, business or industry, not including a registration, permit, approval or similar document evidencing the granting of authority to engage in the business of banking pursuant to Title 9-B. Licenses and registration subject to suspension include, but are not limited to:

(1) Licenses issued by the Commissioner of Marine Resources, as provided in Title 12, section ~~6408~~ 6409;

(2) Licenses issued by the Commissioner of Inland Fisheries and Wildlife, as provided in Title 12, section 7077, subsection 1-C;

(3) Watercraft, snowmobile and all-terrain vehicle registrations, as provided in Title 12, section 7077, subsection 1-C; and

(4) Motor vehicle licenses or permits issued by the Secretary of State, the right to operate a motor vehicle in this State and the right to apply for or obtain a license or permit, as provided in Title 29-A, section 2605.

Sec. A-21. 15 MRSA §3203-A, sub-§4, ¶E, as amended by PL 1999, c. 624, Pt. A, §2 and Pt. B, §5, is repealed and the following enacted in its place:

E. If a juvenile community corrections officer or an attorney for the State orders a juvenile detained, the juvenile community corrections officer who ordered the detention or the attorney for the State who ordered the detention shall petition

the Juvenile Court for a review of the detention in time for the detention hearing to take place within the time required by subsection 5, unless the juvenile community corrections officer who ordered the detention or the attorney for the State who ordered the detention has ordered the release of the juvenile. The juvenile community corrections officer who ordered the detention or the attorney for the State who ordered the detention may order the release of the juvenile anytime prior to the detention hearing. If the juvenile is so released, a detention hearing may not be held.

Sec. A-22. 17-A MRSA §602, sub-§3, as enacted by PL 1975, c. 499, §1, is amended to read:

3. Bribing ~~Bribery~~ in official and political matters is a Class C crime.

Sec. A-23. 19-A MRSA §1556, as amended by PL 1999, c. 704, §1 and c. 731, Pt. ZZZ, §32 and affected by §42, is repealed and the following enacted in its place:

§1556. Remedies

The District Court has jurisdiction over an action to determine parentage. There is no right to demand a jury trial in an action to determine parentage. The District Court has jurisdiction for the enforcement of judgments for expenses of pregnancy and confinement for a wife or for education, support or funeral expenses for legitimate children and all remedies for the enforcement of these judgments apply. The court has continuing jurisdiction to modify or revoke a judgment for future education and support. All remedies under the Uniform Interstate Family Support Act are available for enforcement of duties of support under this subchapter.

Sec. A-24. 20-A MRSA §13032, sub-§4, as enacted by PL 1999, c. 569, §1 and affected by §6, is amended to read:

4. Basic skills. Basic skills, which ~~includes~~ include reading, writing and mathematics.

Sec. A-25. 20-A MRSA §15618-A, as amended by PL 1999, c. 710, §§13 and 14, is repealed.

Sec. A-26. 22 MRSA §2602, as enacted by PL 1975, c. 751, §4, is amended to read:

§2602. Fees for testing

The department shall charge the average cost of the analysis for any examination, testing or analysis required under this chapter and performed in the departmental diagnostic laboratory. ~~Such~~ The fees shall must be recalculated and deposited according to section ~~562~~ 565, subsection 3 and section 568.

Sec. A-27. 24-A MRSA §1156, sub-§2, ~~¶H~~, as amended by PL 2001, c. 72, §14, is further amended to read:

H. Investments that do not qualify or are not permitted under any other paragraph of this subsection; as long as:

(1) After giving effect to any investment made under this paragraph, the aggregate amount of those investments does not exceed 14% of total admitted assets, except that investments made under this paragraph in institutions or property not located within the State may not exceed 10% of total admitted assets; and, if the insurer makes investments described in paragraphs A to G and elects to charge those investments against the quantitative limits in this paragraph instead of the quantitative limits in paragraphs A to G, then the aggregate amount invested under this paragraph in those types of investments may not exceed 5% of total admitted assets for any one of those types of investments;

(2) Investments that are neither interest bearing nor income entitled, ~~including the cost of outstanding bona fide hedging transactions made under section 1153, subsection 2~~, are subject to all of the provisions of this paragraph; and the aggregate amount of those investments held at any one time may not exceed 3% of total admitted assets;

(3) The investment limitations contained in this chapter, qualitative or otherwise, do not apply to loans or investments made or acquired under this paragraph, provided that no loan or investment made or acquired under this paragraph may be represented by any asset determined to be nonadmitted pursuant to section 901-A or rules adopted under that section; any loan or investment expressly prohibited under section 1160; or agents' balances, or amounts advanced to or owing by agents, except as to policy loans, mortgage loans and collateral loans to those agents otherwise authorized under this chapter; or

(4) The insurer shall keep a separate record of all loans and investments made or acquired under this paragraph. Any such loan or investment that, subsequent to the date of making or acquisition, has attained the standard of eligibility and qualifies under any other provision of this chapter may be considered to have been made or acquired under and in compliance with that provision

and may no longer be considered to have been made or acquired under this paragraph.

Sec. A-28. 24-A MRSA §4301, as amended by PL 1999, c. 609, §19 and repealed by c. 742, §2, is repealed.

Sec. A-29. 29-A MRSA §460, sub-§1, as amended by PL 1997, c. 58, §1, is further amended to read:

1. State official registration plates authorized.

The Secretary of State, on payment of taxes required in section 409, fees required in section 501, subsections 1 and ~~2~~ 2-A and an additional fee equal to the cost of producing the plates, rounded to the nearest dollar, and upon application, shall issue one pair of specially designed number plates for one designated motor vehicle owned or controlled by each member of the United States Senate or the United States House of Representatives from this State, or members of the Legislature, Representatives of the Indian Tribes at the Legislature, the President of the Senate, the Speaker of the House of Representatives, the Secretary of the Senate and the Clerk of the House of Representatives. The cost of producing the special plates is determined by the bureau. A specially designed plate and its registration certificate may be used in place of the regular plate and registration. The named official may attach to such a motor vehicle one of the valid registration plates issued under section 451 and one of the special registration plates issued under this section.

Sec. A-30. 29-A MRSA §1752, sub-§5, ¶B, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

B. Registered for a fee of \$2 under section 501, subsection ~~2~~ 2-A; and

Sec. A-31. 29-A MRSA §2101, ¶¶A and B, as enacted by PL 1999, c. 771, Pt. C, §15 and affected by Pt. D, §§1 and 2, are repealed.

Sec. A-32. 29-A MRSA §2101, sub-§§1 and 2 are enacted to read:

1. Infraction. A traffic infraction if the violation the driver commits is a traffic infraction; or

2. Class E crime. A Class E crime if the violation the driver commits is a crime.

Sec. A-33. Effective date. Those sections of this Act that repeal the Maine Revised Statutes, Title 29-A, section 2101, paragraphs A and B and enact subsections 1 and 2 take effect July 1, 2001.

Sec. A-34. 30-A MRSA §4322, as enacted by PL 1989, c. 104, Pt. A, §45 and Pt. C, §10, is amended to read:

§4322. Exception

This article ~~and section 4343, subsection 1, do~~ does not apply to municipalities within the jurisdiction of the Maine Land Use Regulation Commission.

Sec. A-35. 34-B MRSA §1803, as amended by PL 1999, c. 668, §123 and as repealed by c. 731, Pt. L, §3, is repealed.

Sec. A-36. PL 1999, c. 556, §37, amending clause is amended to read:

Sec. 37. 38 MRSA ~~§1310-E~~ §1310-E-1, sub-§2, ¶A, as enacted by PL 1993, c. 732, Pt. C, §12, is amended to read:

Sec. A-37. PL 1999, c. 556, §38, amending clause is amended to read:

Sec. 38. 38 MRSA ~~§1310-E~~ §1310-E-1, sub-§2, ¶B, as enacted by PL 1993, c. 732, Pt. C, §12 and amended by PL 1995, c. 502, Pt. E, §32, is further amended to read:

Sec. A-38. Retroactivity. Any effective date for a section of this Act that is earlier than the actual effective date of this Act is deemed to apply retroactively to the effective date for that section.

PART B

Sec. B-1. 5 MRSA §13076, sub-§3, ¶F, as enacted by PL 1999, c. 592, §1, is repealed.

Sec. B-2. 5 MRSA §13122-J, first ¶, as amended by PL 1999, c. 731, Pt. XXX, §1 and c. 790, Pt. F, §1 and affected by §2, is repealed and the following enacted in its place:

The foundation shall develop and submit to the Governor and the Legislature by July 1, 2006 and on July 1st every 5 years thereafter an evaluation of state investments in research and development. The evaluation must:

Sec. B-3. Retroactivity. That section of this Part that repeals and replaces the Maine Revised Statutes, Title 5, section 13122-J, first paragraph applies retroactively to June 4, 1999.

Sec. B-4. 11 MRSA §9-1331, sub-§(1), as enacted by PL 1999, c. 699, Pt. A, §2 and affected by §4, is amended to read:

(1) This Article does not limit the rights of a holder in due course of a negotiable instrument, a holder to which a negotiable document of title has

been duly negotiated or a protected purchaser of a security. These holders or purchasers take priority over an earlier security interest, even if perfected, to the extent provided in Articles ~~3~~ 3-A, 7 and 8.

Sec. B-5. Effective date. That section of this Part that amends the Maine Revised Statutes, Title 11, section 9-1331, subsection (1) takes effect July 1, 2001.

Sec. B-6. 12 MRSA §544, sub-§3, ¶F is enacted to read:

F. The Natural Areas Program shall maintain a database of areas designated as ecological reserves as defined in section 1801, subsection 4-A and other public lands designated and managed for equivalent purposes and shall provide scientific review of areas on state land proposed as ecological reserves.

Sec. B-7.B-7. 13-A MRSA §525, as repealed and replaced by PL 1977, c. 707, §4, is amended to read:

§525. Unclaimed dividends

All unclaimed dividends or other distributions to ~~share holders~~ shareholders declared by a corporation shall must be disposed of according to Title 33, chapter ~~27~~ 41.

Sec. B-8.B-8. 13-A MRSA §1121, first ¶, as repealed and replaced by PL 1977, c. 707, §5, is amended to read:

Upon the voluntary or involuntary dissolution of a corporation, the portion of the assets distributable to a creditor or shareholder shall must be disposed of according to Title 33, chapter ~~27~~ 41, whenever the creditor or shareholder is one who:

Sec. B-9. 17-A MRSA §210-A, sub-§1, ¶C, as enacted by PL 2001, c. 383, §12 and affected by §156, is amended to read:

C. The actor violates paragraph A and has 2 or more prior convictions ~~and the actor intentionally or knowingly engages in a course of conduct directed at a specific person that would in fact cause both a reasonable person and that specific person:~~

~~(1) To suffer intimidation or serious inconvenience, annoyance or alarm;~~

~~(2) To fear bodily injury or to fear bodily injury to a member of that person's immediate family; or~~

~~(3) To fear death or to fear the death of a member of that person's immediate family.~~

Violation of this paragraph is a Class C crime. The court shall impose a sentencing alternative involving a term of imprisonment of at least 6 months, of which 14 days may not be suspended, and may order the person to attend an abuser education program approved by the court.

For the purposes of this paragraph, "prior conviction" means a conviction for a violation of this section; Title 5, section 4659; Title 15, section 321; former Title 19, section 769; Title 19-A, section 4011; any other temporary, emergency, interim or final protective order; an order of a tribal court of the Passamaquoddy Tribe or the Penobscot Nation; any similar order issued by any court of the United States or of any other state, territory, commonwealth or tribe; or a court-approved consent agreement. Section 9-A governs the use of prior convictions when determining a sentence.

Sec. B-10. Effective date. That section of this Part that amends the Maine Revised Statutes, Title 17-A, section 210-A, subsection 1, paragraph C takes effect January 1, 2003.

Sec. B-11. 20-A MRSA §12301, sub-§4, as enacted by PL 1999, c. 401, Pt. NN, §2 and affected by §4 and enacted by c. 496, §2, is repealed and the following enacted in its place:

4. Underserved population area. "Underserved population area" means a population group or geographical area receiving insufficient oral health care, as determined by the Commissioner of Human Services and as defined in rules adopted by the Department of Human Services pursuant to section 12305. The rules must take into consideration factors that include, but are not limited to, family income levels, availability of dental care and percentage of families qualifying for Medicaid coverage.

Sec. B-12. 20-A MRSA §12304, sub-§2, ¶A, as enacted by PL 1999, c. 401, Pt. NN, §2 and affected by §4 and enacted by c. 496, §2, is repealed and the following enacted in its place:

A. Ten voting members appointed by the President of the Senate and the Speaker of the House as follows:

(1) One member appointed by the Speaker who represents a major statewide organization representing dentists;

(2) One member appointed by the Speaker who represents a major statewide coalition dedicated to issues concerning ambulatory care;

(3) One member appointed by the Speaker who represents a major statewide alliance dedicated to children's issues;

(4) One member appointed by the Speaker who represents the Department of Human Services, Bureau of Health, Oral Health Program;

(5) Two members of the House of Representatives appointed by the Speaker;

(6) One member appointed by the President who represents a major statewide organization of consumers dedicated to the cause of affordable health care;

(7) One member appointed by the President who represents a major statewide organization dedicated to ensuring equal justice;

(8) One member appointed by the President who represents the Department of Human Services, Bureau of Medical Services; and

(9) One Senator appointed by the President.

The chief executive officer may submit recommendations for appointees under this paragraph to the President of the Senate and the Speaker of the House; and

Sec. B-13. 24-A MRSA §1127, sub-§2, as enacted by PL 1979, c. 458, §11, is amended to read:

2. In addition to investments otherwise permitted under this chapter, an insurer may invest in obligations, other than those of institutions as defined in section 1110, subsection ~~+~~ 1-A, paragraph ~~B~~ H, which are secured by:

A. An assignment of a right to receive rental, charter, hire, purchase or other payments for the use or purchase of real or personal property ~~adequate~~ adequate to return the investments and payable or guaranteed by one or more governmental units or instrumentalities, whose obligations would qualify for investment under section 1107 or section 1108, or by one or more institutions whose obligations would qualify for investment under section 1109. The aggregate amount of investments made or acquired under this subsection ~~shall~~ may not exceed 2% of an insurer's total admitted assets; and

B. A mortgage or a security interest in that real or personal property.

Sec. B-14. 28-A MRSA §124, sub-§1, ¶¶A and B, as amended by PL 1997, c. 373, §31, are further amended to read:

A. A majority of the votes cast in any municipality ~~or unincorporated place~~ on any local option question is in the affirmative, the bureau may issue licenses of the type authorized by the affirmative vote in that municipality ~~or unincorporated place~~;

B. A majority of the votes cast in any municipality ~~or unincorporated place~~ on any local option question is in the negative, the bureau may not issue licenses of the type denied by the negative vote in that municipality ~~or unincorporated place~~; or

Sec. B-15. 28-A MRSA §124, sub-§4, as amended by PL 1991, c. 95, §5, is further amended to read:

4. Repeal or reconsideration. When a municipality ~~or unincorporated place~~ has voted to accept or reject any local option question, the vote is effective until repealed by a new petition and vote as required by section 121 or 122. A negative vote on a question repeals existing privileges only if the petition clearly indicates an intent that it do so. No local option vote may be taken on the same question more than once in any one-year period.

Sec. B-16. 30-A MRSA §862, first ¶, as amended by PL 2001, c. 170, §2, is further amended to read:

In Kennebec County there is established the Kennebec County Budget Committee to carry out the purposes of this article. The budget committee consists of 9 elected or appointed municipal officials and a subcommittee of 6 nonvoting members of the county legislative delegation or their designees as provided in this section.

Sec. B-17. 30-A MRSA §862, sub-§1, as amended by PL 2001, c. 170, §2 and repealed and replaced by c. 172, §1, is repealed and the following enacted in its place:

1. Municipal representatives. Prior to September 15th each year, municipal officers within each commissioner district shall caucus and elect members from that district for terms as provided in paragraph A. There must be 3 members from each commissioner district, 2 of whom are municipal officers and one of whom may be a municipal official who is not a municipal officer as defined in section 2001. No more than one member may represent the same municipality at one time.

A. Members serve for 3-year terms, except that initially each district caucus selects one member for a one-year term, one member for a 2-year term and one member for a 3-year term. If a budget committee member ceases to be a municipal officer or official during the term of membership, that member shall resign the membership and the next district caucus shall elect a qualified municipal officer or official to fill the membership for the remainder of the unexpired term.

Sec. B-18. Effective date. Those sections of this Part that amend the Maine Revised Statutes, Title 30-A, section 862 take effect 90 days after the adjournment of the First Regular Session of the 120th Legislature.

Sec. B-19. PL 2001, c. 358, Pt. DD, §3, first 4 lines are amended to read:

Sec. DD-3. Allocation. The following funds are allocated from the Federal Expenditures Fund to carry out the purposes of this Part.

2001-02 2000-01 2002-03 2001-02 2003-04 2002-03

Sec. B-20. Retroactivity. That section of this Part that amends Public Law 2001, chapter 358, Part DD, section 3 applies retroactively to June 4, 2001.

PART C

Sec. C-1. 5 MRSA §12004-G, sub-§8-A, as repealed by PL 1999, c. 668, §23, is reenacted to read:

<u>8-A.</u>	<u>Interde-</u>	<u>Expenses</u>	<u>20-A MRSA</u>
<u>Education</u>	<u>partmental</u>	<u>Only</u>	<u>§7733</u>
	<u>Coordinating</u>		
	<u>Council for</u>		
	<u>Early Inter-</u>		
	<u>vention</u>		

Sec. C-2. 20-A MRSA §7724, sub-§1, as amended by PL 1999, c. 668, §83, is further amended to read:

1. Establishment. The Child Development Services System is established for the purpose of maintaining a coordinated service delivery system for the provision of childfind activities for children, from birth to under age 6, early intervention services for eligible children, from birth to under age 3, and free, appropriate and public education services for eligible children, from age 3 to under age 6, who have a disability. The Child Development Services System consists of regional sites organized as intermediate educational units or as private nonprofit corporations ~~and~~, one state-level intermediate educational unit and

the Interdepartmental Coordinating Council for Early Intervention advisory board. The Child Development Services System shall ensure application of the provisions of this chapter statewide through a contractual or grant relationship between the Department of Education and each regional site.

Sec. C-3. 20-A MRSA §7725, sub-§6, as repealed by PL 1999, c. 668, §84, is reenacted to read:

6. Council. "Council" means the Interdepartmental Coordinating Council for Early Intervention established in section 7733.

Sec. C-4. 20-A MRSA §7727, sub-§5, as repealed by PL 1999, c. 668, §85, is reenacted to read:

5. Implementation of early intervention and of free, appropriate public education services. The department, through the Child Development Services System, shall ensure:

A. That screening, evaluation and referral services, at no cost to the family, are accessible to all children, from birth to under age 6;

B. That preschool children with disabilities, from age 3 to under age 6, have free, appropriate public education services available to them at no cost to the family;

C. That rules are developed, adopted and implemented describing minimum standards for the following:

- (1) Least restrictive environment;
- (2) Nondiscrimination;
- (3) Rights of parents;
- (4) Free and appropriate public services;
- (5) Eligibility criteria;
- (6) The federal "childfind" program;
- (7) Program development, service descriptors and service delivery;
- (8) Early childhood team;
- (9) Individualized family service plan;
- (10) Statements of assurances;
- (11) Procedural safeguards and appeals processes;
- (12) Due process hearings;
- (13) Confidentiality of information;

(14) Data collection, reporting and utilization;

(15) Surrogate parents;

(16) Standardized procedures and rates of payment for early intervention and free appropriate public education services; and

(17) Frequency and intensity of developmental therapy and special instruction services;

D. That infants and toddlers, from birth to under age 3, have early intervention services available to them by July 1, 1994 through 3rd-party payment or through a system of payments by families, including a schedule of sliding fees;

E. That the nonsupplanting requirement under the federal Individuals with Disabilities Education Act and its implementing regulations is addressed with the Interdepartmental Coordinating Council for Early Intervention for purposes of reporting under section 7734-C.

Sec. C-5. 20-A MRSA §7727, sub-§6, as amended by PL 1999, c. 668, §86, is further amended to read:

6. Regional site compliance. The department, in consultation with regional sites and the Interdepartmental Coordinating Council for Early Intervention, shall develop an action plan with timelines to achieve compliance for regional sites that are not in compliance with federal or state law. The department may assume temporary responsibility for operations at a site that fails to meet compliance requirements.

Sec. C-6. 20-A MRSA §7731, sub-§6, as amended by PL 1999, c. 668, §87, is further amended to read:

6. Contracts. Enter into contracts, leases and agreements and any other instruments and arrangements that are necessary, incidental or convenient to the performance of its duties and the execution of its powers under this chapter, except that the board shall provide to the department copies of any contract for review upon the department's request and shall obtain prior department approval of the prototype for provider contracts, any multi-year leases and any memoranda of understanding with other entities. Regional site boards of directors shall consider collaboration with school administrative units that are operating or that wish to develop, pursuant to section 4253 or 7734-A, early childhood programs in the regional board's catchment area in order to:

A. Maximize the benefit of state interdepartmental agreements and efforts;

B. Maximize the effective use of qualified personnel, facilities and other resources;

C. Ensure consistent quality of early childhood programming; and

D. Facilitate the transition process, for children and families, from the Child Development Services System to the public school system;

Sec. C-7. 20-A MRSA §7733, as repealed by PL 1999, c. 668, §88, is reenacted to read:

§7733. Interdepartmental coordination

The Interdepartmental Coordinating Council for Early Intervention, as established in Title 5, section 12004-G, subsection 8-A, is established as an advisory body to the commissioner regarding the coordination of policies and programs aimed at implementing the federal Individuals with Disabilities Education Act, 20 United States Code, Section 1400 et seq. and 34 Code of Federal Regulations, 303.650 to 303.654, July 1993.

The obligations of the Interdepartmental Coordinating Council for Early Intervention, as set forth in this section, may be met at the commissioner's discretion by any other advisory body to the commissioner required under the federal Individuals with Disabilities Education Act for school-aged children with disabilities, provided that the federal membership requirements of the Interdepartmental Coordinating Council for Early Intervention are met.

Membership of the council must be in keeping with the federal Individuals with Disabilities Education Act, 20 United States Code, Section 1400 et seq., contingent upon state participation in the federal Individuals with Disabilities Education Act, Parts B and H. Appointments to the council must be made by the Governor for terms defined in rules adopted by the commissioner. The council shall meet at least quarterly.

The commissioner shall adopt rules describing the composition of the council, selection process and duties of the members consistent with the purposes of this chapter.

The council shall designate from among its members a steering committee responsible to the council for carrying out the duties described in this section. The commissioner shall adopt rules describing the composition, selection process and responsibilities of the steering committee.

1. Recommendations. The council shall recommend to the department, with the advice of the regional site boards of directors, legislation that is

needed to maintain or further develop the statewide system of quality early intervention services.

2. Consider issues. The council shall consider, with the advice of the regional site boards of directors and the state intermediate education unit, contemporary issues affecting early intervention services in the State, including, but not limited to, the following:

A. Successful early intervention strategies;

B. Personnel preparation and continuing education;

C. Childfind activities and methods as required by the federal Individuals with Disabilities Education Act, 20 United States Code, Section 1400 et seq.;

D. Public awareness as required by the federal Individuals with Disabilities Education Act, 20 United States Code, Section 1400 et seq.; and

E. Contemporary research.

3. Bylaws. The council shall develop and adopt bylaws for its conduct.

4. Advise. The council shall advise the department in the development and implementation of rules, to be carried out by the department, as necessary to carry out the duties and purposes of this chapter.

5. Chair. The council shall annually elect one member to serve as chair.

6. Compensation. The members of the council are entitled to compensation in accordance with Title 5, section 12004-G. Agency representatives on the council are entitled to reimbursement for expenses incurred in the performance of their council duties by the appointing agencies in accordance with the provisions for state employees. Consumer members are entitled to reimbursement for actual and necessary expenses incurred in the performance of their duties.

7. Staffing. The department and the state intermediate education unit shall provide to the council the equivalent of one full-time professional staff person from funds allocated to operation of the state intermediate education unit.

8. Committee and advisory activities. The council may establish committees composed of parents, professionals, advocacy group representatives, board representatives and employees in keeping with the bylaws adopted by the council.

9. Voting. The council shall adopt bylaws that define a quorum for the purpose of conducting business of the council.

10. Dispute resolution. The council shall assist the lead agency in dispute resolution in a manner consistent with 34 Code of Federal Regulations, Section 303.524, July 1993.

Sec. C-8. 20-A MRSA §7734-C, as repealed by PL 1999, c. 668, §89, is reenacted to read:

§7734-C. Annual report

The council shall provide to the joint standing committee of the Legislature having jurisdiction over educational matters and to the commissioner an annual report on the early intervention system in the State. This report must include a demonstration that: the funds provided under the federal Individuals with Disabilities Education Act, Part B, Section 619 and Part H were used to supplement and increase, and not to supplant, the level of other federal, state and local funds that are available for children with disabilities; and the federal funds generated under the federal Individuals with Disabilities Education Act, Part B, Section 619 and Part H were not used to satisfy a financial commitment for services that would have been paid for by a health agency or another agency pursuant to policy or practice, but for the fact that these services are now listed on the individualized family service plans of children with disabilities.

Sec. C-9. 20-A MRSA §7735, as repealed by PL 1999, c. 668, §90, is reenacted to read:

§7735. Conflict of interest

Notwithstanding Title 5, section 18, subsection 1, paragraph B, each member of the Interdepartmental Coordinating Council for Early Intervention and each employee, contractor, agent or other representative of the Child Development Services System is deemed an "executive employee" solely for the purposes of Title 5, section 18. The department shall provide training to participants to ensure compliance with conflict of interest requirements. Regional site boards of directors shall develop conflict of interest policies for employees and board members and may request assistance from the department in developing those policies.

Sec. C-10. Retroactivity. This Part applies retroactively to August 11, 2000.

PART D

Sec. D-1. 1 MRSA §71, sub-§13 is enacted to read:

13. Reporting dates. If legislation or another legislative instrument requires a report to be filed by a date certain, and the date certain falls on a Saturday, Sunday or legal holiday, the report is due by close of

business on the next day that is not a Saturday, Sunday or legal holiday.

Sec. D-2. 1 MRSA §91, sub-§5, as enacted by PL 1991, c. 336, is amended to read:

5. Revisor's report. "Revisor's report" means the post-update report made by the revisor pursuant to section 95. This report may be cited as Revisor's Report 19XX, c. X, §X or Revisor's Report 2XXX, c. X, §X, RR 19XX, c. X, §X or RR 2XXX, c. X, §X.

Sec. D-3. 1 MRSA §1101, sub-§1, ¶¶A and B, as enacted by PL 1999, c. 613, §1, are amended to read:

A. The designation "nigger" or "squaw" as a separate word or as part of a word; or

B. The designation "squaw" or "squa" as a separate word.

Sec. D-4. 3 MRSA §959, sub-§1, ¶G, as enacted by PL 1995, c. 488, §2, is amended to read:

G. The joint standing committee of the Legislature having jurisdiction over inland fisheries and wildlife matters shall use the following list as a guideline for scheduling reviews:

- (1) Department of Inland Fisheries and Wildlife in 1997; ~~and~~
- (2) Advisory Board for the Licensing of Taxidermists in 2005; ~~and~~
- (3) Atlantic Salmon Commission in 2003.

Sec. D-5. 3 MRSA §959, sub-§1, ¶K, as amended by PL 1999, c. 127, Pt. C. §12, is further amended to read:

K. The joint standing committee of the Legislature having jurisdiction over marine resource matters shall use the following list as a guideline for scheduling reviews:

- (1) Atlantic States Marine Fisheries Commission in 1997;
- (2) Department of Marine Resources in 1997;
- (4) Lobster Advisory Council in 1999; and
- (5) Maine Sardine Council in 1999; ~~and~~
- (6) ~~Atlantic Salmon Authority in 2001.~~

Sec. D-6. 4 MRSA §184, sub-§§1, 2 and 6, as enacted by PL 1999, c. 547, Pt. B, §10 and affected by §80, are amended to read:

1. Notice and hearing. In any action within the District Court's jurisdiction under section 152, subsection 9 ~~or 10~~, all parties must be afforded an opportunity for hearing after reasonable notice.

2. Complaint filed. On commencement of any case, a written complaint must be filed with the District Court. ~~—A—~~ Except as provided in Title 22, section 1558, and Title 28-A, section 803, a copy of the complaint and summons must be served on the defendant either by personal delivery in hand, by leaving it with a person of suitable age or discretion at the defendant's dwelling place or usual place of abode or by sending it by certified mail to the defendant's last known address. ~~The~~ If a summons is required, it must inform the defendant of the time limit for filing an answer to the complaint and the consequences of failing to do so. The complaint must contain a conclusion indicating the violation of a statute or rule, citing the statute or rule violated and stating the relief requested.

6. Emergency proceedings. The District Court has jurisdiction to revoke temporarily or suspend a license without notice or hearing upon the verified complaint or complaint accompanied by affidavits of a licensing agency or the Attorney General. The verified complaint must be or complaint accompanied by affidavits ~~demonstrating~~ must demonstrate that summary action is necessary to prevent an immediate threat to the public health, safety or welfare. Upon issuance of an order revoking or suspending a license under this section, the District Court shall promptly schedule an expedited hearing on the agency's complaint. Any order temporarily suspending or revoking a license expires within 30 days of issuance unless renewed by the court after such hearing as it may determine necessary.

This subsection may not be considered to abridge or affect the jurisdiction of the Superior Court or District Court to issue injunctive relief or to exercise such other powers as may be authorized by law or rule of the court.

Sec. D-7. 5 MRSA §52, as renumbered by RR 1993, c. 2, §2, is repealed.

Sec. D-8. 5 MRSA §19509, first ¶, as enacted by PL 2001, c. 357, §16, is amended to read:

Notwithstanding any provision of law to the contrary, the following provisions apply to psychiatric hospitals, hospital units that are equipped to provide inpatient care and treatment for persons with mental illness, state mental health institutes and state-operated psychiatric treatment facilities. Notice provided under this section must be provided within 7 days of the date of the death, attempted suicide or the incident ~~resulting in injury~~ causing a serious injury resulting in signifi-

cant impairment of physical condition. Notice provided under this section must include the name of the person with a disability; the name, address and telephone number of that person's legal guardian, conservator or legal representative and parent if that person is a minor; a detailed description of the occurrence and any injuries sustained; the name, street address and telephone number of the facility; and the name and job title of the person providing the notice.

Sec. D-9. 5 MRSA §19509, sub-§1, as enacted by PL 2001, c. 357, §16, is amended to read:

1. Psychiatric hospitals; hospital units. A psychiatric hospital or a hospital unit that is equipped to provide inpatient care and treatment for persons with mental illness shall provide the agency with access to information relating to the death of any person with a disability who died while in the ~~facility~~ psychiatric hospital or hospital unit in seclusion or restraint, whose death occurred within 24 hours of being in seclusion or restraint in the psychiatric hospital or hospital unit or when it is reasonable to conclude that the death is a result of having been in seclusion or restraint in the psychiatric hospital or hospital unit.

Sec. D-10. Effective date. Those sections of this Part that amend the Maine Revised Statutes, Title 5, section 19509 take effect 90 days after adjournment of the First Regular Session of the 120th Legislature.

Sec. D-11. 12 MRSA §7801, sub-§35, ¶¶W and X, as enacted by PL 1999, c. 697, §3, are amended to read:

W. Long Pond in the Town of Mount Desert and the Town of Southwest Harbor; ~~or~~

X. Little Long Pond in the Town of Mount Desert;

Sec. D-12. 12 MRSA §7801, sub-§35, ¶¶Y to CC are enacted to read:

Y. Meetinghouse Pond, Big Pond, Wat Tuh Lake, Center Pond and Silver Lake, also known as Silver Pond, in the Town of Phippsburg in Sagadahoc County;

Z. South Branch Lake in the Plantation of Seboeis and the Township of T2 R8 NWP in Penobscot County;

AA. Spring Lake in Spring Lake Township in Somerset County;

BB. Kennebago Lake and Kennebago River in Davis Township and Stetsontown Township in Franklin County; or

CC. Nicasious Lake in the Townships of T40 MD, T41 MD and T3 ND in Hancock County.

Sec. D-13. 14 MRSA §1602, sub-§1, ¶B, as enacted by PL 1987, c. 646, §3, is amended to read:

B. For other actions, equal to the ~~coupon-issue yield equivalent, as determined by the United States Secretary of the Treasury, of the average accepted auction price for the last auction of 52-week United States Treasury bills settled immediately weekly average one-year constant maturity Treasury yield, as published by the Board of Governors of the Federal Reserve System, for the first calendar week of the month prior to the date from which the interest is calculated under section 1602-A, plus 1%.~~

Sec. D-14. 14 MRSA §1602-A, sub-§2, as amended by PL 1991, c. 489, is further amended to read:

2. Other action. For other actions, equal to the ~~coupon-issue yield equivalent, as determined by the United States Secretary of the Treasury, of the average accepted auction price for the last auction of 52-week United States Treasury bills settled immediately weekly average one-year constant maturity Treasury yield, as published by the Board of Governors of the Federal Reserve System, for the first calendar week of the month prior to the date from which the interest is calculated, plus 7%.~~

Sec. D-15. 15 MRSA §101-B, sub-§4, ¶A, as amended by PL 1999, c. 503, §1, is further amended to read:

A. Commit the defendant to the custody of the Commissioner of Mental Health, Mental Retardation and Substance Abuse Services to be placed in an appropriate institution for the mentally ill or the mentally retarded for observation, care and treatment. At the end of 30 days or sooner, and again in the event of recommitment, at the end of 60 days and one year, the State Forensic Service shall forward a report to the Commissioner of Mental Health, Mental Retardation and Substance Abuse Services relative to the defendant's competence to stand trial and its reasons therefor. The commissioner shall without delay file the report with the court having jurisdiction of the case. The court shall without delay set a date for and hold a hearing on the question of the defendant's competence to stand trial and receive all relevant testimony bearing on the question. If the court determines that the defendant is not competent to stand trial, but there does exist a substantial probability that the defendant will be competent to stand trial in the foreseeable future, it shall recommit the defendant to the

custody of the Commissioner of Mental Health, Mental Retardation and Substance Abuse Services to be placed in an appropriate institution for the mentally ill or the mentally retarded for observation, care and treatment. If the defendant is charged with an offense under Title 17-A, chapter 9, 11 or 13 or Title 17-A, section 506-A, 802 or 803, and the court determines that the defendant is not competent to stand trial and there does not exist a substantial probability that the defendant can be competent in the foreseeable future, the court shall dismiss all charges against the defendant and order the Commissioner of Mental Health, Mental Retardation and Substance Abuse Services to commence involuntary commitment proceedings pursuant to Title 34-B, chapter 3, subchapter IV or chapter 5, subchapter III. If the defendant is charged with offenses not listed in the previous sentence, and the court determines that the defendant is not competent to stand trial and there does not exist a substantial probability that the defendant can be competent in the foreseeable future, the court shall dismiss all charges against the defendant and notify the appropriate authorities who may institute civil commitment procedures for the individual; or

Sec. D-16. 15 MRSA §2111, sub-§1, as enacted by PL 1999, c. 731, Pt. ZZZ, §15 and affected by §42, is amended to read:

1. Appeal of judgment of conviction or order to the Law Court. Except as otherwise specifically provided, in any criminal proceeding in the District Court, a defendant aggrieved by a judgment of conviction, ruling or order may appeal to the Supreme Judicial Court sitting as the Law Court.

Sec. D-17. 20-A MRSA §1001, sub-§5-C, as enacted by PL 2001, c. 341, §2, is amended to read:

5-C. Coverage under group health insurance plan for spouse and dependents after death of teacher. If the spouse or other dependents of a teacher as defined in Title 5, section 17001, subsection 42 are covered by a policy of group health insurance provided by the school board and the teacher dies while employed by the board, the board shall provide an opportunity for the spouse or dependent to continue coverage under the group policy after the death of the teacher by making the premium payment for the cost of that coverage. In the case of underage dependent children of the teacher, coverage must be ~~provided~~ available at least until the dependent children reach 19 years of age.

Sec. D-18. Effective date. That section of this Part that amends the Maine Revised Statutes, Title 20-A, section 1001, subsection 5-C takes effect 90

days after adjournment of the First Regular Session of the 120th Legislature.

Sec. D-19. 20-A MRSA §15619, first ¶, as enacted by PL 1983, c. 859, Pt. G, §§2 and 4, is amended to read:

All bonds, notes or other evidences of indebtedness issued for school purposes by a school administrative unit, ~~as defined in section 15603~~, for major capital expenses, bus purchases or for current operating expenses, including tax or other revenue anticipation notes, ~~shall be~~ are general obligations of the unit.

Sec. D-20. 22 MRSA §2622, first ¶, as amended by PL 1999, c. 688, §3, is further amended to read:

The board, with the advice of the department, shall classify all community public water systems, all ~~noncommunity nontransient~~ nontransient, noncommunity public water systems and the water treatment plants or collection, treatment or storage facilities or structures that are part of a system with due regard to the size and type of facilities, the character of water to be treated and any other physical conditions affecting such system or part thereof and specify the qualifications the operator of the system or of a part of a system must have to supervise successfully the operation of the system or parts thereof so as to protect the public health or prevent nuisance conditions.

Sec. D-21. 22 MRSA §2624-A, sub-§1, as amended by PL 1999, c. 688, §4, is further amended to read:

1. Membership; general qualifications. The board consists of 9 members appointed by the Governor as follows: 3 water system or water treatment plant operators, one holding a Class II license, one holding a Class III license and one holding a Class IV license; one member of the public who is a registered professional engineer; one person who is an educator in the field of water supply or service; one person who is a water management representative; one person who represents consumers of public water systems; one person who is an owner or manager of a ~~noncommunity nontransient~~ nontransient, noncommunity public water system; and one person from the department, as the commissioner may recommend, subject to appointment by the Governor.

Sec. D-22. 23 MRSA §1803-B, sub-§1, ¶A, as amended by PL 1999, c. 753, §3, is repealed and the following enacted in its place:

A. Rural Road Initiative funds must be distributed as follows.

(1) Funds are distributed at a rate of \$600 per year per lane mile for all rural state aid

minor collector roads and all public roads maintained by a municipality located outside urban compact areas as defined in section 754, except that funds are distributed at a rate of \$300 per year per lane mile for all seasonal public roads.

(2) Effective July 1, 2000, funds must be used for capital improvements as defined by this chapter, or for capital improvements to state aid minor collector roads as described in subsection 5. Prior to July 1, 2000, funds may be used only for the maintenance and improvement of public roads.

Sec. D-23. Retroactivity. That section of this Part that repeals and replaces the Maine Revised Statutes, Title 23, section 1803-B, subsection 1, paragraph A applies retroactively to August 11, 2000.

Sec. D-24. 24-A MRSA §1156, sub-§2, ¶F-1 is enacted to read:

F-1. Investment practices entered into under section 1153, subsection 4 or section 1160, subsection 6;

Sec. D-25. 24-A MRSA §2851, first ¶, as repealed and replaced by PL 1999, c. 256, Pt. H, §1, is amended to read:

All life insurance and all health insurance in connection with loans or other credit transactions, credit property insurance, credit involuntary unemployment insurance and other consumer credit insurance specifically authorized by the superintendent in rules adopted pursuant to section 2865 are subject to this chapter, except the following:

Sec. D-26. 28-A MRSA §453-A, sub-§7, as amended by PL 1997, c. 373, §47 and PL 1999, c. 547, Pt. B, §78 and affected by §80, is further amended to read:

7. Aggrieved applicants. Any applicant aggrieved by a decision made by the bureau may appeal the decision by filing ~~a complaint~~ an appeal with the District Court and serving a copy of the ~~complaint~~ appeal upon the bureau in accordance with the Maine Rules of Civil Procedure, Rule 80C. The ~~complaint~~ appeal must be filed and served within ~~45~~ 30 days of the mailing of the bureau's decision.

Sec. D-27. 28-A MRSA §458, sub-§5, as amended by PL 1997, c. 373, §50 and PL 1999, c. 547, Pt. B, §78 and affected by §80, is further amended to read:

5. Aggrieved applicant. Any agency liquor store licensee aggrieved by a decision of the bureau

not to renew an agency liquor store license may appeal the decision by filing ~~a complaint~~ an appeal with the District Court and serving a copy of ~~that complaint~~ the appeal on the bureau in accordance with the Maine Rules of Civil Procedure, Rule 80C. The ~~complaint~~ appeal must be filed and served within ~~45~~ 30 days of notification of the agency liquor store licensee by the bureau that the license will not be renewed.

Sec. D-28. PL 2001, c. 241 is repealed.

Sec. D-29. PL 2001, c. 374, §9, sub-§6 is amended to read:

6. Transferred employees. All transferred employees who are represented by a bargaining agent on the effective date of this Act continue to be represented by that bargaining agent. Following the effective date of this Act, a petition for decertification or certification of a new bargaining agent for any newly created bargaining unit may be filed in accordance with Title 26, chapter ~~9-B~~ 9-A and the rules of the Maine Labor Relations Board.

PART E

Sec. E-1. 10 MRSA §1210, as enacted by PL 2001, c. 210, §1, is amended to read:

§1210. Charges after trial period

In a sale agreed to by telephone, a merchant may not charge a consumer for a good or service after a trial period unless, prior to the charge, the consumer expressly ~~agrees~~ agreed to be charged for the good or service if the consumer does not cancel the sale. At least 15 days prior to any charge, ~~or 10 days prior to any charge if the good or service for which the consumer will be charged is physically delivered to the consumer on a weekly or more frequent basis,~~ the merchant shall ~~provide~~ send a consumer with a clearly written description of the agreement, the good or service being purchased, the amount being charged and the calendar date the consumer will be charged for the good or service if the consumer does not cancel the sale. This notice also must provide the specific steps by which the consumer can cancel the agreement by both mail and telephone. The merchant has the burden of proving that the consumer expressly agreed to this arrangement and that the required written notices were provided within the time limits set forth in this section.

Sec. E-2. 10 MRSA §1210-B is enacted to read:

§1210-B. Limitation

This chapter does not apply to the following:

1. Sales under \$25. A sale where the gross sales price, including any interest or carrying charges, is less than \$25;

2. Home solicitation sales. A transaction regulated under Title 9-A, section 3-501 to 3-507;

3. Securities. A sale by a dealer or agent or salesman of a dealer registered pursuant to Title 32, chapter 105 of stocks, bonds, debentures or securities representing stocks, bonds or debentures registered pursuant to Title 32, chapter 105 or expressly exempt from registration pursuant to Title 32, chapter 105;

4. Insurance policies. A sale of insurance regulated under Title 24-A, sections 2515-A and 2717; or

5. Credit services. A sale of credit services by a supervised lender, as defined in Title 9-A, section 1-301, subsection 39, or an agent or affiliate of a supervised lender to the extent the affiliate or agent is selling or offering to sell the credit services of the supervised lender. For purposes of this paragraph, "credit services" includes any extension of credit and any product or service that a supervised lender is authorized by law or regulation to sell in connection with or relating to an extension of credit, such as credit insurance and a debt cancellation policy. For the purposes of this paragraph, "affiliate" has the same meaning as in Title 9-B, section 131, subsection 1-A. Transactions covered by this exemption are limited to those that become effective only after the consumer has affirmed the terms and conditions of the agreement by an acceptance initiated by the consumer.

Sec. E-3. 12 MRSA §7824, sub-§8, ¶D, as enacted by PL 2001, c. 294, §10, is amended to read:

D. Whoever obtains an original resident snowmobile registration after March 31st, may pay \$30 ~~\$37.50~~ and receive a registration covering the remainder of the registration period plus one additional year.

Sec. E-4. Effective date. That section of this Act that amends the Maine Revised Statutes, Title 12, section 7824, subsection 8, paragraph D takes effect 90 days after the adjournment of the First Regular Session of the 120th Legislature.

Sec. E-5. 22 MRSA §2682, first ¶, as enacted by PL 2001, c. 379, §1, is amended to read:

A drug dispensed pursuant to prescription, including a drug dispensed without charge to the consumer, must ~~early be accompanied by program participation information prominently displayed on the label or on the packaging~~ in a manner approved by the commissioner and as permitted by law.

Sec. E-6. 22 MRSA §2682, sub-§3, as enacted by PL 2001, c. 379, §1, is repealed.

Sec. E-7. 22 MRSA §2682, sub-§3-A is enacted to read:

3-A. Program participation information. The rules must provide for the disclosure of program participation information, including, but not limited to, the following:

A. Notification that the manufacturer or labeler has not entered into an agreement with the Department of Human Services pursuant to section 2681, subsection 3; and

B. Advice to consult a health care provider or pharmacist about access to drugs at lower prices.

Sec. E-8. Effective date. Those sections of this Act that amend the Maine Revised Statutes, Title 22, section 2682 take effect 90 days after adjournment of the First Regular Session of the 120th Legislature.

Sec. E-9. PL 2001, c. 409, §§7, 8 and 9 are repealed.

Sec. E-10. Effective date. That section of this Part that repeals Public Law 2001, chapter 409, sections 7, 8 and 9 takes effect 90 days after adjournment of the First Regular Session of the 120th Legislature.

PART F

Sec. F-1. 13 MRSA §705, as amended by PL 2001, c. 260, Pt. F, §1 and c. 337, §1, is repealed and the following enacted in its place:

§705. Corporate organization

1. Rendering same and specific professional service. An individual or group of individuals duly licensed or otherwise legally authorized to render the same professional service within this State may organize and become a shareholder or shareholders of a professional corporation under the corporation laws for the sole and specific purpose of rendering the same and specific professional service.

2. Exceptions. Notwithstanding any other provisions of law:

A. For the purposes of this chapter, osteopathic physicians licensed under Title 32, chapter 36 and physicians and surgeons licensed under Title 32, chapter 48 are considered to render the same professional service;

B. For the purposes of this chapter, optometrists licensed under Title 32, chapter 34-A and ophthalmologists licensed under Title 32, chapter 36

or 48 may organize and become the sole shareholders of the same professional corporation under the corporation laws for the sole and specific purpose of rendering their respective professional services that are considered to be complementary to one another;

C. Nonlicensed individuals may organize with individuals who are licensed under Title 32, chapter 113, and may become shareholders of a firm licensed to practice public accountancy under Title 32, section 12252, as long as all of the requirements for licensure under Title 32, section 12252, subsection 3 are met by the firm; and

D. For the purposes of this chapter, a denturist licensed under Title 32, chapter 16 may organize with a dentist who is licensed under Title 32, chapter 16 and may become a shareholder of a dental practice incorporated under the corporation laws. At no time may a denturist or denturists in sum have an equal or greater ownership interest in a dental practice than the dentist or dentists have in that practice.

Sec. F-2. 15 MRSA §3310, sub-§3, as amended by PL 1977, c. 664, §31, is further amended to read:

3. Evidence of mental illness or incapacity. If it appears from the evidence that the juvenile may be a mentally ill person, as defined in Title 34-B, section 3801, subsection 5, or an incapacitated person, as defined in Title 34, section 2616, subsection 1 and section 2251 34-B, section 5001, subsection 2, then subsection 2 shall does not apply and the court shall proceed pursuant to section 3318.

Sec. F-3. 15 MRSA §3318, as amended by PL 1989, c. 621, §8, is further amended to read:

§3318. Mentally ill or incapacitated juveniles

1. Suspension of proceedings. If it appears that a juvenile may be a mentally ill person, as defined in Title 34-B, section 3801, subsection 5, or an incapacitated person, as defined in Title 34, section 2616, subsection 1 34-B, section 5001, subsection 2, the court shall suspend the proceedings on the petition and shall either:

A. Initiate proceedings for voluntary or involuntary commitments as provided in Title 34 34-B, sections 2290 3831 and 2333 3863; or

B. Order that the juvenile be examined by a physician or psychologist and refer the juvenile to a suitable facility or program for the purpose of examination, the costs of such that examination to be paid by the court. If the report of such an that examination is that the juvenile is mentally

ill or incapacitated to the extent that short-term or long-term hospitalization or institutional confinement is required, the Juvenile Court shall initiate proceedings for voluntary or involuntary commitment as provided in section 101-B and in Title 34-B, chapter 3, subchapter IV. The court shall continue the proceedings when a juvenile is voluntarily or involuntarily committed.

2. Resumption of proceedings. The court shall set a time for resuming the proceeding when:

A. The report of the examination made pursuant to subsection 1, paragraph B states that the child is not mentally ill or incapacitated to the extent that short-term or long-term hospitalization or institutional confinement is required; or

B. The child is not found by the appropriate court to be a mentally ill person or an incapacitated person as defined in section 101-B and in Title 34 34-B, section 2616, subsection 1 5001.

Sec. F-4. 17 MRSA §331, sub-§6, as amended by PL 2001, c. 204, §§1 and 2, is repealed and the following enacted in its place:

6. Raffles with prizes of \$10,000 or less. Notwithstanding subsection 1, a license to conduct or operate a raffle as defined in section 330, subsection 5, in which the holder of the winning chance does not receive something of value worth more than \$10,000, is not required of the following:

A. Any agricultural society eligible for the state stipend under Title 7, section 62, or any bona fide, nonprofit organization that is either charitable, educational, political, civic, recreational, fraternal, patriotic or religious or any auxiliary of such an organization;

B. Any volunteer police force, fire department or ambulance corps;

C. Any class or organization of an elementary, secondary or postsecondary educational institution operated or accredited by the State; or

D. Any state agency that conducts or operates a raffle for a donated item to benefit fish and wildlife conservation projects.

Any exempt organization, department or class or combination listed in paragraph A, B, C or D may sponsor, operate and conduct a raffle without a license only for the exclusive benefit of that organization, department or class or combination, and that raffle may be conducted only by duly authorized members of the sponsoring organization, department or class or combination.

A state agency may not conduct or operate more than 2 raffles per year pursuant to paragraph D.

Sec. F-5. Effective date. That section of this Part that repeals and replaces the Maine Revised Statutes, Title 17, section 331, subsection 6 takes effect 90 days after adjournment of the First Regular Session of the 120th Legislature.

PART G

Sec. G-1. 12 MRSA §7901, sub-§20, ¶¶D-1, D-2, D-3 and D-4 are enacted to read:

D-1. Violation of a license, permit or certificate restriction as described in section 7801, subsection 3;

D-2. Holding a regatta, race, boat exhibition or water-ski exhibition without a permit as described in section 7801, subsection 4;

D-3. Unlawfully crossing the area of an authorized regatta, race, boat exhibition or water-ski exhibition as described in section 7801, subsection 5;

D-4. Operating a motorboat carrying passengers for hire without a certificate of number as described in section 7801, subsection 6;

Sec. G-2. 12 MRSA §7901, sub-§20, ¶¶H-1 and H-2 are enacted to read:

H-1. Failure to report a watercraft accident as described in section 7801, subsection 19;

H-2. Illegally operating a motorboat in a prohibited area as described in section 7801, subsection 20;

Sec. G-3. 12 MRSA §7901, sub-§20, ¶Q-1 is enacted to read:

Q-1. Unlawfully operating a watercraft within the water safety zone as described in section 7801, subsection 32;

Sec. G-4. 12 MRSA §7901, sub-§20, ¶¶T and U, as enacted by PL 2001, c. 387, §51, are amended to read:

T. Illegally operating a personal watercraft in a prohibited area as described in section 7801, subsection 35; ~~and~~

U. Operating a rented or leased personal watercraft without an identification decal as described in section 7801, subsection 36; ~~and~~

Sec. G-5. 12 MRSA §7901, sub-§20, ¶V is enacted to read:

V. Unlawfully renting or leasing a personal watercraft as described in section 7801, subsection 37.

Sec. G-6. 12 MRSA §7901, sub-§21, ¶¶Q and R, as enacted by PL 1999, c. 771, Pt. A, §2 and affected by Pt. D, §§1 and 2, are amended to read:

Q. Operating a snowmobile too close to certain buildings as described in section 7827, subsection 20; ~~and~~

R. Unlawfully permitting operation of a snowmobile as described in section 7827, subsection 21; ~~and~~

Sec. G-7. 12 MRSA §7901, sub-§21, ¶¶S, T and U are enacted to read:

S. Failure to report a snowmobile accident as described in section 7827, subsection 22;

T. Unlawful issuance of a snowmobile registration by an agent as described in section 7827, subsection 24; and

U. Renting or leasing a personal watercraft as described in section 7827, subsection 27.

Sec. G-8. 12 MRSA §7901, sub-§22, ¶L-1 is enacted to read:

L-1. Failure to report an accident as described in section 7857, subsection 22;

Sec. G-9. 12 MRSA §7901-A, sub-§12, ¶A, as enacted by PL 2001, c. 421, Pt. B, §88 and affected by Pt. C, §1, is amended by amending subparagraphs (32) and (33) to read:

(32) Illegally operating a personal watercraft in a prohibited area as described in section 7801, subsection 35; ~~and~~

(33) Operating a rented or leased personal watercraft without an identification decal as described in section 7801, subsection 36; ~~and~~

Sec. G-10. 12 MRSA §7901-A, sub-§12, ¶A, as enacted by PL 2001, c. 421, Pt. B, §88 and affected by Pt. C, §1, is amended by adding subparagraph (34) to read:

(34) Unlawfully renting or leasing a personal watercraft as described in section 7801, subsection 37.

Sec. G-11. 12 MRSA §7901-A, sub-§12, ¶B, as enacted by PL 2001, c. 421, Pt. B, §88 and affected by Pt. C, §1, is amended by amending subparagraphs (20) and (21) to read:

(20) Unlawful issuance of snowmobile registration as described in section 7827, subsection 24; and

(21) Renting or leasing a snowmobile as described in section 7827, subsection 26; ~~and~~

Sec. G-12. 12 MRSA §7901-A, sub-§12, ¶B, as enacted by PL 2001, c. 421, Pt. B, §88 and affected by Pt. C, §1, is amended by repealing subparagraph (22).

Sec. G-13. Effective date. This Part takes effect July 1, 2001, except that those sections that amend the Maine Revised Statutes, Title 12, section 7901-A, subsection 12, paragraph A, subparagraphs (32) and (33) and enact Title 12, section 7901-A, subsection 12, paragraph A, subparagraph (34) and amend Title 12, section 7901-A, subsection 12, paragraph B, subparagraphs (20) and (21) and repeal Title 12, section 7901-A, subsection 12, paragraph B, subparagraph (22) take effect January 1, 2002.

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

Effective June 29, 2001, unless otherwise indicated.
