

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTIETH LEGISLATURE

SECOND REGULAR SESSION
January 2, 2002 to April 25, 2002

THE GENERAL EFFECTIVE DATE FOR
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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
2002

certify to the board no later than January 1, 1996 that the agency has adopted written policies consistent with the minimum standards established by the board pursuant to subsection 2, except that certification to the board for expanded policies for domestic violence under subsection 1, paragraph D, subparagraphs (1) to (3) must be made to the board no later than June 1, 2003. This certification must be accompanied by copies of the agency policies. The chief administrative officer of each agency shall certify to the board no later than June 1, 1996 that the agency has provided orientation and training for its members with respect to the policies, except that certification for orientation and training with respect to expanded policies for domestic violence under subsection 1, paragraph D must be made to the board no later than January 1, 2004.

PART C

Sec. C-1. 30-A MRSA §290 is enacted to read:

§290. Investigators; appointments and removal

The district attorney may appoint in one or more counties of the prosecutorial district, subject to the requirements of section 501, full-time or part-time investigators, whose duties are to enforce the criminal laws in the county.

1. Qualifications for appointment. To be eligible for appointment, an investigator must be a law enforcement officer who has met the requirements of Title 25, section 2804-C and is certified as a full-time law enforcement officer.

2. Powers. An investigator has the statutory powers of a deputy sheriff in the county in which the investigator is appointed. An investigator's powers may include those under sections 404 and 405.

PART D

Sec. D-1. 34-A MRSA §1214, sub-§5 is enacted to read:

5. Report regarding batterers intervention programs. Beginning January 2003 and annually thereafter, the department shall report to the joint standing committee of the Legislature having jurisdiction over criminal justice matters regarding the work of batterers intervention programs. The report must include information regarding: meeting program benchmarks and goals, developing and implementing new programs, measuring effectiveness of existing programs and communicating and coordinating efforts with providers of substance abuse services, literacy support and other services with whom batterers may

need to work in order to participate meaningfully in a batterers intervention program.

See title page for effective date.

CHAPTER 687

H.P. 1485 - L.D. 2018

An Act to Amend the Motor Vehicle Laws

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

Sec. 1. 12 MRSA §7851, sub-§2, as amended by PL 1995, c. 65, Pt. A, §30 and affected by §153 and Pt. C, §15, is further amended to read:

2. All-terrain vehicle. "All-terrain vehicle" means a motor driven, off-road, recreational vehicle capable of cross-country travel on land, snow, ice, marsh, swampland or other natural terrain. It includes, but is not limited to, a multi-track, multi-wheel or low pressure tire vehicle; a motorcycle or related 2-wheel, 3-wheel or belt-driven vehicle; an amphibious machine; or other means of transportation deriving motive power from a source other than muscle or wind. For purposes of this subchapter, "all-terrain vehicle" does not include an automobile as defined in Title 29-A, section 101, subsection 7; an electric personal assistive mobility device as defined in Title 29-A, section 101, subsection 22-A; a truck as defined in Title 29-A, section 101, subsection 88; a snowmobile; an airmobile; a construction or logging vehicle used in performance of its common functions; a farm vehicle used for farming purposes; or a vehicle used exclusively for emergency, military, law enforcement or fire control purposes.

Sec. 2. 23 MRSA §611, as enacted by PL 1975, c. 615, is amended to read:

§611. Definition

For the purposes of this chapter, a bikeway is defined as a vehicle way, paved or unpaved, upon which bicycles, unicycles or other man-powered vehicles may be pedaled. Electric personal assistive mobility devices, as defined in Title 29-A, section 101, subsection 22-A, may also be operated on bikeways, unless prohibited by local ordinance or state or federal law. † A bikeway may be part of a road or highway, or it may be adjacent to a road or highway.

Sec. 3. 29-A MRSA §101, sub-§22-A is enacted to read:

22-A. Electric personal assistive mobility device. "Electric personal assistive mobility device"

means a self-balancing, 2-nontandem-wheeled device, designed to transport only one person, with an electric propulsion system that limits the maximum speed of the device to 15 miles per hour or less.

Sec. 4. 29-A MRSA §101, sub-§36, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

36. Moped. "Moped" means a motor-driven cycle with 2 or 3 wheels that:

A. May have foot pedals to permit human propulsion;

B. Has a motor with a maximum of 2 brake horsepower and a cylinder capacity not exceeding 50 cubic centimeters that is capable of propelling the vehicle unassisted at a speed of 30 miles per hour or less on a level road surface; and

C. Is equipped with a power drive system that only functions directly or automatically and does not require clutching or shifting by the operator after the drive system is engaged.

"Moped" does not include a motorized bicycle or tricycle or an electric personal assistive mobility device.

Sec. 5. 29-A MRSA §101, sub-§39, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

39. Motor-driven cycle. "Motor-driven cycle" means a motorcycle, including a motor scooter, with a motor that produces less than 150 cubic centimeters displacement or that has 5 brake horsepower or less. "Motor-driven cycle" does not include a motorized bicycle or tricycle or an electric personal assistive mobility device.

Sec. 6. 29-A MRSA §101, sub-§41, as amended by PL 1999, c. 170, §1, is further amended to read:

41. Motorized bicycle or tricycle. "Motorized bicycle or tricycle" means a bicycle or tricycle that:

A. May have pedals to permit human propulsion; and

B. Has a motor attached to a wheel that is rated at no more than 1.5 brake horsepower and has a cylinder capacity capable of propelling the vehicle unassisted at a speed of 25 miles per hour or less on a level road surface.

"Motorized bicycle or tricycle" does not include an electric personal assistive mobility device.

Sec. 7. 29-A MRSA §101, sub-§41-A, as enacted by PL 1997, c. 653, §4, is amended to read:

41-A. Motorized wheelchair. "Motorized wheelchair" means a battery-powered device used exclusively for the transportation of an individual with a physical disability. "Motorized wheelchair" does not include an electric personal assistive mobility device.

Sec. 8. 29-A MRSA §101, sub-§41-B, as enacted by PL 2001, c. 197, §2, is amended to read:

41-B. Motorized scooter. "Motorized scooter" means a scooter that is powered by a motor having a maximum piston displacement of less than 25 cubic centimeters or an electric driven motor and is capable of a maximum speed of no more than 25 miles per hour on a flat surface. "Motorized scooter" does not include an electric personal assistive mobility device.

Sec. 9. 29-A MRSA §101, sub-§42, ¶C, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

C. A motorized wheelchair or an electric personal assistive mobility device.

Sec. 10. 29-A MRSA §101, sub-§64-A, as enacted by PL 2001, c. 145, §2; c. 197, §3; and c. 360, §1, is repealed and the following enacted in its place:

64-A. School. "School" has the same meaning as in Title 20-A, section 6353, subsection 7.

Sec. 11. 29-A MRSA §101, sub-§64-C is enacted to read:

64-C. Scooter. "Scooter" means a device upon which a person may ride consisting of a footboard between 2 end wheels, controlled by an upright steering handle attached to the front wheel and that is propelled by human power or a motor. "Scooter" does not include an electric personal assistive mobility device.

Sec. 12. 29-A MRSA §101, sub-§91, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

91. Vehicle. "Vehicle" means a device for conveyance of persons or property on a way. "Vehicle" does not include conveyances propelled or drawn by human power or used exclusively on tracks or snowmobiles as defined in Title 12, section 7821 or an electric personal assistive mobility device as defined in this section.

Sec. 13. 29-A MRSA §1251, sub-§1, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

1. Violation. ~~Except as provided in section 510, subsection 1, a person commits an offense of operating a motor vehicle without a license if that person operates a motor vehicle on a public way or parking area without being licensed or in violation of a condition or restriction on the license. For a resident, that license must be issued by this State.~~

Sec. 14. 29-A MRSA §1251, sub-§1-A, as repealed and replaced by PL 1999, c. 771, Pt. C, §9 and affected by Pt. D, §§1 and 2, is amended to read:

1-A. Residents required to obtain license. Within 30 days of becoming a resident of this State, a person shall apply to obtain a license in accordance with section 1301. ~~Except as provided in section 510, subsection 1, a person who fails to comply with the requirement of this subsection and operates a motor vehicle on a public way or parking area commits:~~

A. A traffic infraction if the person has been a resident for less than 90 days; or

B. A Class E crime if the person has been a resident for at least 90 days.

Sec. 15. 29-A MRSA §1304, sub-§1, ¶E, as repealed and replaced by PL 1999, c. 127, Pt. A, §43, is amended to read:

E. Unless the permittee is operating a motorcycle or motor-driven cycle, the permit requires the permittee to be accompanied by a licensed operator who:

- (1) Has held a valid license for the immediately preceding 2 consecutive years;
- (2) Is at least 20 years of age;
- (3) Is occupying a seat beside the driver; and
- (4) Is licensed to operate the class vehicle operated by the permittee.

The accompanying operator must adhere to all restrictions applied to the license when functioning as the permittee's accompanying operator. A person who meets the conditions of subparagraphs (2), (3) and (4) whose license was canceled or suspended for physical, mental or emotional reasons within the immediately preceding 2 consecutive years may act as an accompanying operator pursuant to this paragraph with the approval of the Secretary of State.

Sec. 16. 29-A MRSA §2063-A is enacted to read:

§2063-A. Electric personal assistive mobility devices

1. Limiting use. The department or a municipality with respect to a way under its jurisdiction may prohibit the operation of electric personal assistive mobility devices. Municipalities may impose limits on the operation of electric personal assistive mobility devices in accordance with the provisions set forth in Title 30-A, section 3009.

2. Operation. Electric personal assistive mobility devices may be operated anywhere pedestrians are permitted to travel, including, but not limited to, sidewalks, public ways with speed limits of 35 miles per hour or less and bike paths, unless such operation is prohibited by local ordinance or state or federal law. A person operating an electric personal assistive mobility device shall at all times yield the right of way to pedestrians. In addition, a person operating an electric personal assistive mobility device shall give an audible signal before overtaking or passing a pedestrian.

3. Riding to the right. Electric personal assistive mobility devices may operate on public ways where the speed limit is 35 miles per hour or less only where a sidewalk or bike path is unavailable. During operation on a public way, a person operating an electric personal assistive mobility device shall ride it as far as practicable to the right side of the way, except when making a left turn, and shall cross public ways using crosswalks where available. This subsection does not apply in a municipality that makes other provisions for the location of traffic by bicycles, motorized scooters and electric personal assistive mobility devices. During operation on a public way at nighttime or at other times when motor vehicles are required to display headlights, a person operating an electric personal assistive mobility device shall wear reflective clothing or a reflective device that is visible at least 200 feet from the rear or shall employ an equivalent illumination device located on the electric personal assistive mobility device.

4. Speed. On sidewalks, a person operating an electric personal assistive mobility device may not exceed speeds of 5 miles per hour. On public ways and bike paths, a person operating an electric personal assistive mobility device may not exceed speeds of 15 miles per hour.

5. Hitching rides. A person operating an electric personal assistive mobility device may not attach it to a moving vehicle on a way.

6. Lights. When in use at nighttime or at other times when motor vehicles are required to display headlights, an electric personal assistive mobility device must have:

A. A lit front light that emits a white light visible from a distance of at least 200 feet to the front;

B. A red reflector to the rear that is visible at least 200 feet to the rear; and

C. At least one reflector strip prominently displayed on the device's tires.

7. Stopping. An electric personal assistive mobility device must be equipped to enable the operator to stop the device within a reasonable distance.

8. Violations during 183-day trial period. A law enforcement officer may issue a warning to a person who violates this section in the first 183 days following the effective date of this section. This subsection is repealed 183 days after the effective date of this section.

9. Violations. Beginning 183 days after the effective date of this section, a person who violates this section commits a traffic infraction for which a forfeiture of not more than \$10 may be adjudged for the first offense and a forfeiture of not more than \$25 may be adjudged for the 2nd or subsequent offense. In addition to a forfeiture that may be adjudged, a person who commits a 3rd or subsequent offense may have that person's electric personal mobility assistive device impounded for no more than 30 days.

10. Registration. Electric personal assistive mobility devices are not subject to the requirements of chapter 5.

Sec. 17. 29-A MRSA §2353-A is enacted to read:

§2353-A. Pilot project to simplify truck weight laws

1. Authorization to undertake pilot project. The Commissioner of Transportation, in consultation with the advisory committee under subsection 2, may undertake a pilot project in accordance with this section that provides, for duration of the pilot project, exemptions from the weight and fine requirements of this subchapter for 4-axle, single-unit vehicles loaded with forest products, ready-mix concrete, hot bituminous concrete, soil or unconsolidated rock material.

2. Advisory committee. The advisory committee is composed of the following members:

A. The Commissioner of Public Safety or the commissioner's designee;

B. The Secretary of State or the Secretary of State's designee;

C. A representative from the forest products industry, appointed by the Governor;

D. A representative of logging contractors, appointed by the Governor; and

E. A representative from the aggregate industry, appointed by the Governor.

3. Exemptions authorized under pilot project.

If the commissioner undertakes the pilot project under subsection 1, then notwithstanding any contrary provision of this subchapter, for 4-axle, single-unit vehicles permitted to participate in the pilot program and loaded with forest products, ready-mix concrete, hot bituminous concrete, soil or unconsolidated rock material:

A. Weight provisions in this subchapter for any axle or group of axles do not apply, and no violation may be assessed unless there is a violation of gross vehicle weight provisions, except as otherwise provided by this subsection;

B. Notwithstanding section 2353, subsection 1, paragraph C, the gross vehicle weight limits are as follows:

(1) To 76,000 pounds for vehicles hauling forest products or ready-mix concrete; and

(2) To between 66,000 and 72,000 pounds for vehicles hauling soil, unconsolidated rock material or hot bituminous concrete. This limit is to be established through rule-making;

C. Registration is required to the weight limits provided in paragraph B;

D. Notwithstanding section 2353, subsection 4, paragraph A, subparagraph 3, the tri-axle weight limit is as follows:

(1) To 64,000 pounds for vehicles hauling forest products; and

(2) To 54,000 pounds for vehicles hauling soil, unconsolidated rock material, ready-mix concrete or hot bituminous concrete;

E. The weight tolerances provided by section 2357 do not apply;

F. Minimum front-axle weights of between 8,000 and 15,000 pounds must be established through rulemaking;

G. The maximum tire weight provisions of section 2353, subsection 5 apply;

H. A requirement to distribute weight on a tri-axle vehicle similar to section 2353, subsection 4, paragraph C must be established through rulemaking;

I. A vehicle with a current, machine-validated weight slip from certified scales showing a gross vehicle weight under the limits provided in paragraph B may not be weighed, except to determine compliance with paragraphs F, G and H;

J. A portable scale allowance factor, which may be either a percentage or a pound-per-axle figure, must be established through rulemaking;

K. Fine reductions consistent with section 2360, subsections 16 and 17 apply;

L. All other fine waivers or reductions in this subchapter, including those set forth in section 2360, subsections 4, 5, 6 and 7, do not apply; and

M. Through rulemaking, fine levels must be established such that either the fine base levels in effect for this subchapter on the effective date of this section are applied or a fine schedule is adopted that is consistent with the relationship of fine to weight that exists for this subchapter on the effective date of this section.

4. Rulemaking. If the Commissioner of Transportation undertakes the pilot project under subsection 1, the department shall adopt rules consistent with subsection 3 to implement this section. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

5. Report. The Commissioner of Transportation shall report back to the joint standing committee of the Legislature having jurisdiction over transportation matters by December 31, 2004 on the results of the pilot project and the approximate number of 3-axle vehicles hauling soil, unconsolidated rock material and hot bituminous concrete in the State.

6. Repeal. This section is repealed on December 31, 2004.

Sec. 18. 29-A MRSA §2358, sub-§2, ¶¶B and C, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, are amended to read:

B. Bearing the words "State Police Truck Check - All Trucks Stop"; ~~and~~

C. Displaying flashing yellow lights, which must operate when the weighing station is open; ~~and~~

Sec. 19. 29-A MRSA §2358, sub-§2, ¶D is enacted to read:

D. Directing operators of vehicles subject to the GVW restrictions to the weighing point if the weighing point is located on a way that intersects the way where the sign is located.

Sec. 20. Joint Standing Committee on Transportation to be briefed during 2002 legislative interim. The Joint Standing Committee on Transportation shall, during its regularly scheduled committee meeting during the 2002 legislative interim, review the development of a pilot project required under the Maine Revised Statutes, Title 29-A, section 2353-A and report on the review to the Commissioner of Transportation. The Commissioner of Transportation and the advisory committee established under that section shall meet with the Joint Standing Committee on Transportation at one of that committee's regularly scheduled meetings during the 2002 legislative interim to update the committee on all matters pertaining to the development of that pilot project.

See title page for effective date.

CHAPTER 688

H.P. 1516 - L.D. 2020

An Act to Promote the Fiscal Sustainability of the Highway Fund

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

Sec. 1. 36 MRSA §2903, sub-§1, as amended by PL 1999, c. 473, Pt. B, §1 and affected by §5, is further amended to read:

1. Excise tax imposed. An excise tax is imposed on internal combustion engine fuel used or sold within this State, including sales to the State or a political subdivision of the State, at the rate of 22¢ per gallon, except that the rate is 3.4¢ per gallon on internal combustion engine fuel, as defined in section 2902, bought or used for the purpose of propelling jet or turbojet engine aircraft. The tax rate provided by this section is subject to annual inflation adjustment pursuant to section 3321 except with respect to the tax imposed upon fuel bought or used for the purpose of propelling jet or turbojet engine aircraft.

Sec. 2. 36 MRSA §2903, sub-§1-B, as enacted by PL 1999, c. 473, Pt. B, §2, is repealed.

Sec. 3. 36 MRSA §2903, sub-§1-C is enacted to read:

1-C. Inventory tax. On the date that any increase in the rate of tax imposed under this chapter takes effect, an inventory tax is imposed by this subsection upon all internal combustion engine fuel