

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTIETH LEGISLATURE

FIRST SPECIAL SESSION
November 13, 2002 to November 14, 2002

ONE HUNDRED AND TWENTY-FIRST LEGISLATURE

FIRST REGULAR SESSION
December 4, 2002 to June 14, 2003

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
FEBRUARY 13, 2003

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 13, 2003

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Penmor Lithographers
Lewiston, Maine
2003

resource activities to be used to sequester greenhouse gas emissions. The department shall submit the action plan to the joint standing committee of the Legislature having jurisdiction over natural resources matters.

§578. Progress evaluation

By January 1, 2006 and by that date every 2 years thereafter, the department shall evaluate the State's progress toward meeting the reduction goals specified in section 576 and shall amend the action plan as necessary to ensure that the State can meet the reduction goals. Starting no earlier than January 1, 2008, the department may recommend to the joint standing committee of the Legislature having jurisdiction over natural resources matters that the reduction goals specified in section 576 be increased or decreased.

See title page for effective date.

CHAPTER 238

S.P. 416 - L.D. 1285

An Act To Promote and Protect Private Enterprise

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

Sec. 1. 5 MRSA §55-A is enacted to read:

§55-A. Unfair competition

1. Prohibition. A state agency may not sell goods or services to the public in competition with private enterprise unless it complies with this section.

2. Prior approval required. Unless otherwise provided by law, before a state agency may sell goods or services to the public, that agency must refer the matter for review and approval to the Advisory Committee on Fair Competition with Private Enterprise, established in section 12004-I, subsection 2-E. If the Advisory Committee on Fair Competition with Private Enterprise finds that the proposed activity is not specifically authorized by law and that activity will result in unfair competition, the state agency may not sell those goods or services.

3. Exceptions for emergencies. A state agency may immediately sell goods or services to the public in the event of an emergency as determined by the agency head. The agency must refer the matter for review and approval to the Advisory Committee on Fair Competition with Private Enterprise as soon as possible. If the committee finds the activity results in unfair competition, the state agency must suspend sale

of those goods or services within 30 days of the notification of the finding.

4. Exception for existing goods and services.

This section does not apply to goods or services that a state agency began selling to the public on or before January 15, 2004.

Sec. 2. Effective date. This Act takes effect January 15, 2004.

Effective January 15, 2004.

CHAPTER 239

H.P. 904 - L.D. 1230

An Act To Amend the Law Regarding Juvenile Restitution

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

Sec. 1. 15 MRSA §3314, sub-§1, ¶E, as amended by PL 1997, c. 752, §18, is further amended to read:

E. The court may require the juvenile to make restitution for any damage to the victim or other authorized claimant as compensation for economic loss upon reasonable conditions that the court determines appropriate. For the purposes of this paragraph, the definitions in Title 17-A, section 1322 and the provisions of Title 17-A, sections 1324, ~~1326-B~~, 1328-A and 1329 apply, except that section 1329, subsection 3, paragraph A does not apply.

See title page for effective date.

CHAPTER 240

H.P. 907 - L.D. 1233

An Act To Amend the Motor Vehicle Laws

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

Sec. 1. 10 MRSA §1475, sub-§3, as amended by PL 1999, c. 617, §1, is further amended to read:

3. Written statement. A dealer shall obtain from the seller of a used motor vehicle a written statement containing the following information:

A. The make, model, model year and any identification or serial numbers of the motor vehicle;

B. The name and address of the seller, the principal use to which the motor vehicle was put by the seller, such as personal transportation, police car, daily rental car, taxi or other descriptive term;

C. A statement identifying any and all mechanical defects known to the seller at the time of sale; and

D. A statement identifying the type of damage, if any, that the vehicle has sustained, such as fire, water or substantial collision damage, if such information is known to the seller.

Any dealer who offers for sale to consumers a repossessed vehicle that has been obtained by the dealer through any transaction other than a retail sale is not subject to the provisions of this subsection.

A dealer is not subject to the provisions of this subsection if that dealer offers for sale to consumers a used motor vehicle that has been obtained by the dealer through an auction located outside the State at which buyers are limited to licensed dealers and the seller of the used motor vehicle is neither a resident of this State nor a dealer licensed in this State, if the dealer clearly discloses on the written disclosure statement required by subsections 1 and 2-A that the vehicle was acquired at an out-of-state auction and that historical information regarding mechanical defects and substantial damage is not available.

The seller of the used motor vehicle shall sign and date this written statement and the dealer who buys the vehicle shall maintain a record of it for 2 years following the sale of the motor vehicle.

As used in subsection 2-A and this subsection, "substantial collision damage" means any damage to a motor vehicle from a collision when the costs of repair of that damage, at the time of repair, including replacement of mechanical and body parts, exceed \$2,000.

Sec. 2. 29-A MRSA §705, sub-§1, as amended by PL 1997, c. 776, §27, is further amended to read:

1. Release on satisfaction. Upon satisfaction of the security interest of the lienholder, the lienholder shall, within 14 days ~~after demand of receipt of funds intended to satisfy the security interest of the lienholder~~, execute a release of the security interest in the space provided on the certificate. The lienholder shall:

A. Release the certificate of title, certificate of salvage or certificate of lien to the subordinate lienholder if one is named;

B. If the lien was satisfied in conjunction with the sale of the vehicle and there is no subordinate lienholder, ~~release and deliver~~ the certificate of title, certificate of salvage or certificate of lien to the owner or to a person who delivers to the lienholder an authorization from the owner to receive the certificate; or

C. Deliver the certificate to the owner and notify the Secretary of State that the lien has been satisfied.

Sec. 3. 29-A MRSA §705, sub-§4, as enacted by PL 2001, c. 671, §16, is amended to read:

4. Remedies. The remedies set forth in this section are in addition to those set forth in section 668.

A. The owner and subordinate lienholder, if any, may recover ~~\$500~~ \$1,000 in each case from a lienholder who fails to release the security interest and deliver the certificate of title, ~~certificate of lien or certificate of salvage~~ within 14 days ~~after demand of receipt of funds intended to satisfy the security interest of the lienholder~~ under this section, unless, within the 14-day time period, the lienholder notifies the owner that satisfaction of the security interest is in dispute.

B. If a lienholder fails to release the security interest ~~and deliver the certificate of title, certificate of lien or certificate of salvage~~ within 14 days after demand under this section and has not notified the owner that satisfaction of the security interest is in dispute, the Secretary of State may revoke the certificate ~~of title, certificate of lien or certificate of salvage~~ and issue a replacement certificate omitting the security interest upon receipt of a statement by the owner that 14 days have elapsed since demand for release of the security interest was made and the owner has not been notified by the lienholder that satisfaction of the security interest is in dispute. Submission of a false statement to the Secretary of State under this subsection is a Class E crime.

Sec. 4. 29-A MRSA §706, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

§706. Lienholder to furnish information

Upon request of the owner, another lienholder named on the certificate of title or certificate of salvage or a dealer to which the vehicle has been transferred, a lienholder shall disclose pertinent information as to the security agreement, the indebtedness secured by that agreement, the existence and identity of subordinate lienholders on the certificate of title or certificate of salvage or other written docu-

mentation held by the lienholder and the certificate of title or certificate of salvage numbers.

See title page for effective date.

CHAPTER 241

H.P. 324 - L.D. 416

An Act To Amend the County Contingent Fund

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

Sec. 1. 30-A MRSA §922, sub-§2, as amended by PL 1993, c. 343, §1, is further amended to read:

2. Contingent fund. There is established a contingent account in each county in an amount not to exceed ~~\$50,000 annually~~ the greater of 1.5% of the annual county budget or \$100,000, except in Sagadahoc County, where the contingent account may not exceed 4% of the annual budget. ~~Notwithstanding the preceding sentence, a county, by unanimous action of the county commissioners, may increase the contingent account limit to an amount not exceeding \$100,000.~~ Any funds that are available to each county may be used for this purpose. ~~This~~ The contingent fund may be used at the discretion of the county commissioners for emergency purposes only, except that if a county increases the contingent account limit, expenditures from the account above \$50,000 must be approved by a majority of the county budget or finance committee if the county's budget is not finally approved by the Legislature. At the end of each fiscal year there must be transferred from unencumbered county funds an amount sufficient to restore the established county contingent account.

See title page for effective date.

CHAPTER 242

H.P. 343 - L.D. 451

An Act To Clarify Tax Appeal Procedures

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

Sec. 1. 36 MRSA §151, 3rd ¶, as amended by PL 2001, c. 583, §1, is further amended to read:

The assessor's decision on reconsideration must be mailed to the taxpayer or the taxpayer's designated representative by certified or registered mail and the

decision must set forth briefly the assessor's findings of fact and the basis of decision in each case decided in whole or in part adversely to the taxpayer. The assessor's decision on reconsideration constitutes final agency action that is subject to review by the Superior Court in accordance with the Maine Administrative Procedure Act, except that Title 5, sections 11006 and 11007 do not apply. The Superior Court shall conduct a de novo hearing and make a de novo determination of the merits of the case. Either the taxpayer or the assessor may raise on appeal in Superior Court any facts, arguments or issues that relate to the assessor's decision on reconsideration, regardless of whether the facts, arguments or issues were raised during the reconsideration proceeding being appealed, provided that the facts, arguments or issues are not barred by any other provision of law. ~~¶~~ The court shall make its own determination as to all questions of fact or law, regardless of whether the questions of fact or law were raised during the reconsideration proceeding. The Superior Court shall enter such orders and decrees as the case may require. The burden of proof is on the taxpayer.

See title page for effective date.

CHAPTER 243

H.P. 1103 - L.D. 1510

An Act To Improve Access to the Victims' Compensation Fund

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

Sec. 1. 5 MRSA §3360, sub-§3, as amended by PL 1997, c. 378, §§1 to 3, is further amended to read:

3. Crime. "Crime" means one of the following:

- A. Offenses against the person as described in Title 17-A, chapter 9;
- B. Sexual assaults as described in Title 17-A, chapter 11;
- C. Kidnapping and criminal restraint as described in Title 17-A, chapter 13;
- D. Robbery as described in Title 17-A, chapter 27;
- E. Operating under the influence of intoxicating liquor or drugs or with an excessive blood-alcohol level, as described in Title 29-A, section 2411; ~~or~~