

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

Sec. 2. 22 MRSA §1812-G, sub-§§6 to 9 are enacted to read:

6. Registry notations. Except as otherwise provided in this section:

A. An individual may not be employed in a hospital, nursing facility, home health agency or assisted housing program as a certified nursing assistant if that individual has been convicted in a court of law of a crime involving abuse, neglect or misappropriation of property in a health care setting; and

B. An individual may not be employed in a hospital, nursing facility, home health agency or assisted housing program as a certified nursing assistant if that individual:

(1) Has been the subject of a complaint involving abuse or neglect that was substantiated by the department pursuant to its responsibility to license hospitals, nursing facilities, home health agencies and assisted housing programs and that was entered on the Maine Registry of Certified Nursing Assistants; or

(2) Has been the subject of a complaint involving the misappropriation of property in a health care setting that was substantiated by the department and entered on the Maine Registry of Certified Nursing Assistants.

7. Time limit on consideration of prior criminal conviction. Except as otherwise provided in this section, an individual may not be employed in a hospital, home health agency or assisted housing program as a certified nursing assistant if that individual has a prior criminal conviction within the last 10 years of:

A. A crime for which incarceration of 3 years or more may be imposed under the laws of the state in which the conviction occurred; or

B. A crime for which incarceration of less than 3 years may be imposed under the laws of the state in which the conviction occurred involving sexual misconduct or involving abuse, neglect or exploitation in a setting other than a health care setting.

8. Exception. The restrictions on employment under subsections 6 and 7 do not apply to an individual listed and active on the Maine Registry of Certified Nursing Assistants prior to the effective date of this subsection, as long as the individual meets other state and federal requirements for certified nursing assistants and continues to maintain an active status by timely reregistration as required by the rules.

9. Notification. A nursing assistant training program must notify applicants to that program of the restrictions under subsections 6 and 7 prior to the acceptance of any applicant.

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

Effective June 2, 2003.

CHAPTER 377

H.P. 617 - L.D. 840

An Act To Clarify the Duties of Conservators

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

Sec. 1. 18-A MRSA §5-418, sub-§§(d) and (e) are enacted to read:

(d) If any property not included in the original inventory comes to the knowledge of the conservator or if the conservator or court learns that the value or description indicated in the original inventory for any item is erroneous or misleading, the conservator shall make a supplementary inventory or appraisal showing the market value of the new item or the revised market value or descriptions and the appraisers or other data relied upon, if any, and file it with the court and furnish copies to persons interested in the new information.

(e) When an inventory has not been filed under this section and an interested party makes a prima facie case that property that should have been inventoried is now missing, the conservator has the burden of proving by a preponderance of the evidence that the specific property would properly be excluded from the inventory.

See title page for effective date.

CHAPTER 378

H.P. 102 - L.D. 93

An Act Regarding the Duties of a Personal Representative

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

Sec. 1. 18-A MRSA §3-706, as amended by PL 1979, c. 690, §§8 and 9, is further amended by adding at the end a new paragraph to read:

When an inventory has not been filed or furnished as required under this section and an interested party makes a prima facie case that property that should have been inventoried is now missing, the personal representative has the burden of proving by a preponderance of the evidence that the specific property would properly be excluded from the inventory.

See title page for effective date.

CHAPTER 379

H.P. 186 - L.D. 227

An Act to Ban Smoking in Beano and Bingo Halls

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

Sec. 1. 22 MRSA §1542, sub-§2, ¶K, as enacted by PL 1993, c. 342, §1 and affected by §9, is amended to read:

K. Smoking is not prohibited in public places when beano or bingo games are being conducted in accordance with the provisions of Title 17, ~~sections 314 and~~ section 314-A.

See title page for effective date.

CHAPTER 380

H.P. 474 - L.D. 644

An Act To Assist Regional Transportation Providers To Comply with the Booster Seat Law

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

Sec. 1. 29-A MRSA §2081, sub-§1, ¶C, as enacted by PL 2001, c. 585, §1 and affected by §6, is amended to read:

C. "Federally approved child restraint system" means a child ~~passenger safety restraint system that is intended to be used as crash protection in vehicles that is designed to elevate a child to enable that child to properly sit in a federally approved lap and shoulder belt system~~ and that meets the requirements of the Federal Motor Vehicle Safety ~~Standards~~ Standard 213.

Sec. 2. 29-A MRSA §2081, sub-§3, ¶A, as enacted by PL 2001, c. 585, §3 and affected by §6, is amended to read:

A. The operator shall ensure that a child who weighs at least 40 pounds but less than 80 pounds and who is less than 8 years of age is properly secured in a federally approved child restraint system. Nonprofit, municipal or contracted transportation service providers are exempt from this paragraph until February 1, 2005, except that the operator shall ensure that the child is properly secured in a seat belt.

Sec. 3. 29-A MRSA §2081, sub-§3, ¶B, as amended by PL 2001, c. 710, §15 and affected by §16, is further amended to read:

B. The operator shall ensure that a child who is less than 18 years of age and at least 8 years of age or who is less than 18 years of age and more than 4 feet, 7 inches in height is properly secured in a seat belt ~~unless that child is required to be secured in a federally approved child restraint system pursuant to this subsection or in a child safety seat pursuant to subsection 2.~~

Sec. 4. 29-A MRSA §2081, sub-§4, ¶D, as amended by PL 1995, c. 597, §3, is further amended to read:

D. A violation of subsection 3 or 3-A is a traffic infraction. The fine for a violation of subsection 3 or 3-A may not be less than \$25 nor more than \$50. A written warning must be issued in lieu of a fine for a violation of subsection 3 until September 1, 2003. After September 1, 2003 a fine may be imposed for a violation of subsection 3.

Sec. 5. Retroactivity. This Act applies retroactively to January 1, 2003.

See title page for effective date.

CHAPTER 381

H.P. 106 - L.D. 97

An Act To Change the Personnel Employed by the Commission on Governmental Ethics and Election Practices

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

Sec. 1. 1 MRSA §1002, sub-§5, as amended by PL 2001, c. 470, §3, is further amended to read:

5. Employees. The commission shall employ an administrative executive director and such other assistance as may be necessary to carry out its duties. The commission also shall retain a general counsel or a computer analyst as an employee of the commission,