

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

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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

A. Deaths due to the consequences of long-term alcohol use, long-term exposure to environmental or occupational toxins or long-term exposure to carcinogens;

B. Deaths in the elderly who have sustained limb or axial fractures, excluding the head, for which they are or have been hospitalized; or

C. Sudden natural deaths in the elderly who have not had previous specific symptoms or who were not under treatment by a physician for the specific natural cause that is considered to be the cause of death.

These reportable deaths may be referred back to the attending physician by the Chief Medical Examiner for certification of the death, even though the attending physician has not treated the patient for the specific natural disease that the attending physician will enter as the physician's diagnosis.

Sec. 5. 22 MRSA §3025, sub-§2, as amended by PL 2001, c. 222, §5, is repealed.

Sec. 6. 22 MRSA §3025, sub-§4, as amended by PL 2001, c. 222, §6, is repealed.

See title page for effective date.

CHAPTER 434

S.P. 545 - L.D. 1590

An Act To Amend the Motor Vehicle Laws

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

Whereas, this legislation needs to take effect before the expiration of the 90-day period in order to delay the effective date of the Maine Revised Statutes, Title 29-A, section 1601-A; 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:

Sec. 1. 10 MRSA §1171-B, sub-§1, ¶¶A, B and D, as enacted by PL 1987, c. 521, §5, are amended to read:

A. Except as provided by this section, a person may not engage in business or serve in the capacity of or act as a manufacturer or distributor without obtaining a license for each line make maintained in the State as provided in this section.

B. An application for a license for a manufacturer or distributor must be on a form prescribed by the Secretary of State. The applicant shall file a separate application for each separate line make. The application must contain the manufacturer or distributor's address of its principal place of business, the address where notices should be sent and the address of its registered agent in this State and must be accompanied by its annual report and a list of its franchised new motor vehicle dealers in this State.

D. The annual fee for a license is \$1,500 ~~for each manufacturer and distributor.~~

Sec. 2. 29-A MRSA §101, sub-§17, ¶C, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

C. Is used in the transportation of hazardous materials requiring placarding under the federal Hazardous Materials Transportation Act and related regulations in 49 Code of Federal Regulations, Part 172, Subpart F or any quantity of a material listed as a select agent or toxin in 42 Code of Federal Regulations, Part 73.

Sec. 3. 29-A MRSA §101, sub-§27, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

27. Hazardous material. "Hazardous material" ~~has the same meaning as in the federal Hazardous Materials Transportation Act,~~ means any material that has been designated as hazardous under 49 United States Code, Section 1801 et seq Sections 5101 to 5127 (2003) and is required to be placarded under 49 Code of Federal Regulations, Part 172, Subpart F or any quantity of material listed as a select agent or toxin in 42 Code of Federal Regulations, Part 73.

Sec. 4. 29-A MRSA §251, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

§251. Records and databases related to driver's licenses and motor vehicles

1. Records required to be kept. The Secretary of State shall keep a record of applications for driver's licenses, motor vehicle registrations and certificates of title, and of issued driver's licenses, instruction permits, motor vehicle registrations and certificates of title.

2. Public access to records. Records of the Secretary of State pertaining to the applications, registrations and certifications of vehicles and to driver's licenses must be open to public inspection during office hours. The Secretary of State shall provide a copy of a record pertaining to the applications, registrations and certifications of vehicles or to driver's licenses for a fee of \$5 each.

2-A. Databases. The Secretary of State may provide databases of records pertaining to applications, registrations and certifications of vehicles and to driver's licenses to individuals, businesses and other entities. The Secretary of State shall adopt rules to establish a fee schedule and governing procedures.

3. Complaints confidential. Written complaints and certain control numbers used in the titling of motor vehicles may be kept confidential.

Sec. 5. 29-A MRSA §252, as amended by PL 1995, c. 625, Pt. A, §31, is further amended to read:

§252. Driver history records and databases

1. Reports furnished. ~~The Secretary of State shall furnish reports of records~~ provide a copy of a record pertaining to convictions, adjudications, accidents, suspensions, and revocations ~~and other information required by commercial users of a driver's license~~ for a fee of \$5 each. Certified copies are an additional \$1. A person receiving a report by electronic transmittal shall pay the fee associated with that transmittal. The Secretary of State shall adopt rules to establish a fee schedule and procedures governing electronic transmittal of a record.

1-A. Databases. The Secretary of State may provide databases of records pertaining to convictions, adjudications, accidents, suspensions and revocations to individuals, businesses and other entities. The Secretary of State shall adopt rules to establish a fee schedule and governing procedures under this subsection.

2. Fee waived for official requests. There is no fee for requests from other motor vehicle departments, state, county and federal agencies and law enforcement agencies.

Sec. 6. 29-A MRSA §257 is enacted to read:

§257. Confidentiality of technology system information

The following records and information are confidential:

1. Information technology systems. Records describing security and information technology system plans and security procedures; and

2. Data integrity. Records or information that will jeopardize the security, availability, confidentiality, integrity of, or corrupt the data residing in information technology systems including records describing the architecture, data model, design, access, encryption or user authentication of information technology systems and infrastructure, including security features for preventing duplication, alteration and substitution of licenses and identification cards.

For purposes of this section, information technology systems include voice, video, radio and data systems.

Sec. 7. 29-A MRSA §451, sub-§5, as amended by PL 2001, c. 671, §6, is further amended to read:

5. Special classes of registration plates. A vehicle required to be registered in a special class under this Title may display only the number plates designed for that special class of registration. If a vehicle registered for hire is disabled due to an accident or mechanical malfunction, another vehicle of the same passenger capacity may be substituted temporarily. The substitute vehicle is subject to the financial responsibility requirements in section 1611. Notwithstanding this subsection, the Secretary of State may issue a temporary credential in lieu of a special class of registration plate. The Secretary of State may adopt rules to implement this subsection. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 8. 29-A MRSA §453, sub-§3, as amended by PL 1997, c. 776, §10, is repealed.

Sec. 9. 29-A MRSA §453, sub-§3-A is enacted to read:

3-A. Restrictions. The Secretary of State, in the Secretary of State's discretion, may refuse to issue a vanity plate that:

- A. Consists of or comprises language that is obscene, contemptuous, profane or prejudicial;
- B. Promotes abusive or unlawful activity;
- C. Falsely suggests an association with public institutions; or
- D. Is duplicative.

Sec. 10. 29-A MRSA §525, as amended by PL 2001, c. 463, §1 and affected by §7, is further amended to read:

§525. Fuel tax licensing and reporting

1. Fuel use reporting account. A person operating a vehicle using fuel other than gasoline must

establish an account for fuel use reporting if that vehicle:

- A. Is registered for a gross vehicle weight in excess of 26,000 pounds;
- B. Is designed to carry 20 or more passengers;
- C. Is used in combination with another vehicle or vehicles and the combined gross weight is in excess of 26,000 pounds; or
- D. Has 3 or more axles on the power unit regardless of gross weight.

2. Exceptions. A person operating a vehicle on a public way, subject to Title 36, chapter 457 or 459 shall obtain a fuel use identification decal for that vehicle, except for:

- A. A vehicle owned and operated by government agencies;
- B. A vehicle legally operating with dealer registration plates;
- C. A recreational vehicle;
- D. An authorized emergency vehicle registered in another jurisdiction and operating in response to a declared emergency; or
- E. A vehicle legally licensed for fuel use reporting under the International Fuel Tax Agreement.

4. Exception. A farm vehicle or farm truck subject to limited inspection under section 1752, subsections 2 and 4 is not required to have a fuel use identification decal.

5. Fee. The decal fee for each vehicle is \$5.

6. Issuance; display; expiration. The Secretary of State shall issue interstate and intrastate fuel use identification decals and shall specify the location on the exterior of a vehicle to which a decal must be affixed permanently. A decal must be visible and legible.

- A. A fuel use identification decal issued pursuant to the International Fuel Tax Agreement expires on December 31st. A fuel use identification decal issued for intrastate operation expires on June 30th.
- B. A cab card must be carried in the vehicle at all times. For the purposes of this paragraph, "cab card" means identification issued or approved by the Secretary of State that contains the legal name and address of the person who has

established a fuel use reporting account for the vehicle.

C. A person transferring ownership of a vehicle bearing a valid fuel use identification decal must disfigure the decal.

D. A person acquiring a vehicle with an unexpired fuel use identification decal may not operate that vehicle without a valid trip permit or a fuel use identification decal issued to that person.

7. Trip permits. In lieu of fuel tax licensing and reporting, the Secretary of State may issue a trip permit that authorizes for a period not to exceed 3 consecutive days a specific vehicle to be operated without a fuel use identification decal. The permit must accompany the vehicle at all times. The fee for a permit is \$50.

8. Enforcement. A state police officer or any member of the Department of Public Safety designated by the Commissioner of Public Safety may enforce this section.

A person in violation of the requirements for reporting fuel use taxes under Title 36 may be required to fully comply before being allowed to proceed.

~~**9. Violation.** A violation of this section is a Class E crime, except that a person commits a Class D crime if that person displays, causes or permits to be displayed a false decal or permit or a decal or permit issued to another person.~~

~~An owner or operator stopped for violating this section and against whom enforcement action has been taken does not commit a subsequent violation of this section involving the same vehicle until after the close of business on the next business day following the date of the violation.~~

~~Notwithstanding Title 17-A, a person convicted of violating this section is subject to a forfeiture of at least \$250, which may not be suspended.~~

9-A. Violation. The following penalties apply to violations of this section.

A. A person who violates this section commits a Class E crime.

B. Notwithstanding paragraph A, a person who violates this section by displaying or causing or permitting to be displayed a false decal or permit or a decal or permit issued to another person commits a Class D crime.

A person issued a summons for failure to display a valid fuel use identification decal pursuant to subsection 6 may not be issued an additional summons for the same vehicle within one business day.

A person convicted of violating this section is subject to a fine of at least \$250, which may not be suspended.

10. Suspension. If a person fails to file a fuel tax report or to pay any taxes, interest, penalties or audit assessment as required pursuant to Title 36, chapter 457 or 459 or any rule adopted pursuant to this section, the Secretary of State shall suspend the person's fuel tax license, all fuel decals issued to the person and that person's privilege to operate as a motor carrier. In order to be reinstated, the person must file all delinquent tax returns and pay all assessments, interest and penalties. In addition, the person must pay a \$35 reinstatement fee pursuant to section 2486, subsection 1.

11. Cooperation. The State Tax Assessor, the Department of Public Safety and the Secretary of State shall cooperate in the issuance of decals, licenses and permits, the processing of tax returns, enforcement of this section and to ensure that timely information is readily available to all enforcement personnel of the status of those in noncompliance with the fuel use tax laws, intrastate and interstate for-hire operating authority permit requirements and motor vehicle registration laws.

Subject to the provisions of Title 36, the State Tax Assessor may delegate to the Secretary of State responsibility for the processing of motor carrier fuel tax returns, motor carrier fuel tax collection and compliance with the administrative requirements of the International Fuel Tax Agreement.

12. Funds. All fees, fines, fuel tax revenue and forfeitures accrue to the Highway Fund.

13. Rules. The Secretary of State in consultation with the State Tax Assessor and the Commissioner of Public Safety may adopt rules to implement this section and to provide for participation in the International Fuel Tax Agreement.

Sec. 11. 29-A MRSA §852, sub-§2, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

2. Dealer licenses. The annual fee for a dealer license or renewal is:

- A. For a motorcycle dealer, \$50;
- B. For a light trailer dealer, \$50; and
- C. For any other vehicle dealer, \$150.

A licensed recycler is exempt from an additional license fee if already licensed as a used vehicle dealer, new vehicle dealer or equipment dealer.

Sec. 12. 29-A MRSA §1002, sub-§7, as amended by PL 2001, c. 671, §20, is further amended to read:

7. Demonstrating a loaded truck. A dealer must obtain a written permit from the Secretary of State to demonstrate a loaded truck, truck tractor, trailer, semitrailer or combination of vehicles bearing dealer plates.

~~A permit is not required to demonstrate a vehicle or combination of vehicles without a load.~~

A permit may be issued to a nonresident dealer when reciprocity has been established.

A permit may not be issued to allow demonstration for a period longer than 7 days. A permit to demonstrate can not be issued to the same individual or company more than once to cause use for a period of more than 7 days.

A permit may not be issued to a vehicle or combination of vehicles that is being rented or leased.

The processing fee for a permit to demonstrate is \$1.

Sec. 13. 29-A MRSA §1002, sub-§8, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

8. Unladen vehicle weighing more than 10,000 pounds. A dealer must obtain a written permit from the Secretary of State for any unladen vehicle weighing more than 10,000 pounds ~~unladen to carry a load.~~

A truck tractor and trailer or semitrailer combination may be operated with dealer plates if the dealer is licensed as a new vehicle dealer or used vehicle dealer and heavy trailer dealer and if the trailer or semitrailer does not contain a load.

Sec. 14. 29-A MRSA §1003, sub-§2, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

2. Permissible use. A loaner plate may be used on a vehicle owned by the licensee for the sole purpose of loaning the vehicle to a customer when the customer's vehicle is disabled and in the garage for repairs. The limit on the use of the loaned vehicle is 7 consecutive days. The Secretary of State may extend the period to no more than 30 days. A fee for the use of a loaner plate may not be charged to a customer.

Sec. 15. 29-A MRSA §1253, sub-§2, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

2. Compliance with federal law. The State must comply with the Commercial Motor Vehicle

Safety Act of 1986, Public Law 99-570, Title XII, and regulations adopted under that Act in issuing or suspending a commercial license. In the case of any conflict between the federal statute or regulation and a statute or rule of this State, the federal statute or regulation must apply and take precedence. To ensure compliance, the Secretary of State shall adopt rules.

These rules must include, but are not limited to, provisions that:

- A. Provide for full state participation in the national commercial driver's license clearinghouse;
- B. Require commercial drivers to have a single license;
- C. Reduce and prevent commercial motor vehicle accidents, fatalities and injuries by disqualifying commercial drivers who have committed serious traffic or other designated offenses from operating commercial motor vehicles;
- D. Protect public safety by removing from public ways a commercial driver who has:
 - (1) Operated or attempted to operate a commercial vehicle while having 0.04% or more by weight of alcohol in that driver's blood;
 - (2) Refused to submit to or complete a lawfully requested test to determine blood-alcohol level; or
 - (3) Operated or attempted to operate a motor vehicle while under the influence of intoxicating liquor or drugs; and
- E. Provide maximum safety on public ways.

Sec. 16. 29-A MRSA §1253, sub-§3, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

3. Endorsements for double or triple trailers, buses, tank trucks or hazardous materials. Operation of a double or triple trailer, bus or tank truck requiring a commercial driver's license or a vehicle carrying hazardous materials requiring a placard requires a special endorsement on a commercial license.

An endorsement may be made under this subsection only after the applicant has successfully passed the examination for the specific vehicle.

To retain a hazardous material endorsement on renewal of a commercial license, a reexamination of the hazardous material written test is required.

A person who applies for or receives a hazardous material endorsement must comply with the conditions and requirements of the federal Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001, Public Law 107-56, 115 Stat. 272.

Sec. 17. 29-A MRSA §1306, as amended by PL 2001, c. 361, §28, is repealed and the following enacted in its place:

§1306. Applicant who has not been licensed within past 5 years

An applicant for a license who has not been licensed to operate a motor vehicle in this State or in another jurisdiction within the past 5 years must successfully pass a complete examination consisting of a vision, written and road test.

Sec. 18. 29-A MRSA §1307, sub-§4, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

4. Cancellation of examination appointment.

If an examination requires an appointment and the examinee does not keep that appointment, the Secretary of State shall assess an additional ~~\$20~~ \$30 fee for a Class A or Class B examination and ~~\$5~~ \$20 for a bus, school bus or Class C examination at the time of reappointment for examination. If the examinee notifies the Department of the Secretary of State, Bureau of Motor Vehicles, Driver Examination Section of cancellation at least 48 hours prior to the examination, the Secretary of State shall waive the additional fee.

Sec. 19. 29-A MRSA §1401, sub-§2, ¶A, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is repealed.

Sec. 20. 29-A MRSA §1401, sub-§4, as amended by PL 1997, c. 437, §34, is repealed.

Sec. 21. 29-A MRSA §1405, sub-§3, as amended by PL 1997, c. 437, §37, is further amended to read:

3. Fee. The fee for a duplicate license, registration certificate and instruction permit is \$2. ~~An additional fee of \$3 is required for a photograph or digital image.~~ The fee for a duplicate license is \$5.

Sec. 22. 29-A MRSA §1406, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is repealed and the following enacted in its place:

§1406. Expiration

1. Expiration of license; persons under 65 years of age. The following provisions apply to the

expiration of a license for persons under 65 years of age.

A. A noncommercial license to operate a motor vehicle issued to a person under 65 years of age expires at midnight on the license holder's 6th birthday following the date of issuance.

B. A commercial driver's license to operate a motor vehicle issued to a person under 65 years of age expires at midnight on the license holder's 5th birthday following the date of issuance.

2. Expiration of license; persons 65 years of age and over. A license to operate a motor vehicle issued to a person 65 years of age or older at the date of issuance expires at midnight on the license holder's 4th birthday following the date of issuance.

3. Leap year birthday. For the purposes of this section, a person born on February 29th is deemed to have been born on March 1st.

4. Renewals. Prior to the expiration of a license to operate a motor vehicle, the Secretary of State shall send the license holder a renewal application.

5. Fee; 6-year license. The fee for the 6-year noncommercial driver's license is \$30.

6. Fee; 5-year license. The fee for the 5-year commercial driver's license is \$34.

7. Fee; 4-year license. The fee for the 4-year noncommercial driver's license is \$21. The fee for the 4-year commercial driver's license is \$28.

Sec. 23. 29-A MRSA §2251, sub-§3, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

3. Form. The Chief of the State Police:

A. Shall prepare and supply forms and approve the format for electronic submission for reports that require sufficiently detailed information to disclose the cause, conditions, persons and vehicles involved including information to permit the Secretary of State to determine whether the requirement for proof of financial responsibility is inapplicable;

B. Shall receive, tabulate and analyze accident reports; ~~and~~

B-1. Shall send all accident reports to the Secretary of State; and

C. May publish statistical information on the number, cause and location of accidents.

Sec. 24. 29-A MRSA §2251, sub-§4, ¶B, as amended by PL 1997, c. 178, §3, is further amended to read:

B. Within 5 days from the time of notification of the accident, transmit an electronic report or the original written report containing all available information to the Chief of the State Police.

Sec. 25. 29-A MRSA §2251, sub-§5, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is repealed.

Sec. 26. 29-A MRSA §2251, sub-§6, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is repealed and the following enacted in its place:

6. Financial responsibility information. The owner or operator of a vehicle involved in an accident shall furnish additional relevant information as the Secretary of State requires to determine the applicability of the requirement of proof of financial responsibility.

The Secretary of State may rely on the accuracy of the information until there is reason to believe that the information is erroneous.

Sec. 27. 29-A MRSA §2251, sub-§7, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

7. Report information. An accident report made by an investigating officer or a 48-hour report made by an operator as required by former subsection 5 is for the purposes of statistical analysis and accident prevention.

A report or statement contained in the accident report, or a 48-hour report as required by former subsection 5, a statement made or testimony taken at a hearing before the Secretary of State held under section 2483, or a decision made as a result of that report, statement or testimony may not be admitted in evidence in any trial, civil or criminal, arising out of the accident.

A report may be admissible in evidence solely to prove compliance with this section.

The Chief of the State Police may disclose the date, time and location of the accident and the names and addresses of operators, owners, injured persons, witnesses and the investigating officer. On written request, the chief may furnish a photocopy of the investigating officer's report at the expense of the person making the request.

Sec. 28. 29-A MRSA §2251, sub-§§10 and 11, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, are amended to read:

10. Suspension. Pursuant to chapter 23, the Secretary of State may suspend or revoke the motor vehicle driver's license and certificate of registration of a person who is required to make a report and fails to do so or who knowingly fails to give correct provide the information required on a report by the Secretary of State.

11. Exemption. The operator of a snowmobile as defined by Title 12, section 7821, or an all-terrain vehicle as defined by Title 12, section 7851, unless the all-terrain vehicle is registered for highway use by the Secretary of State under this Title, is exempt from the reporting requirements of ~~subsections~~ subsection 2 and 5.

Sec. 29. 29-A MRSA §2453, sub-§6, ¶A, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

A. ~~For any OUI offense, the~~ The same suspension period applies as if the person were convicted of OUI.

Sec. 30. 29-A MRSA §2458, sub-§2, ¶P, as amended by PL 2003, c. 25, §2, is further amended to read:

P. Has failed to provide a valid social security number pursuant to section 1301; ~~or~~

Sec. 31. 29-A MRSA §2458, sub-§2, ¶Q, as enacted by PL 2003, c. 25, §3, is amended to read:

Q. Has, as a condition of bail pursuant to Title 15, chapter 105-A or, if a juvenile, as a condition of release pursuant to Title 15, chapter 505, been ordered not to operate a motor vehicle. If the conditions of bail or release allow a person to operate a motor vehicle only under certain conditions or with restrictions on time, place or purpose, the Secretary of State may, without hearing, issue a restricted license reflecting the restrictions imposed; ~~or~~

Sec. 32. 29-A MRSA §2458, sub-§2, ¶R is enacted to read:

R. Is not in compliance with the conditions and requirements of the federal Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001, Public Law 107-56, 115 Stat. 272.

Sec. 33. 29-A MRSA §2458, sub-§4, as amended by PL 2003, c. 25, §4, is further amended to read:

4. Notice of hearing. Upon suspending or revoking a certificate of title, certificate of registration,

license or fuel use decal pursuant to subsection 2, the Secretary of State shall notify that person of opportunity for hearing as provided in section 2483, except ~~where the suspension or revocation rests solely upon a conviction in court of an offense that by statute is expressly made grounds for that suspension or revocation, or the basis of the Secretary of State's action is a condition of bail or conditional release pursuant to subsection 2, paragraph Q; when:~~

A. The suspension or revocation rests solely upon a conviction in court of an offense that by statute is expressly made grounds for that suspension or revocation;

B. The basis of the Secretary of State's action is a condition of bail or conditional release pursuant to subsection 2, paragraph Q; or

C. The suspension or revocation is required by federal statute or regulation.

Sec. 34. 29-A MRSA §2482, sub-§2, ¶C, as amended by PL 1997, c. 776, §50, is further amended to read:

C. If the suspension or revocation is imposed by an authority other than a court, the right of the person to request a hearing; and the procedure for requesting a hearing ~~and the date by which a request for a hearing must be made;~~ and

Sec. 35. PL 2001, c. 463, §7 is amended to read:

Sec. 7. Effective date. That section of this Act that enacts the Maine Revised Statutes, Title 29-A, section 1601-A takes effect ~~July 1, 2003~~ January 1, 2005. Those sections of this Act that amend Title 29-A, section 525, subsection 10; section 2486, subsection 1; section 2605, subsection 4; and section 2608, 3rd paragraph take effect January 1, 2003.

Sec. 36. Report. The Secretary of State shall report to the Joint Standing Committee on Transportation by April 1, 2004 on the status of the implementation of the requirement that a company insuring a motor vehicle notify the Secretary of State when insurance coverage is cancelled or terminated or lapses pursuant to the Maine Revised Statutes, Title 29-A, section 1601-A.

Sec. 37. Effective date. This Act takes effect October 1, 2003, except as otherwise indicated.

Emergency clause. In view of the emergency cited in the preamble, that section of this Act that

amends Public Law 2001, chapter 463, section 7 takes effect when approved.

Effective October 1, 2003, unless otherwise indicated.

CHAPTER 435

H.P. 1104 - L.D. 1511

An Act To Make Technical Changes to the Laws Concerning Tobacco Manufacturers

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

Sec. 1. 22 MRSA §1580-H, sub-§10, as enacted by PL 1999, c. 401, Pt. U, §1 and affected by §2, is amended to read:

10. "Units sold" means the number of individual cigarettes sold in the State by the applicable tobacco product manufacturer (whether directly or through a distributor, retailer or similar intermediary ~~of or~~ intermediaries) during the year in question, as measured by excise taxes collected by the State on packs bearing the excise tax stamp of the State or "roll-your-own" tobacco containers. ~~The Department of Administrative and Financial Services, Bureau of Revenue Services, shall promulgate such~~ Attorney General may adopt rules as are necessary to obtain information from any tobacco product retailer, distributor or manufacturer, to ascertain the amount of state excise tax paid on tobacco products of each tobacco product manufacturer for each year. Rules established pursuant to this section are routine technical rules, as provided in Title 5, ~~Chapter~~ chapter 375, subchapter ~~H-A 2-A~~. Notwithstanding any other provision of law, the Bureau of Revenue Services may provide information ~~obtained pursuant to this section to the Attorney General~~ as is necessary for a tobacco product manufacturer to compile its escrow payment hereunder. In addition, ~~the Department of the Attorney General shall have the authority to~~ may subpoena the records of any tobacco product retailer, distributor, or manufacturer, to enforce this Act.

Sec. 2. 22 MRSA §1580-I, sub-§2, ¶A, as enacted by PL 1999, c. 401, Pt. U, §1 and affected by §2, is amended to read:

A. A tobacco product manufacturer that places funds into escrow pursuant to this subsection shall receive the interest or other appreciation on such funds as earned. Such funds themselves ~~shall~~ must be released from escrow only under the following circumstances—;

(1) to pay a judgment or settlement on any released claim brought against such tobacco product manufacturer by the State or any releasing party located or residing in the State. Funds ~~shall~~ must be released from escrow under this subparagraph;

(a) in the order in which they were placed into escrow; and

(b) only to the extent and at the time necessary to make payments required under such judgment or settlement;

(2) to the extent that a tobacco product manufacturer establishes that the amount it was required to place into escrow on account of units sold in the State in a particular year was greater than ~~the State's allocable share of the total payments that such manufacturer would have been required to make in that year under the Master Settlement Agreement (as determined pursuant to section IX(i)(2) of the Master Settlement Agreement, and before any of the adjustments or offsets described in section IX(i)(3) of that Agreement other than the Inflation Adjustment)~~ the Master Settlement Agreement payments, as determined pursuant to section IX(i) of that agreement including after final determination of all adjustments, that such manufacturer would have been required to make an account of such units sold had it been a participating manufacturer, the excess shall must be released from escrow and revert back to such tobacco product manufacturer. If a court of competent jurisdiction holds that this subparagraph is unconstitutional, then this subparagraph is deemed repealed; or

(2-A) to the extent that a tobacco product manufacturer establishes that the amount it was required to place into escrow in a particular year was greater than the State's allocable share of the total payments that such manufacturer would have been required to make in that year under the Master Settlement Agreement (as determined pursuant to section IX(i)(2) of the Master Settlement Agreement, and before any of the adjustments or offsets described in section IX(i)(3) of that Agreement other than the Inflation Adjustment) had it been a participating manufacturer, the excess must be released from escrow and revert back to such tobacco product manufacturer. This subparagraph takes effect only if, following the repeal of subparagraph (2), as described