

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND TWENTY-FIRST LEGISLATURE

FIRST SPECIAL SESSION
August 21, 2003 to August 22, 2003

The General Effective Date For
First Special Session
Non-Emergency Laws Is
November 22, 2003

SECOND REGULAR SESSION
January 7, 2004 to January 30, 2004

The General Effective Date For
Second Regular Session
Non-Emergency Laws Is
April 30, 2004

SECOND SPECIAL SESSION
February 3, 2004 to April 30, 2004

The General Effective Date For
Second Special Session
Non-Emergency Laws Is
July 30, 2004

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

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Lewiston, Maine
2004

partment rules, may be used only to correct behavior more harmful than the treatment program to the person with mental retardation or autism than is the treatment program and only:

(1) On the recommendation of a physician, psychiatrist or psychologist; ~~and~~

(2) ~~With~~ For an adult 18 years of age or older, with the approval, following a case-by-case review, of a review team composed of an advocate of from the department Office of Advocacy; a representative of the Division of Mental Retardation; and a representative of the Consumer Advisory Board; and

(3) For a child under 18 years of age, with the approval, following a case-by-case review, of a review team composed of an advocate from the Office of Advocacy, a team leader of the department's children's services division and the children's services medical director or the director's designee. Until rules are adopted by the department to govern behavioral treatment reviews for children, the team may not approve techniques any more aversive or intrusive than are permitted in rules adopted by the Secretary of the United States Department of Health and Human Services regarding treatment of children and youth in non-medical community-based facilities funded under the Medicaid program.

The department may adopt rules as necessary to implement this paragraph. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 2. 34-B MRSA §5605, sub-§13, ¶C is enacted to read:

C. Notwithstanding paragraph B, for a child under 18 years of age, treatment programs involving the use of seclusion or any noxious or painful stimuli, as defined in department rules, may not be approved.

Sec. 3. 34-B MRSA §5605, sub-§14, ¶D-1, as amended by PL 2003, c. 368, §2, is repealed and the following enacted in its place:

D-1. A device whose effect is to reduce or inhibit a person's movement in any way but whose purpose is to maintain or ensure the safety of the person is not considered behavioral treatment. Such a device may be used only in conformity with applicable state and federal rules and regulations and only:

(1) When recommended by a qualified professional after approval of the person's service plan;

(2) For an adult 18 years of age or older, when use of the device is approved by a review team composed of an advocate from the Office of Advocacy, a representative of the Division of Mental Retardation and a representative of the Consumer Advisory Board; and

(3) For a child under 18 years of age, when use of the device is approved by a review team composed of an advocate from the Office of Advocacy, a team leader of the department's children's services division and the children's services medical director or the director's designee.

See title page for effective date.

CHAPTER 565

H.P. 1325 - L.D. 1803

An Act Requiring Blood Testing of All Drivers Involved in Fatal Accidents

Mandate preamble. This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, 2/3 of all of the members elected to each House have determined it necessary to enact this measure.

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

Sec. 1. 29-A MRSA §2522, sub-§§1 and 2, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, are amended to read:

1. Mandatory submission to test. If there is probable cause to believe that death has occurred or will occur as a result of an accident, an operator of a motor vehicle involved in the motor vehicle accident shall submit to a chemical test, as defined in section 2401, subsection 3, to determine blood-alcohol level or drug concentration in the same manner as for OUI.

2. Administration of test. The investigating law enforcement officer shall cause a blood test to be administered to the operator of the motor vehicle as soon as practicable following the accident as provided in section 2521 and may also cause a breath test or

another chemical test to be administered if the officer determines appropriate. The operator shall submit to and complete all tests administered. Except as otherwise provided in this section, testing must be conducted in accordance with section 2521.

See title page for effective date.

CHAPTER 566

S.P. 214 - L.D. 605

An Act To Increase the Bond Limit of the Maine Turnpike Authority

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

Sec. 1. 23 MRSA §1968, sub-§1, as amended by PL 2003, c. 32, §1, is further amended to read:

1. Turnpike revenue bonds. In addition to bonds outstanding pursuant to any other provision of this chapter, the authority may provide by resolution from time to time for the issuance of turnpike revenue bonds, including notes or other evidences of indebtedness or obligations defined to be bonds under this chapter, but not exceeding ~~\$291,000,000~~ \$361,000,000 in the principal amount at any one time outstanding exclusive of refundings, for any purpose described in section 1969, subsection 1.

See title page for effective date.

CHAPTER 567

H.P. 1328 - L.D. 1806

An Act To Provide for the Safe Disposal of Household Hazardous Waste

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

Sec. 1. 38 MRSA §2133, sub-§2-B, as amended by PL 1999, c. 779, §3, is further amended to read:

2-B. Household hazardous waste collection. The office may, within available resources, award grants to eligible municipalities, regional associations, sanitary districts and sewer districts for household hazardous waste collection and disposal programs. In implementing this program, the office shall attempt to:

- A. Coordinate the household hazardous waste collection programs with overall recycling and waste management;
- B. Encourage regional economies of scale;
- C. Coordinate programs between private and public institutions;
- D. Maximize opportunities for federal grants and pilot programs; and
- E. By January 1, 2002 and as necessary thereafter, fund capital improvements and operating expenses to facilitate the development of collection programs throughout the State for hazardous waste that is universal waste, as identified in board rules, generated by households, small-quantity generators, public schools and municipalities.

Preference in allocating resources under this subsection must be given to municipalities that participate in a household hazardous waste collection region as defined in subsection 2-D.

At a minimum, the office shall award grants to public schools and municipalities for reasonable costs incurred as a result of managing waste mercury-added products generated by those public schools and municipalities, in compliance with the requirements in sections 1663 and 1664, that would not otherwise be incurred by complying with existing laws, rules or regulations as of July 15, 2002.

Sec. 2. 38 MRSA §2133, sub-§2-D is enacted to read:

2-D. Preference for other state grants and investments. When awarding grants or making a discretionary investment under any of the programs under paragraphs A and B, a state agency shall give preference to a municipality that is part of a household hazardous waste collection region. For purposes of this subsection, "household hazardous waste collection region" means a region made up of 2 or more municipalities that work together to establish a collection center to accept the household hazardous waste of residents of each municipality for disposal on a year-round basis. This subsection applies to:

A. Programs that assist in the acquisition of land for conservation, natural resource protection, open space or recreational facilities under Title 5, chapter 353; and

B. Programs intended to:

- (1) Accommodate or encourage additional growth and development;