

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-SECOND LEGISLATURE

FIRST REGULAR SESSION
December 1, 2004 to March 30, 2005

FIRST SPECIAL SESSION
April 4, 2005 to June 18, 2005

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 29, 2005

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 17, 2005

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

Penmor Lithographers
Lewiston, Maine
2005

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

Sec. 1. 35-A MRSA §302-A is enacted to read:

§302-A. Rules governing political activities, promotional advertising and institutional advertising

Rules adopted by the commission concerning promotional advertising; promotional allowances, including, but not limited to, the granting of promotional rebates or credits; advertising to promote corporate image or goodwill; or political activities by public utilities are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A. Rules on these matters in effect on the effective date of this section remain in effect and do not require legislative approval but any changes to such rules are subject to review and approval in accordance with Title 5, chapter 375, subchapter 2-A.

See title page for effective date.

CHAPTER 205

S.P. 49 - L.D. 143

An Act To Improve Access to Public Lands

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

Sec. 1. I.B. 1975, §3, 2nd ¶ is enacted to read:

The Department of Conservation, Bureau of Parks and Lands may construct and maintain a trail, not more than one mile in length, in the southeast corner of the Bigelow Preserve at a location and of a width to be determined and approved by the bureau. The trail within the Preserve is to be a segment of a longer trail. The trail within the Preserve is for use by the public at no charge for hiking, cross-country skiing and other compatible nonmotorized trail uses only. Motorized equipment and vehicles may be used for the construction of the trail and for grooming of the cross-country ski trail. The Director of the Bureau of Parks and Lands may enter into a lease or other agreement to facilitate the construction, operation or maintenance of the trail by another entity consistent with the Maine Revised Statutes, Title 12, section 1852. All necessary permits and agreements for the trail to be located on land abutting the Preserve must be completed with the owners of the abutting land prior to construction of the

trail within the Preserve. If the segment of trail within the Preserve is not constructed by December 31, 2008, this authorization terminates.

See title page for effective date.

CHAPTER 206

H.P. 980 - L.D. 1416

An Act To Amend the Maine Consumer Credit Code

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

Sec. 1. 9-A MRSA §1-201, sub-§10 is enacted to read:

10. Notwithstanding any other provision of law, this Act applies to any person offering, arranging or purporting to offer or arrange a consumer credit transaction if that person, in advertising or soliciting or otherwise communicating with a consumer, asserts to be located in this State or to possess a license or registration issued pursuant to this Act.

Sec. 2. 9-A MRSA §6-201, as amended by PL 2001, c. 371, §5, is further amended to read:

§6-201. Applicability

This Part applies to a person engaged in this State in entering into consumer credit transactions and to a person having an office or place of business in this State who takes assignments of ~~and~~ or undertakes direct collection of payments from or enforcement of rights against debtors arising from these transactions. In addition, this Part applies to a person, wherever located, who takes assignments of ~~and~~ or undertakes direct collection of payments from or enforcement of rights against debtors arising from a consumer credit ~~sale of a motor vehicle transaction~~ subject to this Title. This Part also applies to a person, other than a supervised financial organization, wherever located, who takes assignments of ~~and~~ or undertakes direct collection of payments from or enforcement of rights against debtors arising from a consumer credit transaction subject to Article ~~IX~~ 9.

Sec. 3. 9-A MRSA §§9-305-A and 9-305-B are enacted to read:

§9-305-A. Timely payments from escrow

A creditor, assignee or servicer that holds or controls funds of a consumer in an escrow account for the payment of taxes or insurance premiums shall make timely payments from that escrow account for a consumer credit transaction secured by a mortgage on

real estate. A creditor, assignee or servicer is liable to the consumer for actual damages resulting from failure to make timely payments from that escrow account. The creditor, assignee or servicer shall also rectify the results of a failure to make timely payments, including causing corrections of the consumer's credit report and causing the discharge of any liens against the consumer's real estate.

§9-305-B. Timely responses to requests for payoff figures

A creditor, assignee or servicer shall respond to a request for a payoff figure within 3 business days following receipt of such a request from a consumer or an agent of the consumer for a consumer credit transaction secured by a mortgage on real estate. The response must include a precise payoff figure as of a date certain and must contain information permitting the consumer or the consumer's agent to update that figure, such as providing a per diem rate from a date certain. A charge may not be assessed for the first 2 requests in any calendar year, and a charge for each subsequent request may not exceed \$5.

Sec. 4. 9-A MRSA §9-405, sub-§1, as enacted by PL 1987, c. 396, §12, is amended to read:

1. If a creditor, assignee or servicer has violated the provisions of this article applying to timely payments from escrow, section 9-305-A, timely responses to requests for payoff figures, section 9-305-B, misrepresentation, section 9-401, or illegal, fraudulent or unconscionable conduct in an attempted collection of debts, section 9-403, any aggrieved consumer has a right to recover actual damages from that person, or in lieu thereof any consumer named as a plaintiff in the complaint as originally filed has a right to recover from a person violating this article an amount determined by the court not less than \$250 nor more than \$1,000. No action pursuant to this subsection may be brought more than 2 years after the due date of the last scheduled payment.

See title page for effective date.

CHAPTER 207

H.P. 693 - L.D. 983

An Act To Make Technical Changes to the Maine Criminal Code

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

Sec. 1. 17-A MRSA §506-B, sub-§3, as amended by PL 1995, c. 694, Pt. D, §25 and affected by Pt. E, §2, is further amended to read:

3. Violation of a protection from abuse order issued under Title 19-A, section 4006 or 4007, subsection 1, paragraphs A to G, is a Class D crime as provided in Title 19-A, section 4011, subsection 1 or a Class C crime as provided in Title 19-A, section 4011, subsection 4.

Sec. 2. 17-A MRSA §959, sub-§§3, 4, 5 and 6, as enacted by PL 2001, c. 461, §2, are amended to read:

3. Forfeitures under this section must be accomplished by the following procedure.

A. A district attorney or the Attorney General may petition the Superior Court in the name of the State in the nature of a proceeding in rem to order forfeiture of an illegal gambling machine ~~and~~ any monetary contents and any associated proceeds. The petition must be filed in the court having jurisdiction over the property.

B. The proceeding under paragraph A is an in rem civil action, in which the State has the burden of proving all material facts by a preponderance of the evidence.

C. A court shall order the State to give notice of the pendency of the action and the right to be heard by certified or registered mail or through hand delivery by a deputy sheriff to any person who appears to have an interest in the illegal gambling machine ~~and~~ any monetary contents and any associated proceeds. Receipt by a person then licensed to operate a motor vehicle in the State is presumed when notice is mailed to the last known address of that person on file with the Department of the Secretary of State, Bureau of Motor Vehicles.

D. A court shall promptly, but not less than 2 weeks after notice, hold a hearing on the petition after an answer is filed by a person served with notice under paragraph C. At the hearing, the court shall hear evidence and make findings of fact and enter conclusions of law.

E. Based on the findings and conclusions, the court shall issue a final order, from which the parties have a right of appeal. The final order must provide for disposition of the illegal gambling machine ~~and~~ any monetary contents and any associated proceeds by the State. Any revenue generated by the disposition of the illegal gambling machine ~~and~~ any monetary contents of the machine and any associated proceeds must be used to pay the reasonable expenses of the forfeiture proceedings, seizure, storage, maintenance of custody, advertising and notice. The balance, if any, must be deposited in the General Fund.