

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

MARINE RESOURCES, DEPARTMENT OF

Division of Community Resource Development 0043

Initiative: Deappropriates funds that are no longer needed for certain publication costs.

GENERAL FUND	2005-06	2006-07
All Other	(\$2,500)	(\$2,500)
GENERAL FUND TOTAL	(\$2,500)	(\$2,500)

See title page for effective date.

CHAPTER 435

S.P. 263 - L.D. 796

**An Act To Implement the
Recommendations of the Commission
To Study Public Health That
Concern Schools, Children and
Nutrition**

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

Sec. 1. 20-A MRSA c. 223, sub-c. 9 is enacted to read:

SUBCHAPTER 9

NUTRITION EDUCATION

§6661. Nutrition education

The department shall work with public schools to encourage nutrition education for students and for teachers and staff as part of coordinated school health programs and school food service programs and in accordance with chapter 222. The department shall work with public schools to encourage an outreach component for students' parents and guardians as part of a coordinated school health program. The department may adopt rules to implement the purposes of this section. Rules adopted pursuant to this section are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

§6662. Foods outside school meal program

1. Nutritional information. After August 31, 2008, food service programs must post caloric information for prepackaged a la carte menu items at the point-of-decision.

2. Food and beverages outside school lunch programs. The department shall adopt rules to establish standards for food and beverages sold or distributed on school grounds but outside of school meal programs. These standards must include maximum portion sizes, except for portion sizes for

milk, that are consistent with single-serving standards established by the United States Food and Drug Administration. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

Rules adopted pursuant to this subsection do not apply to food and beverages sold or offered at community events or fund-raisers held outside the hours of the normal school day.

Sec. 2. Dairy vending machines. By January 31, 2006, the Department of Education, in collaboration with the Maine Dairy and Nutrition Council, shall implement a pilot program to install dairy vending machines selling flavored or unflavored milk with 1% or less fat in schools.

Sec. 3. Implementation of National Farm to School Program. By January 31, 2006, the Department of Education, in collaboration with the Department of Agriculture, Food and Rural Resources, shall implement the National Farm to School Program, funded by the United States Department of Agriculture, as fully as is practicable to provide locally grown fruits and vegetables in public schools.

See title page for effective date.

CHAPTER 436

H.P. 838 - L.D. 1220

**An Act To Improve the Process for
Reporting Accidents Involving
Recreational Vehicles**

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

Sec. 1. 12 MRSA §10501, sub-§11, as affected by PL 2003, c. 614, §9 and amended by c. 655, Pt. B, §57 and affected by §422, is further amended to read:

11. Failure to give notice of snowmobile accident. Failure of a person who is required to give notice of a snowmobile accident under ~~section 13106-A, subsection 23~~ sections 13069-C and 13106-B to give that notice to the available law enforcement officer nearest to the place where the accident occurred is prima facie evidence that the accident was not reported.

Sec. 2. 12 MRSA §13052, sub-§6, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

6. Information to federal officials or agencies. The commissioner shall transmit any information

compiled or otherwise available to the commissioner pursuant to ~~section 13069, subsections 1 and 2 sections 13069-A, 13069-B and 13069-C~~ to an authorized official or agency of the United States, in accordance with any request duly made by that official or agency.

Sec. 3. 12 MRSA §13069, as amended by PL 2003, c. 655, Pt. B, §381 and affected by §422, is repealed.

Sec. 4. 12 MRSA §§13069-A, 13069-B and 13069-C are enacted to read:

§13069-A. Watercraft accidents involving personal injury or death

The following provisions govern accidents involving watercraft that result in personal injury or death of a person.

1. Law enforcement officer notification. The operator of a watercraft involved in an accident that results in personal injury or death of a person or results in the disappearance of a person indicating death or injury shall immediately report the accident, by the quickest means of communication, to the available law enforcement officer nearest to the place where the accident occurred.

A. The owner of a watercraft who knows that that watercraft was involved in an accident as described in this subsection shall report the accident as provided in this subsection if the operator of the watercraft is unknown.

2. Provide information to injured party. The operator or a person acting on behalf of the operator of a watercraft involved in an accident shall provide to an injured person or the operator or an occupant of any other watercraft involved in the accident:

A. The operator's name and address; and

B. The registration number of the operator's watercraft.

3. Render assistance. The operator of a watercraft involved in an accident shall render reasonable assistance to an injured person.

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

5. Aggravated punishment category. Notwithstanding subsection 4, a person who intentionally, knowingly or recklessly fails to comply with this section when the accident resulted in serious bodily injury, as defined in Title 17-A, section 2, subsection 23, or death, commits a Class C crime.

§13069-B. Watercraft accidents involving property damage

The following provisions govern accidents involving watercraft that result in property damage only.

1. Provide information. The operator of a watercraft involved in a collision or accident that results in property damage estimated to be in an amount of \$1,000 or more shall provide the owner or operator of that property:

A. The operator's name and address; and

B. The registration number of the operator's watercraft.

2. Render assistance. The operator of a watercraft involved in an accident shall render reasonable assistance to all persons involved in the accident as far as the operator can without serious damage to the operator's watercraft or serious risk to crew or passengers.

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

§13069-C. Watercraft accident reports

A person shall report a watercraft accident to the commissioner in accordance with this section.

1. Injury to person. An operator or owner of a watercraft involved in a collision, accident or other casualty while using the watercraft that results in the death of a person, a person's losing consciousness or receiving medical treatment, a person's becoming disabled for more than 24 hours or the disappearance of a person from a watercraft under circumstances indicating death or injury shall file a written report on forms provided by the commissioner containing the information as required by the commissioner within 24 hours of the occurrence.

2. Damage to watercraft. Accidents involving only damage to watercraft or other property to the estimated amount of \$1,000 or more must be reported within 72 hours on forms provided by the commissioner.

3. Penalties. The following penalties apply to violations of this section.

A. A person who violates this section commits a civil violation for which a fine of not less than \$100 nor more than \$500 may be adjudged.

B. A person who violates this section after having been adjudicated as having committed 3 or more civil violations under this Part within the previous 5-year period commits a Class E crime.

Sec. 5. 12 MRSA §13106-A, sub-§23, as enacted by PL 2003, c. 655, Pt. B, §394 and affected by §422, is repealed.

Sec. 6. 12 MRSA §§13106-B and 13106-C are enacted to read:

§13106-B. Snowmobile accidents involving personal injury or death

The following provisions govern snowmobile accidents that result in personal injury or death of a person.

1. Law enforcement officer notification. The operator of a snowmobile involved in an accident that results in personal injury or death of a person shall immediately report the accident, by the quickest means of communication, to the available law enforcement officer nearest to the place where the accident occurred.

A. The owner of a snowmobile who knows that that snowmobile was involved in an accident as described in this subsection shall report the accident as provided in this subsection if the operator of the snowmobile is unknown.

2. Provide information to injured party. The operator or a person acting on behalf of the operator of a snowmobile involved in an accident shall provide to an injured person or the operator or an occupant of any other snowmobile involved in the accident:

A. The operator's name and address; and

B. The registration number of the operator's snowmobile.

3. Render assistance. The operator of a snowmobile involved in an accident shall render reasonable assistance to an injured person.

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

5. Aggravated punishment category. Notwithstanding subsection 4, a person who intentionally, knowingly or recklessly fails to comply with this section when the accident resulted in serious bodily injury, as defined in Title 17-A, section 2, subsection 23, or death, commits a Class C crime.

§13106-C. Snowmobile accident reports

1. Report requirements. A person shall give notice of a snowmobile accident within 72 hours to the commissioner on forms provided by the commissioner if the person is:

A. The operator of a snowmobile involved in an accident that does not result in injuries requiring

the services of a physician or in the death of a person but involves property damage estimated to cost \$1,000 or more;

B. A person acting for the operator of a snowmobile described in paragraph A; or

C. The owner of a snowmobile described in paragraph A having knowledge of the accident, if the operator of the snowmobile is unknown.

2. Penalties. The following penalties apply to violations of this section.

A. A person who violates this section commits a civil violation for which a fine of not less than \$100 nor more than \$500 may be adjudged.

B. A person who violates this section after having been adjudicated as having committed 3 or more civil violations under this Part within the previous 5-year period commits a Class E crime.

Sec. 7. 12 MRSA §13157-A, sub-§20, as enacted by PL 2003, c. 655, Pt. B, §414 and affected by §422, is repealed.

Sec. 8. 12 MRSA §§13157-B and 13157-C are enacted to read:

§13157-B. ATV accidents involving personal injury or death

1. Law enforcement officer notification. The operator of an ATV involved in an accident that results in personal injury or death of a person shall immediately report the accident, by the quickest means of communication, to the available law enforcement officer nearest to the place where the accident occurred.

A. The owner of an ATV who knows that that ATV was involved in an accident as described in this subsection shall report the accident as provided in this subsection if the operator of the ATV is unknown.

2. Provide information to injured party. The operator or a person acting on behalf of the operator of an ATV involved in an accident shall provide to an injured person or the operator or an occupant of any other ATV involved in the accident:

A. The operator's name and address; and

B. The registration number of the operator's ATV.

3. Render assistance. The operator of an ATV involved in an accident shall render reasonable assistance to an injured person.

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

5. Aggravated punishment category. Notwithstanding subsection 4, a person who intentionally, knowingly or recklessly fails to comply with this section when the accident resulted in serious bodily injury, as defined in Title 17-A, section 2, subsection 23, or death, commits a Class C crime.

§13157-C. ATV accident reports

1. Report requirements. A person shall give notice of an ATV accident within 72 hours to the commissioner on forms provided by the commissioner if the person is:

A. The operator of an ATV involved in an accident that does not result in injuries requiring the services of a physician or in the death of a person but involves property damage estimated to cost \$1,000 or more;

B. A person acting for the operator of an ATV described in paragraph A; or

C. The owner of an ATV described in paragraph A having knowledge of the accident if the operator of the ATV is unknown.

2. Penalties. The following penalties apply to violations of this section.

A. A person who violates this section commits a civil violation for which a fine of not less than \$100 nor more than \$500 may be adjudged.

B. A person who violates this section after having been adjudicated as having committed 3 or more civil violations under this Part within the previous 5-year period commits a Class E crime.

See title page for effective date.

CHAPTER 437

H.P. 738 - L.D. 1085

**An Act To Require Alcohol Retailers
To Post Signs Regarding the Laws
Governing Alcohol**

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

Sec. 1. 28-A MRSA §15 is enacted to read:

§15. Display of signs

A licensee under chapter 19 or 45 shall post a sign provided by the commissioner in a conspicuous

location at the licensed premises informing customers of the provisions of sections 2051 and 2081. A person who violates this section commits a civil violation for which a fine of not less than \$50 nor more than \$200 may be adjudged for any one offense.

Sec. 2. Commissioner to distribute signs.

Within the existing resources of the Department of Public Safety, the Commissioner of Public Safety shall create a sign that describes the provisions of the Maine Revised Statutes, Title 28-A, sections 2051 and 2081 pursuant to Title 28-A, section 15 and distribute a copy of the sign to all liquor licensees under Title 28-A, chapters 19 and 45.

See title page for effective date.

CHAPTER 438

S.P. 149 - L.D. 462

**An Act To Make the 3rd Violation of
OUI a Class C Crime**

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

Sec. 1. 29-A MRSA §2411, sub-§5, ¶C, as amended by PL 2003, c. 673, Pt. TT, §4, is further amended to read:

C. For a person having 2 previous OUI offenses within a 10-year period, which is a Class C crime:

(1) A fine of not less than \$1,100, except that if the person failed to submit to a test at the request of a law enforcement officer, a fine of not less than \$1,400;

(2) A period of incarceration of not less than 30 days, except that if the person failed to submit to a test at the request of a law enforcement officer, a period of incarceration of not less than 40 days;

(3) A court-ordered suspension of a driver's license for a period of 4 years; and

(4) In accordance with section 2416, a court-ordered suspension of the person's right to register a motor vehicle;

See title page for effective date.