

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-SECOND LEGISLATURE

SECOND SPECIAL SESSION
July 29, 2005

SECOND REGULAR SESSION
January 4, 2006 to May 24, 2006

THE GENERAL EFFECTIVE DATE FOR
SECOND SPECIAL SESSION
NON-EMERGENCY LAWS IS
OCTOBER 28, 2005

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
AUGUST 23, 2006

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

Penmor Lithographers
Lewiston, Maine
2006

Sec. 17. 17-A MRSA §1252, sub-§4, as amended by PL 1977, c. 510, §78, is further amended to read:

4. If the State pleads and proves that a Class B, C, D or E crime was committed with the use of a dangerous weapon then the sentencing class for such crime is one class higher than it would otherwise be. In the case of a Class A crime committed with the use of a dangerous weapon, such use should be given serious consideration by the court in exercising its sentencing discretion. This subsection ~~shall~~ does not apply to a violation or an attempted violation of section 208, to any other offenses to which use of a dangerous weapon serves as an element or to any offense for which the sentencing class is otherwise increased because the actor or an accomplice to ~~his~~ that actor's or accomplice's knowledge is armed with a firearm or other dangerous weapon.

Sec. 18. 17-A MRSA §1252, sub-§4-A, as amended by PL 2005, c. 447, §1, is further amended to read:

4-A. If the State pleads and proves that, at the time any crime, excluding murder, under chapter 9, 11, 13 or 27; section 402-A, subsection 1, paragraph A; or section 752-A or 752-C was committed, the defendant had been convicted of 2 or more crimes violating chapter 9, 11, 13 or 27; section 402-A, subsection 1, paragraph A; or section 752-A or 752-C or essentially similar crimes in other jurisdictions, the sentencing class for the crime is one class higher than it would otherwise be. In the case of a Class A crime, the sentencing class is not increased, but the prior record must be given serious consideration by the court when imposing a sentence. Section 9-A governs the use of prior convictions when determining a sentence, except that, for the purposes of this subsection, for violations under chapter 11, the dates of prior convictions may have occurred at any time. This subsection does not apply to section 210-A if the prior convictions have already served to enhance the sentencing class under section 210-A, subsection 1, paragraph C or any other offense in which prior convictions have already served to enhance the sentencing class.

Sec. 19. 17-A MRSA §1252, sub-§4-B, ¶B, as enacted by PL 1999, c. 788, §8, is amended to read:

B. "Accompanied by sexual assault" as used with respect to attempted murder, murder and crimes involving substantially similar conduct in other jurisdictions is satisfied if ~~the sentencing court at the time of sentence imposition makes such a finding it was definitionally an element of the crime or was pleaded and proved beyond a reasonable doubt at trial by the State or other jurisdiction.~~

Sec. 20. 17-A MRSA §1252, sub-§9 is enacted to read:

9. Subsections in this section that make the sentencing class for a crime one class higher than it would otherwise be when pled and proved may be applied successively if the subsections to be applied successively contain different class enhancement factors.

Sec. 21. 17-A MRSA §1348, as enacted by PL 2003, c. 711, Pt. A, §19, is amended to read:

§1348. Eligibility for deferred disposition

A person who has pled guilty to a Class C, Class D or Class E crime, ~~except a crime expressly providing that one or more punishment alternatives it authorizes may not be suspended,~~ and who consents to a deferred disposition in writing, is eligible for a deferred disposition.

See title page for effective date.

CHAPTER 528

H.P. 1213 - L.D. 1706

An Act To Prohibit Parking in Access Aisles

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

Whereas, current law is ambiguous on the use of access aisles for disability parking by the disabled; and

Whereas, it is necessary that this ambiguity be eliminated as soon as possible; 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. 29-A MRSA §521, sub-§9-A, as amended by PL 2005, c. 433, §7 and affected by §28, is further amended to read:

9-A. Enforcement of disability parking restrictions. A law enforcement officer may enforce disability parking restrictions. The State Police shall enforce disability parking restrictions at service facilities established on the Maine Turnpike and on the interstate highway system in the State. A person

commits a traffic infraction if that person parks in a parking space ~~or access aisle~~ designated and clearly marked for persons with physical disabilities and has not been issued or is not transporting a person who has been issued a disability registration plate or a removable windshield placard pursuant to this section or section 523 or a disability registration plate or placard issued by another state. A person commits a traffic infraction if that person parks in an access aisle, regardless of whether the person has been issued a disability registration plate or removable placard. Notwithstanding section 2604, a person who violates this subsection is subject to a fine of not less than \$200 and not more than \$500.

Sec. 2. 29-A MRSA §521, sub-§9-B is enacted to read:

9-B. Registered owner's liability for vehicle illegally parked in disability parking space access aisle. A person who is a registered owner of a vehicle at the time that vehicle is involved in a violation of subsection 9-A commits a traffic infraction. For purposes of this subsection, "registered owner" includes a person issued a dealer or transporter registration plate.

A. Anyone who observes a violation of subsection 9-A may report the violation to a law enforcement officer. If a report is made, the observer shall report the time and the location of the violation and the registration plate number and a description of the vehicle involved. The officer shall initiate an investigation of the reported violation and, if possible, contact the registered owner of the motor vehicle involved and request that the registered owner supply information identifying the operator.

B. The investigating officer may cause the registered owner of the vehicle to be served with a summons for a violation of this subsection.

C. Except as provided in paragraph D, it is not a defense to a violation of this subsection that a registered owner was not operating the vehicle at the time of the violation.

D. The following are defenses to a violation of this subsection.

(1) If a person other than the owner is found to be operating the vehicle at the time of the violation and is adjudicated of violating subsection 9-A, then the registered owner may not be found in violation of this subsection.

(2) If the registered owner is a lessor of vehicles and at the time of the violation the vehicle was in the possession of a lessee,

and the lessor provides the investigating officer with a copy of the lease agreement containing the information required by section 254, then the lessee and not the lessor may be charged under this subsection.

(3) If the vehicle is operated using a dealer or transporter registration plate and at the time of the violation the vehicle was operated by any person other than the dealer or transporter, and if the dealer or transporter provides the investigating officer with the name and address of the person who had control over the vehicle at the time of the violation, then that person and not the dealer or transporter may be charged under this subsection.

(4) If a report that the vehicle was stolen is given to a law enforcement officer or agency before the violation occurs or within a reasonable time after the violation occurs, then the registered owner may not be charged under this subsection.

E. Notwithstanding section 2604, a person who violates this subsection is subject to a fine of not less than \$200 and not more than \$500.

Sec. 3. 30-A MRSA §3009, sub-§1, ¶D, as amended by PL 2003, c. 117, §1, is further amended to read:

D. The following provisions apply to the establishment and policing of parking spaces and access aisles for ~~handicapped~~ disabled persons.

(1) Municipal public parking areas are subject to any applicable requirements of the Maine Human Rights Act, Title 5, chapter 337, subchapter 5. The municipality shall post a sign adjacent to and visible from each ~~handicapped~~ disability parking space established by the municipality. The sign must display the international symbol for accessibility.

(2-A) Enforcement of ~~handicapped~~ disability parking restrictions must be in accordance with Title 29-A, section 521, subsection 9-A.

(3) Any vehicle or motorcycle parked in a parking space clearly marked as a ~~handicapped~~ disability parking space and that does not bear a special registration plate or placard issued under Title 29-A, section 521 or 523, or a similar plate issued by another state, must be cited for a ~~forfeiture~~ fine of not less than ~~\$100~~ \$200 and not more than \$500. "Clearly marked" includes

painted signs on pavement and vertical standing signs that are visible in existing weather conditions.

(4) The municipal officers may establish and enforce the time limit for use of a parking space reserved as a ~~handicapped~~ disability parking space on a public way or public parking area.

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

Effective April 4, 2006.

CHAPTER 529

H.P. 1314 - L.D. 1874

An Act To Amend the Laws Relating to Corporations, Limited Partnerships, Limited Liability Companies and Limited Liability Partnerships

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

Sec. 1. 13-B MRSA §1401, sub-§8, as amended by PL 1999, c. 594, §16, is further amended to read:

8. Statement of change in registered office. Statement of change in registered office, as provided by section 305, subsection 3, ~~\$5~~ \$15 for each corporation listed; or when separate statements are filed at one time, ~~\$5~~ \$15 for each separate statement up to but not exceeding 100 statements, ~~\$2~~ \$10 for each separate statement over 100 but not exceeding 200 statements, and ~~\$1~~ \$5 for each separate statement over 200 statements;

Sec. 2. 13-B MRSA §1401, sub-§14, as amended by PL 1997, c. 376, §31, is further amended to read:

14. Articles of merger or consolidation. Articles of merger or consolidation, as provided by section 904, ~~\$10~~ \$25; and if the merger or consolidation changes the survivor's purposes, a further additional amount of ~~\$5~~ \$15;

Sec. 3. 13-B MRSA §1401, sub-§31-A, as enacted by PL 2003, c. 631, §9, is amended to read:

31-A. Amended annual report. An amended annual report of a domestic or foreign corporation as provided by section 1301-C, ~~\$40~~ \$35;

Sec. 4. 31 MRSA §494, sub-§6, as amended by PL 1993, c. 316, §60, is further amended to read:

6. Resignation of agent; appointment by limited partnership; service of process. After receipt of the notice of the resignation of its registered agent under subsection 3, paragraph B, a limited partnership shall file a certificate of amendment designating a new registered agent. If the limited partnership fails to appoint a new registered agent within ~~30~~ 60 days after the filing of the certificate of resignation, the authority of that foreign limited partnership to carry on business in this State is canceled and the foreign limited partnership may not carry on business in this State.

Sec. 5. 31 MRSA §526, sub-§15-B, as amended by PL 2005, c. 12, Pt. FF, §7, is further amended to read:

15-B. Amended annual report. For filing an amended annual report under section 529-A, for a domestic limited partnership, a fee of \$85; for a foreign limited partnership, a fee of \$150;

Sec. 6. 31 MRSA §714, sub-§6, as enacted by PL 1993, c. 718, Pt. A, §1, is amended to read:

6. Resignation of agent; appointment by limited liability company; service of process. After receipt of the notice of the resignation of its registered agent under subsection 3, paragraph B, the limited liability company shall file a certificate of amendment designating a new registered agent. If the limited liability company fails to appoint a new registered agent within ~~30~~ 60 days after the filing of the certificate of resignation, the authority of that foreign limited liability company to carry on business in this State is canceled and the foreign limited liability company may not carry on business in this State.

Sec. 7. 31 MRSA §751, sub-§20-B, as amended by PL 2005, c. 12, Pt. FF, §10, is further amended to read:

20-B. Amended annual report. For filing an amended annual report under section 757-A, for a domestic limited liability company, a fee of \$85; for a foreign limited liability company, a fee of \$150;

Sec. 8. 31 MRSA §854, sub-§6, as enacted by PL 1995, c. 633, Pt. B, §1, is amended to read:

6. Resignation of agent; appointment by foreign limited liability partnership; service of process. After receipt of the notice of the resignation of its registered agent under subsection 3, paragraph B, the foreign limited liability partnership shall file a certificate of amendment designating a new registered agent. If the foreign limited liability partnership fails to appoint a new registered agent within ~~30~~ 60 days after the filing of the certificate of resignation, the