

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

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

Whereas, an inequity exists with regard to the timing of disbursements of funds to supplement harness racing purses; and

Whereas, the inequity will have a negative impact on harness racing purses provided at certain agricultural fairs in the 2006 racing season; 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. 8 MRSA §298, sub-§2, as enacted by PL 2003, c. 687, Pt. A, §3 and affected by Pt. B, §11, is repealed and the following enacted in its place:

2. Distribution. On April 30th, July 30th, October 30th and January 30th of each year, all amounts credited to the fund established by this section as of the last day of the preceding month and not distributed before that day must be distributed to each commercial track, as defined in section 275-A, subsection 1, to each agricultural fair licensee that conducts live racing on fair dates assigned by the commissioner pursuant to Title 7, section 65 and to each agricultural fair licensee that conducts an extended meet as long as that licensee conducted an extended meet in 2005, with each commercial track and each agricultural fair licensee receiving an amount of money determined by multiplying the amount of money available for distribution times a fraction, the numerator of which is the total number of live race dashes assigned to the commercial track or agricultural fair licensee for the year and the denominator of which is the total number of race dashes assigned to all commercial tracks and agricultural fair licensees for the year. The payment in January must be adjusted so that for the prior year each commercial track or agricultural fair licensee entitled to a distribution receives that portion of the total money distributed for the full year from the fund established by this section that is determined by multiplying the total amount of money by a fraction, the numerator of which is the number of live race dashes conducted by the commercial track or agricultural fair licensee during the calendar year that qualify for a distribution and the denominator of which is the total number of race dashes conducted during that calendar year that qualify for a distribution. For purposes of this subsection, a race dash qualifies for distribution if the dash was conducted by a commer-

cial track or by an agricultural fair licensee on dates assigned under Title 7, section 65 or during an extended meet. The number of dashes held at an extended meet that qualify for distribution may not exceed the number of dashes conducted by the licensee during an extended meet in 2005. The funds distributed pursuant to this subsection must be used to supplement harness racing purses.

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

Effective April 12, 2006.

CHAPTER 577

H.P. 1027 - L.D. 1464

An Act To Amend the Laws Relating to Motorized Scooters, Motor-driven Cycles and Mopeds

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

Whereas, there has been a drastic increase in the number of motorized cycles and off-road vehicles; and

Whereas, the law regarding these motorized cycles and off-road vehicles is not clear; 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 §101, sub-§36, as amended by PL 2001, c. 687, §4, is repealed and the following enacted in its place:

36. Moped. "Moped" means a motorized device designed to travel with only 2 or 3 10-inch or larger diameter wheels in contact with the ground and that:

A. May have fully operative pedals for propulsion by human power;

B. Has an electric or a liquid fuel motor with a cylinder capacity displacement not exceeding 50 cubic centimeters or an electric motor with a capacity under 1,500 watts; and

C. Is equipped with a power drive system that functions only directly or automatically and does not require clutching or shifting by the operator after the drive system is engaged.

"Moped" does not include an electric personal assistive mobility device.

Sec. 2. 29-A MRSA §101, sub-§38, 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:

38. Motorcycle. "Motorcycle" means a motor vehicle that has a seat or a saddle for the use of the rider and is designed to travel with only 2 or 3 10-inch or larger diameter wheels in ground contact and has a motor with a cylinder capacity of more than 50 cubic centimeters or an electric motor with a capacity of not less than 1,500 watts.

Sec. 3. 29-A MRSA §101, sub-§39, as amended by PL 2001, c. 687, §5, is repealed.

Sec. 4. 29-A MRSA §101, sub-§41-B, as amended by PL 2001, c. 687, §8, is further amended to read:

41-B. Motorized scooter. "Motorized scooter" means a scooter that has 2 or 3 wheels less than 10 inches in diameter in ground contact or is powered by a motor having a maximum piston displacement of less than 25 cubic centimeters or an electric ~~driven~~ motor and is capable of a maximum speed of no more than 25 miles per hour on a flat surface motor with a capacity not exceeding 750 watts. "Motorized scooter" does not include an electric personal assistive mobility device.

Sec. 5. 29-A MRSA §101, sub-§42, ¶B, as amended by PL 2003, c. 414, Pt. B, §43 and affected by c. 614, §9, is further amended to read:

B. An all-terrain vehicle as defined in Title 12, section 13001, unless the all-terrain vehicle ~~is registered for highway use is permitted in accordance with section 501, subsection 8~~ or is operated on a way and section 2080 applies; and

Sec. 6. 29-A MRSA §101, sub-§47-A is enacted to read:

47-A. Off-road vehicle. "Off-road vehicle" means a motor vehicle that, because of the vehicle's design and configuration, does not meet the inspection standards of chapter 15 and that is not a moped or motorcycle.

Sec. 7. 29-A MRSA §101, sub-§64-C, as repealed and replaced by PL 2003, c. 510, Pt. A, §24, is amended to read:

64-C. Scooter. "Scooter" means a device upon which a person may ride, consisting of a footboard between 2 end wheels, controlled by an upright steering handle attached to the front wheel and propelled by human power ~~or a motor.~~ ~~"Scooter" does not include an electric personal assistive mobility device.~~

Sec. 8. 29-A MRSA §354 is enacted to read:

§354. Off-road vehicles

Off-road vehicles may not be registered in accordance with this Title.

Sec. 9. 29-A MRSA §405, sub-§1, as amended by PL 2001, c. 671, §5, is further amended to read:

1. Automobile, truck, truck tractor, motor home, motorcycle, moped, semitrailers not exceeding a gross vehicle weight of 2,000 pounds, special mobile equipment, tractor and camp trailer registration. Registration for an automobile, truck, truck tractor, motor home, motorcycle, moped, ~~motor-driven cycle~~, semitrailer not exceeding a gross vehicle weight of 2,000 pounds, special mobile equipment, tractor and camp trailer is as follows.

A. A registration expires on the last day of the month one year from the month of issuance.

B. When an application is made after the registration for the previous year has expired, the term of the renewal begins on the month of the issuance of the previous registration.

C. A person who has a fleet of 5 or more motor vehicles may petition the Secretary of State for a common expiration date of all vehicle registrations.

Sec. 10. 29-A MRSA §452, sub-§1, ¶B, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

B. A motorcycle ~~or motor-driven cycle~~ registration plate may not be attached to the front of that motorcycle ~~or motor-driven cycle~~.

Sec. 11. 29-A MRSA §652, sub-§7, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

7. Motorcycle or moped of less than 300 cubic centimeters. A motorcycle, ~~motor-driven cycle~~ or a moped with an engine displacement of less than 300 cubic centimeters;

Sec. 12. 29-A MRSA §851, sub-§8, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

8. Motorcycle dealer. "Motorcycle dealer" means a dealer whose primary business is the buying or selling of new or used motorcycles, or both, ~~or motor-driven cycles, or both.~~

Sec. 13. 29-A MRSA §954, sub-§2, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

2. Motorcycle. Motorcycle dealer plates and a license may be issued to a person engaged in the manufacturing or buying and selling of new or used motorcycles ~~or motor-driven cycles.~~

Sec. 14. 29-A MRSA §1252, sub-§2, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

2. School bus or motorcycle. Operation of a school bus, ~~or motorcycle or motor-driven cycle~~ requires a special endorsement on a license.

A nonresident school bus driver picking up and discharging school children or driving in conjunction with school-related activities may operate a vehicle with a certificate issued by the Secretary of State.

A school bus certificate may be issued only after the applicant has successfully passed the required examination.

Sec. 15. 29-A MRSA §1252, sub-§3, ¶A, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

A. By a person who does not possess a valid license of any class or a license specially endorsed to operate a motorcycle, ~~a motor-driven cycle~~ or a moped; or

Sec. 16. 29-A MRSA §1254, sub-§1, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

1. Motorcycles. The Secretary of State may issue a license specifically endorsed for the operation of a motorcycle ~~or motor-driven cycle~~ with the same requirements as a motor vehicle license. A motor vehicle license does not authorize operation of a motorcycle ~~or motor-driven cycle~~ unless the license is endorsed for ~~those vehicles~~ that vehicle.

Sec. 17. 29-A MRSA §1254, sub-§3, as amended by PL 1999, c. 170, §2, is further amended to read:

3. Motorized bicycle, tricycle or scooter operator. A motorized bicycle or tricycle or motorized scooter may only be operated by a person who possesses a valid license of any class, an instruction permit or a license endorsed for a motorcycle, ~~motor-driven cycle~~ or moped. The Secretary of State may

not require the operator of a motorized bicycle or tricycle or motorized scooter to obtain a license endorsed for a motorcycle, ~~motor-driven cycle~~ or moped.

Sec. 18. 29-A MRSA §1304, sub-§1, ¶E, as repealed and replaced by PL 2001, c. 710, §13 and affected by §14, is amended to read:

E. Unless the permittee is operating a motorcycle or ~~motor-driven cycle~~ moped, the permit requires the permittee to be accompanied by a licensed operator who:

- (1) Has held a valid license for the immediately preceding 2 consecutive years;
- (2) Is at least 20 years of age;
- (3) Is occupying a seat beside the driver; and
- (4) Is licensed to operate the class vehicle operated by the permittee.

The accompanying operator must adhere to all restrictions applied to the license when functioning as the permittee's accompanying operator. A person who meets the conditions of subparagraphs (2), (3) and (4) whose license was canceled or suspended for physical, mental or emotional reasons within the immediately preceding 2 consecutive years may act as an accompanying operator pursuant to this paragraph with the approval of the Secretary of State.

Sec. 19. 29-A MRSA §1304, sub-§2, as amended by PL 1999, c. 470, §19, is further amended to read:

2. Motorcycle and moped. The following provisions apply to instruction permits for the operation of motorcycles, ~~motor-driven cycles~~ or mopeds.

A. A person must be at least 16 years of age to apply for a motorcycle, ~~motor-driven cycle~~ or moped instruction permit.

B. An applicant must pass a vision test and a knowledge test related specifically to the safe operation of a motorcycle, ~~motor-driven cycle~~ or moped.

C. An applicant for a motorcycle permit must complete a motorcycle driver education program as required by section 1352.

D. An instruction permit is valid for one year.

E. Failure to complete the driving test within 2 years from issue date requires reexamination for the instruction permit. In the case of a

motorcycle ~~or motor driven cycle~~ learner's permit, failure to complete the driving test within one year from issue date of the permit requires another completion of the motorcycle driver education course required by section 1352 before a subsequent permit is issued.

G. An instruction permit allows the holder to operate a motorcycle, ~~motor driven cycle~~ or moped only during daylight hours. That permit does not allow the holder to carry a passenger.

H. The fee for a motorcycle, ~~motor driven cycle~~ or moped instruction permit and the first road test is \$10. The fee for a subsequent examination is \$5.

Sec. 20. 29-A MRSA §1352, sub-§1, as amended by PL 2005, c. 411, §1, is further amended to read:

1. Motorcycle driver education required. Notwithstanding any other provision of law, a motorcycle ~~or motor driven cycle~~ instruction permit, license or endorsement may not be issued to a person, unless that person presents a certificate of successful completion of a motorcycle driver education program and examination approved by the Secretary of State, except as provided in this subsection.

Sec. 21. 29-A MRSA §1352, sub-§2, ¶A, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

A. A motorcycle driver education program must consist of an 8-hour block of instruction directly related to the actual operation of motorcycles ~~and motor driven cycles~~, emphasizing safety measures designed to ensure greater awareness of careful and skillful operation of motorcycles ~~and motor driven cycles~~.

Sec. 22. 29-A MRSA §1902, sub-§2, ¶C, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

C. A motorcycle ~~or motor driven cycle~~, within 30 feet, from a speed of 20 miles per hour.

Sec. 23. 29-A MRSA §1902, sub-§3, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

3. Parking brakes. A vehicle, except a 2-wheel motorcycle ~~or 2-wheel motor driven cycle~~, must be equipped with parking brakes adequate to hold the vehicle on any grade on which it is operated, under all conditions of loading, on a surface free from snow, ice or loose material. Parking brakes:

A. Must be capable of being applied by the driver's muscular effort, spring action or equivalent means;

B. May be operated with assistance of the service brakes or other source of power, provided that failure of the service brake actuation system or other power assisting mechanism does not prevent the parking brakes from being applied;

C. Must be designed so that, once applied, they remain applied with the required effectiveness despite leakage or exhaustion of any source of energy;

D. May share the same brake drums, brake shoes and lining assemblies, brake shoe anchors and mechanical brake shoe actuation mechanisms associated with the wheel brake assemblies used for service brakes; and

E. If the means of applying the parking and service brakes are connected, must be constructed so that failure of one part does not leave the vehicle without operative brakes.

Sec. 24. 29-A MRSA §1904, sub-§4, ¶B, as enacted by PL 2003, c. 452, Pt. Q, §21 and affected by Pt. X, §2, is amended to read:

B. A motorcycle ~~or motor driven cycle~~ must have one mounted headlight.

Sec. 25. 29-A MRSA §1904, sub-§6, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

6. Motorcycle. A motorcycle ~~or motor driven cycle~~ that does not have an adequate beam for headlights is restricted to daytime operation.

Sec. 26. 29-A MRSA §1913, sub-§3, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

3. Motorcycles. A motorcycle ~~or motor driven cycle~~ must be equipped with a rear view mirror mounted and adjusted to afford the operator a clear, reflected view of the highway in the rear for a distance of at least 200 feet.

Sec. 27. 29-A MRSA §2052, sub-§5, ¶B, as enacted by PL 2003, c. 452, Pt. Q, §31 and affected by Pt. X, §2, is amended to read:

B. Bicycles or other nonmotorized traffic, scooters, motorized bicycles or tricycles; or ~~motor driven cycles~~ motorized scooters.

Sec. 28. 29-A MRSA §2062, last ¶, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is repealed.

Sec. 29. 29-A MRSA §2063, sub-§1, as repealed and replaced by PL 2001, c. 667, Pt. C, §17, is amended to read:

1. Definitions. For the purpose of this section, "bicycle" includes a motorized bicycle ~~or a motorized tricycle or a motorized scooter~~, "scooter" ~~includes a motorized scooter~~ and "toy vehicle" includes, but is not limited to, skateboards, rollerskates, wagons, sleds and coasters.

Sec. 30. 29-A MRSA §2074, sub-§1, ¶¶D and E, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, are amended to read:

D. Forty-five miles per hour on all other public ways unless otherwise posted; and

E. On ways with a higher maximum speed limit, 45 miles per hour for a school bus transporting pupils to and from school. At all other times, a school bus may not exceed 55 miles per hour; and.

Sec. 31. 29-A MRSA §2074, sub-§1, ¶F, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is repealed.

Sec. 32. 29-A MRSA §2080, as amended by PL 1995, c. 584, Pt. B, §10, is further amended to read:

§2080. Operation of all-terrain and off-road vehicles

Notwithstanding any other provision of law, whenever an all-terrain vehicle or off-road vehicle is operated on a way, ~~it is the vehicle and operator are~~ subject to all provisions of this Title, except chapters 5, 7, 13 and 15. Whenever an all-terrain vehicle or off-road vehicle is operated on a way, the operator is not subject to the provisions of chapter 11, except when ~~the an~~ all-terrain vehicle is ~~registered for highway use~~ permitted in accordance with section 501, subsection 8.

Sec. 33. 29-A MRSA §2083, sub-§§1, 2 and 4, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, are amended to read:

1. Requirement. The following persons must wear protective headgear:

A. If under 15 years of age, a passenger on a motorcycle, ~~motor-driven cycle~~ or in an attached side car;

B. If under 15 years of age, an operator of an off-road motorcycle ~~or motor-driven cycle~~;

C. An operator of a motorcycle ~~or motor-driven cycle~~, operating under a learner's permit or

within one year of successfully completing a driving test; and

D. A passenger of an operator required to wear headgear.

2. Compliance. An operator of a motorcycle ~~or motor-driven cycle~~, parent or guardian may not allow a passenger under the age of 15 years to ride in violation of this section.

4. Public program. In furtherance of reasonable protective public policy, the Department of Public Safety, Bureau of Highway Safety must develop and implement a public information and education program designed to encourage helmet utilization by all motorcycle, ~~motor-driven cycle~~ and moped riders.

Sec. 34. 29-A MRSA §2092 is enacted to read:

§2092. Operation of off-road vehicles

1. Operation prohibited. Unless the specific type of off-road vehicle is authorized to be operated on a public way by this or any other Title, an off-road vehicle may not be operated on a public way or parking area.

2. Violation. A person who operates an off-road vehicle in violation of subsection 1 commits a traffic infraction.

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

Effective April 13, 2006.

CHAPTER 578

H.P. 174 - L.D. 235

An Act To Increase the Minimum Wage

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

Sec. 1. 26 MRSA §664, sub-§1, as amended by PL 2003, c. 697, §1, is further amended to read:

1. Minimum wage. The minimum hourly wage is \$5.15 \$6.50 per hour. ~~Starting January 1, 2002, the minimum hourly wage is \$5.75 per hour. Starting January 1, 2003, the minimum hourly wage is \$6.25 per hour. Starting October 1, 2004, the minimum hourly wage is \$6.35 per hour. Starting October 1, 2005, the minimum hourly wage is \$6.50 per hour. Starting October 1, 2006, the minimum hourly wage is \$6.75 per hour. Starting October 1, 2007, the mini-~~