

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-THIRD LEGISLATURE

FIRST REGULAR SESSION
December 6, 2006 to June 21, 2007

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 20, 2007

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

Penmor Lithographers
Lewiston, Maine
2007

B. Whether the foreign bank or foreign bank holding company has provided the superintendent with adequate assurances that it will make available to the superintendent such information on the operations or activities of the foreign bank, foreign bank holding company and any affiliate of the foreign bank or foreign bank holding company that the superintendent considers necessary to determine and enforce compliance with this Title and other applicable state law.

Sec. 23. 9-B MRSA §1015, sub-§5, ¶B, as enacted by PL 1997, c. 398, Pt. K, §12, is amended to read:

B. If the assets of the company being acquired are between 15% and 50% of the financial institution holding company's total consolidated assets, the financial institution holding company must notify the superintendent at least 10 days prior to consummating the transaction. The superintendent may require that an application be filed pursuant to section 252 if the following conditions are not satisfied and, based on a preliminary analysis, the superintendent concludes that the transaction may have a material adverse effect on the financial condition of the financial institution holding company and its ability to act as a source of strength to the Maine financial institution:

- (1) Before and immediately after the proposed transaction, the acquiring Maine financial institution and financial institution holding company are well capitalized, as determined by the superintendent; and
- (2) At the time of the transaction, the acquiring Maine financial institution and financial institution holding company are well managed, as defined in section 446-A.

Sec. 24. 9-B MRSA §1053, sub-§2, as enacted by PL 1985, c. 558, is amended to read:

2. Plan. A plan of reorganization authorized under this chapter ~~shall~~ must be approved by a majority of the board of directors, ~~corporators and members, or~~ and members; of ~~such~~ the mutual financial institution.

Sec. 25. 30-A MRSA §5951, sub-§2, ¶B, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106 and as amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10 and as amended by PL 2001, c. 44, §11 and as affected by §14, is further amended to read:

B. The Superintendent of Financial Institutions, who also serves as a commissioner ex officio; ~~and.~~

(1) The Superintendent of Financial Institutions may designate a deputy superintendent to serve in place of the Superintendent of Financial Institutions; and

Sec. 26. Maine Revised Statutes headnote amended; revision clause. In the Maine Revised Statutes, Title 9-B, chapter 23, in the chapter headnote, the words "cease and desist orders; removal of officer or director" are amended to read "cease and desist orders; removal or change of officer or director" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

See title page for effective date.

CHAPTER 80

H.P. 464 - L.D. 615

An Act To Authorize the Use of the Department of Health and Human Services Staff as Hearing Officers

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

Sec. 1. 34-B MRSA §1203, sub-§4, as amended by PL 1995, c. 15, §1 and PL 2003, c. 689, Pt. B, §6, is further amended to read:

4. Grievance procedures. The commissioner shall establish procedures for hearing grievances of clients receiving children's behavioral health, adult mental health or adult mental retardation services from the department. The commissioner shall also establish procedures for hearing client appeals from the denial of eligibility for adult mental retardation services from the department. The procedures must include the opportunity for a timely hearing before a state hearing examiner or an independent fair hearing examiner. The commissioner may assign staff of the department's office of administrative hearings or may contract for the services of the hearing examiner or examiners, who shall conduct all adjudicatory proceedings pursuant to the Maine Administrative Procedure Act and who may not be employees of the Department of Health and Human Services.

See title page for effective date.

CHAPTER 81

H.P. 292 - L.D. 362

An Act To Effect the Seizure and Disposal of Contraband Fireworks

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

Whereas, the possession and use of fireworks by individuals without a permit is illegal in this State; and

Whereas, there is presently no provision for the efficient disposition of such fireworks seized by, surrendered to or in the possession of law enforcement agencies, including but not limited to the Department of Public Safety, Office of the State Fire Marshal; and

Whereas, it is vital that the lack of such a provision be addressed in order to safeguard the safety, security and rights of the citizens of this State; 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 §237 is enacted to read:

§237. Seizure, forfeiture and disposal of fireworks

1. Seizure of fireworks. A law enforcement officer may seize fireworks that the law enforcement officer has probable cause to believe are:

A. Stored, sold, manufactured, transported or found in any person's possession in violation of this chapter;

B. Shipped by common carrier in violation of this chapter to the address of a person in the State; or

C. Surrendered to or otherwise lawfully acquired by a law enforcement agency when there is no permitted claimant under this chapter.

2. Forfeiture of seized fireworks. All fireworks lawfully seized under this section are contraband and are forfeited to the State.

3. Disposal of forfeited fireworks. The commissioner may dispose of fireworks forfeited to the State under this section in any lawful manner considered appropriate by the commissioner, including, but not limited to, by their auction or destruction or by using them for training purposes.

4. Exceptions. This section does not apply to:

A. Fireworks stored by, manufactured by, transported by, shipped by common carrier to, sold to or in the possession of a person issued a permit pursuant to section 227-A; or

B. Fireworks otherwise permitted or exempted under this chapter.

5. Procedure. The following governs the process of disposing of fireworks seized pursuant to this section.

A. As soon as reasonably possible following a seizure under subsection 1, the law enforcement

officer or agency effecting the seizure shall cross-reference the commissioner's permit records to determine whether a permit exception applies.

B. If a review of the permit records pursuant to paragraph A discloses that the fireworks were lawfully possessed, sold, stored, transported or manufactured, then the seizing agency shall return them to the lawful possessor as soon as reasonably possible.

C. A public notice is not required to effect a lawful seizure, forfeiture and disposal if no permit exception applies.

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

Effective May 8, 2007.

CHAPTER 82

H.P. 671 - L.D. 886

An Act To Clarify Certain Laws Related to Fire Safety

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

Sec. 1. 8 MRSA §162, as repealed and replaced by PL 1967, c. 265, is amended to read:

§162. Violations

~~Whoever, being an~~ An owner, lessee, tenant or licensee of a pavilion, hall or other building, in which a dance is held in violation of any restriction imposed by section 161, ~~shall be guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not more than \$100 or by imprisonment for not more than 90 days, or by both. Said license may be suspended or revoked by the court~~ commits a Class E crime.

Sec. 2. 25 MRSA §2395, as amended by PL 1979, c. 44, is further amended to read:

§2395. Filing statement of fire occurrence

~~The municipal fire chief, his or a designee or municipal fire inspector shall file a written report with submit to the State Fire Marshal each month on forms provided by his office, setting forth all of the facts relating to the cause, origin and circumstances of fires occurring within his jurisdiction, along with a description of the kind, value and ownership of the property damage or destruction, with such other information as he may require an incident report for each response made, regardless of whether an actual fire occurred. Such~~ The report shall at all times be open to public inspection, except in such instances as the Attorney General may determine that it would be detrimental to a pending criminal investigation must be submitted in