

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

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

a manner consistent with a national fire incident reporting system.

Sec. 3. 25 MRSA §2452, 2nd ¶, as amended by PL 2003, c. 535, §3, is further amended to read:

Existing buildings licensed pursuant to Title 22, Subtitle 6 having more than 6 boarders, with the exception of board and care facilities and children's homes, must comply with any rules for residential-~~custodial~~ residential board and care facilities occupancies required by the Commissioner of Public Safety, except that such existing facilities of not more than 2 stories in height are not required to be fire resistive, protected or unprotected noncombustible, protected wood frame or heavy timber construction. Such existing facilities must be protected by a complete approved automatic sprinkler system and meet all other requirements of residential-~~custodial~~ residential board and care facilities occupancies as required by the Commissioner of Public Safety.

See title page for effective date.

CHAPTER 83

H.P. 198 - L.D. 227

An Act To Allow the Reimbursement of Motor Vehicle Excise Taxes in Certain Cases

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

Sec. 1. 36 MRSA §1482, sub-§5, ¶D, as amended by PL 1997, c. 175, §1, is repealed and the following enacted in its place:

D. If the credit available under this subsection exceeds the amount transferred to another vehicle, a municipality may choose, but is not required to refund the excess amount. If a municipality chooses to refund excess amounts it must do so in all instances where there is an excess amount.

See title page for effective date.

CHAPTER 84

S.P. 219 - L.D. 682

An Act To Allow Schools in the State To Self-insure for Fire, Property and Theft Insurance

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

Sec. 1. 5 MRSA §1737, sub-§4, as amended by PL 2003, c. 20, Pt. OO, §2 and affected by §4 and amended by c. 114, §2, is further amended to read:

4. Directed services. Notwithstanding the provisions of subsection 2, the director may provide insurance advice or services for family foster homes as defined in Title 22, section 8101, subsection 3; specialized children's homes, as defined in Title 22, section 8101, subsection 5; respite care providers as defined in Title 34-B, section 6201, subsection 2-A; the Casco Bay Island Transit District created by Private and Special Law 1981, chapter 22; the University of Maine System; the Maine Community College System; the Maine Maritime Academy; and the State's local workforce investment areas designated under the federal Workforce Investment Act of 1998, Public Law 105-220. The director may provide insurance services for public schools as defined in Title 20-A, section 1, subsection 24 if the provisions of subsection 2 are met. Notwithstanding subsection 2, the director may provide insurance advice for public schools.

See title page for effective date.

CHAPTER 85

S.P. 281 - L.D. 883

An Act To Allow a Self-pay Patient To Choose between Generic and Brand-name Medications

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

Sec. 1. 32 MRSA §13781, 2nd ¶, as amended by PL 2003, c. 384, §1 and c. 689, Pt. B, §6, is further amended to read:

Any Except with regard to a patient who is paying for a drug with the patient's own resources, any pharmacist receiving a prescription in which no handwritten check mark () is found in the box provided shall substitute a generic and therapeutically equivalent drug for the drug specified on the prescription if the substituted drug is distributed by a business entity doing business in the United States that is subject to suit and the service of legal process in the United States and the price of the substituted drug does not exceed the price of the drug specified by the practitioner; except that, when the cost of a prescription is to be reimbursed under the MaineCare program pursuant to Title 22, chapter 855, the pharmacist shall substitute a generic and therapeutically equivalent drug only when the Department of Health and Human Services has determined that the substitute drug would be a more cost-effective alternative than the drug prescribed by the practitioner. Except for prescribed drugs listed under the Comprehensive Drug Abuse Prevention and