

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, 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. 7 MRSA §3952, sub-§1, as amended by PL 2001, c. 399, §5, is further amended to read:

1. Procedure. Any person who is assaulted or threatened with imminent bodily injury by a dog or any person witnessing an assault or threatened assault against a person or domesticated animal or a person with knowledge of an assault or threatened assault against a minor, within 30 days of the assault or threatened assault, may make written complaint to the sheriff, local law enforcement officer or animal control officer that the dog is a dangerous dog. For the purposes of this chapter, "domesticated animal" includes, but is not limited to, livestock as defined in section 3907, subsection 18-A.

Upon investigation of the complaint, the sheriff, local law enforcement officer or animal control officer may issue a civil violation summons for keeping a dangerous dog.

If, upon hearing, the court finds that the dog is a dangerous dog as defined in section 3907, subsection 12-D, the court may impose a civil forfeiture fine and shall:

A. Order the dog muzzled, restrained, confined to the premises of its owner or keeper or confined in a secure enclosure except as provided in subsection 8. The court may set standards for that enclosure. For the purposes of this paragraph, "secure enclosure" means a fence or structure of at least 6 feet in height forming or making an enclosure suitable to prevent the entry of young children and suitable to confine a dangerous dog in conjunction with other measures that may be taken by the owner or keeper, such as tethering the dangerous dog. The secure enclosure must be locked, be designed with secure top, bottom and sides and be designed to prevent the animal from escaping from the enclosure; or

B. Order the dog to be euthanatized if it has killed, maimed or inflicted serious bodily injury upon a person or has a history of a prior assault.

The court may order restitution in accordance with Title 17-A, chapter 54 for any damages inflicted upon a person or a person's property.

Sec. 2. 7 MRSA §3952, sub-§1-A is enacted to read:

1-A. Identification and confinement of dogs. In addition to orders imposed under subsection 1, the court may order that the owner or keeper of a dangerous dog:

A. Provide the animal control officer in the municipality where the dangerous dog is kept with photographs and descriptions of dogs kept by that owner or keeper including the sex, breed, age and identifying markings of each dog;

B. Have dogs kept by that owner or keeper permanently identified by tattooing, microchip placement or other means directed by the court; or

C. Confine other dogs kept on the owner's or keeper's premises as provided in subsection 1, paragraph A and subsection 8.

Sec. 3. 7 MRSA §3952, sub-§7, as enacted by PL 1999, c. 350, §2, is amended to read:

7. Class D crime. If the owner refuses or neglects to comply with an order issued under subsection 1, 1-A or 4-A, the owner commits a Class D crime. The court, as part of the judgment, may prohibit a person convicted under this subsection from owning or possessing a dog or having a dog on that person's premises for a period of time. The prohibition may be permanent.

Sec. 4. 7 MRSA §3952, sub-§8 is enacted to read:

8. Restriction of movement outside of a secure enclosure. An owner or keeper of a dog confined to a secure enclosure by a court under subsection 1 or 1-A may not allow the dog outside of the secure enclosure unless:

A. It is necessary to obtain veterinary care for the dog or to comply with orders of the court; and

B. The dog is securely muzzled, restrained by a tether not more than 3 feet in length with a minimum tensile strength of 300 pounds and under the direct control of the dog's owner or keeper.

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

Effective May 25, 2007.

**CHAPTER 171
H.P. 517 - L.D. 686**

**An Act To Ensure Truth in
Music Advertising**

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

Sec. 1. 10 MRSA c. 202-E is enacted to read:

CHAPTER 202-E

TRUTH IN MUSIC ADVERTISING

§1156. Short title

This chapter is known and may be cited as "the Truth in Music Advertising Act."

§1157. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Performing group. "Performing group" means a vocal or instrumental group seeking to use the name of another group that has previously released a commercial sound recording under that name.

2. Person. "Person" means any individual, partnership, corporation or association.

3. Recording group. "Recording group" means a vocal or instrumental group at least one of whose members has previously released a commercial sound recording under that group's name and in which the member has a legal right by virtue of use or operation under the group name without having abandoned the name or affiliation with the group.

4. Sound recording. "Sound recording" means a work that results from the fixation on a material object of a series of musical, spoken or other sounds regardless of the nature of the material object, such as a disc, tape or other phonorecord, in which the sounds are embodied.

§1158. Production

A person may not promote, advertise or conduct a live musical performance or production in this State through the use of a false, deceptive or misleading affiliation, connection or association between a performing group and a recording group unless:

1. Authorized; federal service mark. The performing group is the authorized registrant and owner of a federal service mark for that group registered in the United States Patent and Trademark Office;

2. Legal right. At least one member of the performing group was a member of the recording group and has a legal right by virtue of use or operation under the group name without having abandoned the name or affiliation with the group;

3. Salute or tribute. The live musical performance or production is identified in all advertising and promotion as a salute or tribute and the name of the performing group is not so closely related or similar to the name used by the recording group that it would tend to confuse or mislead the public; and

4. Expressly authorized. The performance or production is expressly authorized by the recording group.

§1159. Restraining prohibited acts

1. Injunction. Whenever the Attorney General or a district attorney has reason to believe that a person is promoting, advertising or conducting or is preparing to promote, advertise or conduct a live musical performance or production in violation of section 1158 and that proceedings would be in the public interest, the Attorney General or district attorney may bring an action in the name of the State against the person to restrain that practice by temporary or permanent injunction.

2. Payment of costs and restitution. Whenever any court issues a permanent injunction to restrain and prevent violations of this chapter as authorized in subsection 1, the court may in its discretion direct that the defendant restore to the recording group any money or property, real or personal, that has been acquired by means of any violation of this chapter, under terms and conditions to be established by the court.

§1160. Penalty

In addition to any other relief that may be granted under section 1159, a person who violates section 1158 commits a civil violation for which a fine of not less than \$500 per violation may be adjudged. Each performance or production advertised or conducted in violation of section 1158 constitutes a separate violation.

§1160-A. Exemption

This chapter does not apply to any nonprofit corporation incorporated under the laws of this State and subject to the provisions of Title 13, chapter 81 or 93 or the Maine Nonprofit Corporation Act.

See title page for effective date.

CHAPTER 172

H.P. 546 - L.D. 725

An Act To Ensure Retail Tobacco License Compliance

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

Sec. 1. 36 MRSA §4366-C, sub-§2-A is enacted to read:

2-A. Shipment only to licensed retailers. A distributor may not sell or offer to sell cigarettes to a retailer unless the retailer has provided documentation to the distributor that the retailer holds a current retail tobacco license issued under Title 22, section 1551-A.

See title page for effective date.