

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

~~the child in school, failed to send the child to school or failed to require the child to regularly attend school~~
parent is primarily responsible for the child's habitual truancy or the parent failed to take corrective measures for the child's habitual truancy.

Sec. 10. 22 MRSA §4002, sub-§1, as amended by PL 1985, c. 739, §1, is further amended to read:

1. Abuse or neglect. "Abuse or neglect" means a threat to a child's health or welfare by physical, mental or emotional injury or impairment, sexual abuse or exploitation, deprivation of essential needs or lack of protection from these or failure to ensure compliance with school attendance requirements under Title 20-A, section 3272, subsection 2, paragraph B or section 5051-A, subsection 1, paragraph C, by a person responsible for the child.

Sec. 11. 22 MRSA §4002, sub-§6, ¶B, as amended by PL 2005, c. 373, §4, is further amended to read:

B. Deprivation of adequate food, clothing, shelter, supervision or care or education when the child is at least 7 years of age and has not completed grade 6;

See title page for effective date.

CHAPTER 305

H.P. 258 - L.D. 323

An Act Permitting Substitute Teachers To Opt Out of the Maine State Retirement System

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

Sec. 1. 5 MRSA §17601, sub-§2, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

2. Teachers. Each superintendent or chief administrator of a public school shall submit the information set out in subsection 1 to the board for all teachers, except substitute teachers who elect not to become members of the retirement system pursuant to section 17652, subsection 6.

Sec. 2. 5 MRSA §17652, sub-§2, as amended by PL 2003, c. 261, §§1 and 2, is further amended to read:

2. Delayed election of membership. A person, including a substitute teacher, who elects not to join the retirement system at the beginning of ~~his~~ that person's employment may at any time apply for and be admitted to membership.

A-1. A person who joins the retirement system under this subsection may purchase service credit for the period during which the person served as an elected official or official appointed for a fixed term or was employed as a substitute teacher but was not a member of the retirement system.

B. Membership service credit for persons joining the retirement system under this subsection ~~shall begin~~ begins as of the effective date of first contributions or pick-up contributions to the system.

C. This subsection applies to any member who begins membership after December 31, 1985.

Sec. 3. 5 MRSA §17652, sub-§6 is enacted to read:

6. Substitute teachers. Notwithstanding section 17651, membership in the retirement system is optional for substitute teachers. The right of a substitute teacher to rejoin the retirement system is limited to 2 occurrences.

Sec. 4. 5 MRSA §17704-A, first ¶, as amended by PL 2003, c. 261, §6, is further amended to read:

An elected official ~~or~~ an official appointed for a fixed term or a substitute teacher who began membership after December 31, 1985 may purchase service credit for the period during which that person elected not to be a member of the retirement system if the following requirements are met.

See title page for effective date.

CHAPTER 306

S.P. 270 - L.D. 860

An Act To Amend Certain Laws Affecting Transportation

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

Whereas, this legislation makes changes to the law that need to take effect before the end of the summer tourist 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. 23 MRSA §52, first ¶, as repealed and replaced by PL 2005, c. 313, §2, is amended to read:

The Department of Transportation, referred to in this chapter as "the department," may from time to time make and shall enforce rules and regulations relating to the planning, design, engineering, construction, improvement, maintenance and use of transportation infrastructure. The department may from time to time make and shall enforce rules relating to the manner of conducting all investigations and hearings and the administration of its office, powers and duties. The department shall direct the expenditure of all money for the planning, design, engineering, construction, improvement, demolition, maintenance and use of all transportation infrastructure for which state funds are provided by law. The department may conduct traffic survey interviews and other statistical studies on the state highway system as considered necessary for the use in planning and development of the statewide highway system. The department may obtain leases for such land and office space as the department considers necessary for the performance of its duties. As used in this section, "transportation infrastructure" means infrastructure related to all modes of transportation, including highways, bridges, railroads, ferries, mass transit, airports and bicycle and pedestrian facilities, as well as all buildings, utilities, facilities and other appurtenances related to such modes.

Sec. 2. 23 MRSA §705, first ¶, as amended by PL 1999, c. 473, Pt. C, §2, is further amended to read:

The Department of Transportation is responsible for administering the placement of culverts within the right-of-way on improved state and state aid highways lying outside the compact area of an urban compact municipality as defined in section 754. When an abutter wants an entrance to be constructed on these highways, the abutter shall petition the department for a permit as provided under section 704. Should a permit be issued and a culvert is required, the abutter shall provide and install, at the abutter's expense, under the direction of the department, a culvert satisfactory to the department, which the department shall install and maintain.

Sec. 3. 23 MRSA §753-A, sub-§3, as enacted by PL 2001, c. 140, §1, is amended to read:

3. Prequalification. The department may require that firms be prequalified to submit proposals. If the department requires prequalification, it shall give public notice requesting qualifications from interested firms in at least 2 newspapers distributed in the State electronically through the department's publicly accessible website or through advertisements in newspapers. If such a request is published exclusively in newspapers, the notice must appear in 2 or more public newspapers circulated wholly or in part in the State

and in one public newspaper circulated wholly or in part in the county where the proposed work is to be done if any such newspaper is circulated in that county. The department shall issue a request-for-qualifications package to all firms requesting one in accordance with the notice.

Interested firms shall supply, for themselves and all major participants, all information required by the department. The department may investigate and verify all information received. All financial information, trade secrets or other information customarily regarded as confidential business information submitted to the department is confidential.

The department shall evaluate and rate all firms submitting a conforming statement of qualifications and select the most qualified firms to each receive a request for proposals. The department may select any number of firms, except that, if the department fails to prequalify at least 2 firms, the department shall readvertise the project.

Sec. 4. 23 MRSA §4210-A, sub-§1, as enacted by PL 2005, c. 282, §1, is amended to read:

1. Reimbursement. The department, in the course of delivering the federal surface transportation program, 23 United States Code, Section 133 (2005) may reimburse a National Register Historic District or the community in which the National Register Historic District is located for the portion of the cost to move or relocate overhead utilities underground to the extent that such payments by the department are eligible for reimbursement under the federal surface transportation program pursuant to 23 United States Code, Section ~~133~~ 133(b)(8) (2005). To be eligible for this reimbursement, the project must be located in a National Register Historic District and on the National Highway System and may not increase the department's cost or liability in complying with the National Historic Preservation Act, 16 United States Code, Sections 470 to 470x-6 (2005) or with 49 United States Code, Section 303 (2005). For the purposes of this section, "National Register Historic District" means a district that is individually listed in the National Register of Historic Places pursuant to the National Historic Preservation Act, 16 United States Code, Sections 470 to 470x-6 (2005).

The amount paid in any biennium under this section may not exceed federal surface transportation program funds available under 23 United States Code, Section ~~133~~ 133(b)(8) (2005) to reimburse the State in that biennium.

Sec. 5. 29-A MRSA §101, sub-§21-A is enacted to read:

21-A. Drive-away saddlemount vehicle transporter combination. "Drive-away saddlemount vehicle transporter combination" means a vehicle combination designed and specifically used to tow up to 3

trucks or truck tractors, each connected by a saddle to the frame or 5th wheel of the vehicle in front of it. The saddle is a mechanism that connects the front axle of the towed vehicle to the frame or 5th wheel of the vehicle in front of it. The drive-away saddlemount vehicle transporter combination may include one fullmount, which consists of a smaller vehicle mounted completely on the frame of either the first or the last vehicle in the drive-away saddlemount vehicle transporter combination.

Sec. 6. 29-A MRSA §101, sub-§64, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is repealed.

Sec. 7. 29-A MRSA §954, sub-§5, ¶B, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

- B. A transporter plate may not be:
- (1) Used in lieu of registration plates;
 - (2) Loaned to another;
 - (3) Used for personal reasons; or
 - (4) Used on a towing vehicle, except for a drive-away saddlemount vehicle transporter combination.

Sec. 8. 29-A MRSA §2390, sub-§1, ¶I, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

- I. ~~Saddlemount~~ Drive-away saddlemount vehicle transporter combinations ~~with up to 3 saddlemounted vehicles and one fullmount~~, with an overall length not exceeding ~~75~~ 97 feet, may be operated on the Interstate Highway System and those qualifying federal aid primary system highways designated by the Secretary of the United States Department of Transportation, pursuant to the United States Surface Transportation Assistance Act of 1982, Public Law 97-424, Section 411.

Sec. 9. 36 MRSA §3321, sub-§4, as enacted by PL 2001, c. 688, §8, is repealed and the following enacted in its place:

4. Legislative review. Starting in 2008 and each even-numbered year thereafter, the Department of Transportation shall submit an emergency bill by the cloture date established for departments and agencies for the first regular session of the Legislature that suspends the adjustment in fuel tax rates in the upcoming biennium resulting from the operation of this section.

Sec. 10. P&SL 1937, c. 18, as amended by P&SL 1985, c. 38, is repealed.

Sec. 11. Limitation on certain stormwater fees. The Department of Transportation and the Maine Turnpike Authority are not subject to any fee or

tax imposed pursuant to a municipal storm water ordinance that was in effect on January 1, 2007.

Sec. 12. Contingent effective date. That section of this Act that repeals Private and Special Law 1937, chapter 18 takes effect only if the New Hampshire General Court repeals the concurrent New Hampshire law relating to the Maine-New Hampshire Interstate Bridge Authority. The Department of Transportation shall notify the Secretary of State when this condition has been met. The Secretary of State shall provide notice to the Secretary of the Senate, the Clerk of the House of Representatives and the Office of the Revisor of Statutes.

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

Effective June 18, 2007, unless otherwise indicated.

CHAPTER 307

H.P. 635 - L.D. 836

An Act To Enhance Special Education

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

Sec. 1. 20-A MRSA §7209, sub-§1, ¶B, as enacted by PL 2005, c. 662, Pt. A, §30, is amended to read:

- B. During the period from July 1, 2006 to ~~September 30, 2007~~ June 30, 2008, the department, in a manner consistent with the authority of the board of directors of an intermediate educational unit, shall ~~only~~ approve the annual entitlement plan and the budget for an intermediate educational unit pursuant to subsection 6 only in accordance with the following.

- (1) The department shall approve the entitlement plan and the budget if the provisions of the entitlement plan and the budget are in compliance with the statewide standards established by the state intermediate educational unit pursuant to subsection 3 for the purpose of ensuring coordinated service delivery in each region of the State.

- (2) In the event that the department determines that the provisions of the annual entitlement plan and the budget presented by a board of directors of an intermediate educational unit are not in compliance with the statewide standards established pursuant to subsection 3, the department shall require the board of directors of the intermediate educa-