

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

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IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Penmor Lithographers
Lewiston, Maine
2007

3. The appointment made under Title 20-A, section 3061, subsection 1, paragraph C is for a term of one year.

4. One of the appointments made under Title 20-A, section 3061, subsection 1, paragraph D is for a term of 2 years and one is for a term of 3 years.

See title page for effective date.

CHAPTER 343

H.P. 1200 - L.D. 1717

An Act To Promote Recycling of Cellular Telephones

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

Sec. 1. 38 MRSA §2143 is enacted to read:

§2143. Cellular telephone recycling

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Cellular telephone" means a mobile wireless telephone device that is designed to send or receive transmissions through a cellular radiotelephone service as defined in 47 Code of Federal Regulations, Section 22.99 (2005). "Cellular telephone" does not include a wireless telephone device that is integrated into the electrical architecture of a motor vehicle.

B. "Cellular telephone service provider" means a provider of wireless voice or data retail service.

C. "Retailer" means a person, firm or corporation that sells or offers to sell a cellular telephone to a consumer at retail.

2. Collection system. Effective January 1, 2008, a retailer shall accept, at no charge, used cellular telephones from any person. A retailer required to accept used cellular telephones under this subsection shall post, in a prominent location open to public view, a notice printed in boldface type and containing the following language: "We accept used cellular telephones at no charge."

3. Disposal ban. Effective January 1, 2008, a person may not dispose of a cellular telephone in solid waste for disposal in a solid waste disposal facility.

4. Reports. By January 1, 2009, and every year thereafter until January 1, 2013, a cellular telephone service provider shall report to the department the number of cellular telephones collected pursuant to this section and how the collected cellular telephones were disposed of, reused or recycled. By February 1, 2009 and every year thereafter until February 1, 2013,

the department shall report on the collection system to the joint standing committee of the Legislature having jurisdiction over natural resources matters.

See title page for effective date.

CHAPTER 344

H.P. 1219 - L.D. 1736

An Act To Amend the Laws Relating to Probation and Supervised Release for Sex Offenders and To Make Necessary Changes to the Maine Criminal Code

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

Sec. 1. 17-A MRSA §1201, sub-§1, ¶A-1, as amended by PL 2005, c. 265, §7, is further amended to read:

A-1. The conviction is for a Class D or Class E crime other than:

(1) A Class D or Class E crime relative to which, based upon both the written agreement of the parties and a court finding, the facts and circumstances of the underlying criminal episode giving rise to the conviction generated probable cause to believe the defendant had committed a Class A, Class B or Class C crime in the course of that criminal episode and, as agreed upon in writing by the parties and found by the court, the defendant has no prior conviction for murder or for a Class A, Class B or Class C crime and has not been placed on probation pursuant to this subparagraph on any prior occasion;

(2) A Class D crime that the State pleads and proves was committed against a family or household member under chapter 9 or 13 or section 506-B, 554, 555 or 758. As used in this subparagraph, "family or household member" has the same meaning as in Title 19-A, section 4002, subsection 4;

(3) A Class D or Class E crime in chapter 11 or 12;

(4) A Class D crime under section 210-A;

(5) A Class D or Class E crime under section 556, section 854, excluding subsection 1, paragraph A, subparagraph (1), or section 855;

(6) A Class D crime in chapter 45 relating to a schedule W drug; or

(7) A Class D or Class E crime under Title 29-A, section 2411, subsection 1-A, paragraph B.

Sec. 2. 17-A MRSA §1203, sub-§1-A, ¶D is enacted to read:

D. If execution of the sentence is stayed, the court may revoke probation for criminal conduct committed during the period of stay or for failure to report as ordered.

Sec. 3. 17-A MRSA §1206, sub-§10 is enacted to read:

10. If a probation revocation proceeding results in the court vacating a part of the suspension of execution as to imprisonment while the person is in execution of the initial unsuspended portion of the sentence, the portion of imprisonment to be served as a result of the vacating commences only after the initial unsuspended portion of imprisonment has been fully served. If separate probation revocation proceedings result in the vacating of 2 or more parts of the suspension of execution as to imprisonment on the same sentence, the portions to be served must be served successively.

Sec. 4. 17-A MRSA §1231, sub-§6, as amended by PL 2005, c. 673, §2, is further amended to read:

6. The court may revoke a period of supervised release pursuant to section 1233 for any ground specified in subsection 7. If the court revokes a period of supervised release, the court shall require the person to serve time in prison under the custody of the Department of Corrections. This time in prison may equal all or part of the period of supervised release, without credit for time served on post-release supervision. The remaining portion of the period of supervised release that is not required to be served in prison remains in effect to be served after the person's release and is subject to revocation at a later date.

Sec. 5. 17-A MRSA §1231, sub-§7 is enacted to read:

7. The court may revoke a period of supervised release for:

- A. A violation of supervised release;
- B. Criminal conduct committed during the term of imprisonment; or
- C. Refusal during the term of imprisonment to actively participate, when requested to do so by the Department of Corrections, in a sex offender treatment program in accordance with the expectations and judgment of the treatment providers.

Sec. 6. 17-A MRSA §1349, sub-§1, ¶A, as enacted by PL 2003, c. 711, Pt. A, §19, is repealed.

Sec. 7. 17-A MRSA §1349-A, sub-§1, as enacted by PL 2003, c. 711, Pt. A, §19, is amended to read:

1. A person who has been convicted of a Class D or Class E crime or the Class C crime under Title 29-A, former section 2557, section 2557-A or section 2558 may be placed on administrative release for a period not to exceed one year.

Sec. 8. 17-A MRSA §1349-B, sub-§2, as enacted by PL 2003, c. 711, Pt. A, §19, is amended to read:

2. The court may sentence a person to a fine, not to exceed the maximum fine authorized for the Class D or Class E crime or the Class C crime under Title 29-A, former section 2557, section 2557-A or section 2558, suspend the fine in whole or in part and accompany the suspension with a period of administrative release not to exceed the one year authorized under section 1349-A, subsection 1.

Sec. 9. 17-A MRSA §1349-D, sub-§4, as amended by PL 2005, c. 265, §18, is further amended to read:

4. If during the period of administrative release the attorney for the State has probable cause to believe that the person placed on administrative release has violated a requirement of administrative release, the attorney for the State may apply for a warrant for the arrest of the person. Unless sooner released, the court shall provide the person with an initial appearance on the revocation of administrative release within 44 5 days after arrest. A copy of the motion must be furnished to the person prior to or at the initial appearance. The initial appearance is as provided in section 1205-C, subsection 4. Bail is as provided in section 1205-C, subsections 5 and 6.

Sec. 10. 32 MRSA §13723, sub-§7, ¶A, as amended by PL 1991, c. 274, §2, is further amended to read:

A. Prescriptions, orders and records required by this chapter and stocks of prescription and legend drugs are open only to the board, the board's inspectors and investigators, federal and state law enforcement officers whose duty it is to enforce the laws of this State or of the United States relating to scheduled drugs or controlled substances or to enforce conditions of probation or other supervision imposed by a court relating to scheduled drugs or controlled substances and other law enforcement officers authorized by the board, ~~or~~ the Attorney General or the district attorney for the purposes of inspecting, investigating and gathering evidence of violations of law or any rule of the board. ~~No~~ An officer having knowledge by virtue of the officer's office of any such prescription, order or record may not divulge that knowledge, except before a licensing or registration

board or officer or in connection with a prosecution or proceeding in court.

Sec. 11. 34-A MRSA §9888 is enacted to read:

§9888. Administrative preliminary hearing

Whenever it appears that a person accepted for supervision under this compact arrested for an alleged violation of a supervision condition is entitled under the compact to a determination of whether there is probable cause to believe the person has violated a condition of that person's supervision, the determination must be made at an administrative preliminary hearing meeting the requirements of the compact and held before an official designated by the Commissioner of Corrections within 5 days after the arrest, excluding Saturdays, Sundays and holidays.

See title page for effective date.

CHAPTER 345

S.P. 617 - L.D. 1750

**An Act To Amend the Statute
of Limitations for Actions
against Professional Land
Surveyors**

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

Sec. 1. 14 MRSA §752-D, as enacted by PL 1993, c. 161, §1, is amended to read:

§752-D. Land surveyors

All civil actions for professional negligence against a professional land ~~surveyors~~ surveyor duly licensed or registered under Title 32 must be commenced within 4 years after the negligence is discovered, but an action may not be commenced more than ~~20~~ 10 years after the completion of the ~~plan contract~~ for services or the completion of the ~~professional services provided if a plan is not prepared~~ contract for services is not involved.

Sec. 2. Application. This Act applies to:

1. All actions for professional negligence for which a contract for services is completed on or after the effective date of this Act; and

2. All actions for professional negligence for which the services provided are completed on or after the effective date of this Act if a contract for services is not involved.

See title page for effective date.

CHAPTER 346

H.P. 1248 - L.D. 1786

**An Act To Reduce the Spread
of Infectious Disease through
Shared Hypodermic
Apparatuses**

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

PART A

Sec. A-1. 22 MRSA §1341, as enacted by PL 1997, c. 340, §3, is amended to read:

§1341. Hypodermic apparatus exchange programs

1. Certification of programs. ~~The Bureau of Health~~ Maine Center for Disease Control and Prevention may certify hypodermic apparatus exchange programs that meet the requirements established by rule under subsection 2.

A. The Maine Center for Disease Control and Prevention may not limit the number of hypodermic apparatuses provided by the programs to participants.

B. The Maine Center for Disease Control and Prevention may not limit the number of hypodermic apparatuses that participants served by the programs may legally possess, transport or exchange.

2. Rules. ~~The Bureau of Health~~ Maine Center for Disease Control and Prevention shall adopt rules pursuant to the Maine Administrative Procedure Act establishing requirements for hypodermic apparatus exchange programs. The rules must include but are not limited to:

A. Procedures for the safe disposal of hypodermic apparatuses;

B. Tracking the number of hypodermic apparatuses distributed and collected; ~~and~~

C. Drug abuse prevention and treatment education; ~~and~~

D. Measures to discourage the utilization of used hypodermic apparatuses.

Rules adopted ~~or amended~~ pursuant to this section are ~~major substantive~~ routine technical rules as defined in Title 5, chapter 375, subchapter ~~H-A~~ 2-A.

3. Reports. ~~The Bureau of Health~~ Maine Center for Disease Control and Prevention shall report to the joint standing committees of the Legislature having jurisdiction over judiciary matters and health and human services matters by January 15, 1999 and annually thereafter on hypodermic apparatus exchange programs certified under this section. The report must