

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals
(may include minor formatting differences from printed original)

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

Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A.

See title page for effective date.

CHAPTER 400

S.P. 643 - L.D. 1808

An Act To Improve Road Safety and Update Cycling Laws

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

Sec. 1. 14 MRSA §159-D is enacted to read:

§159-D. Liability related to a bicyclist using a drive-up window

1. Limited liability. An establishment that has a drive-up window is not liable for personal injury, property damage or death caused to a bicyclist who uses that establishment's drive-up window.

2. Limitations. This section does not limit any liability that may otherwise exist for willful or malicious actions or failures to guard or warn against a known dangerous condition related to the use of the drive-up window.

3. No duty created. This section does not create a duty of care or ground for liability.

4. Costs and fees. The court may award any direct legal costs, including reasonable attorney's fees, to an establishment that is found not to be liable for injury to a bicyclist pursuant to this section.

Sec. 2. 29-A MRSA §2063, sub-§1, as amended by PL 2005, c. 577, §29, is further amended to read:

1. Definitions. For the purpose of this section, "bicycle" includes a motorized bicycle, a motorized tricycle or a motorized scooter, ~~and "toy vehicle" includes, but is not limited to, skateboards, rollerskates, wagons, sleds and coasters.~~

Sec. 3. 29-A MRSA §2063, sub-§2, as repealed and replaced by PL 2001, c. 667, Pt. C, §17, is repealed and the following enacted in its place:

2. Riding to the right. A person operating a bicycle upon a roadway at a speed less than the normal speed of traffic moving in the same direction at that time and place shall drive on the right portion of the way as far as practicable except when it is unsafe to do so or:

A. When overtaking and passing another bicycle or other vehicle proceeding in the same direction;

B. When preparing for or making a left turn at an intersection or into a private road or driveway;

C. When proceeding straight in a place where right turns are permitted; and

D. When necessary to avoid hazardous conditions, including, but not limited to, fixed or moving objects, vehicles, bicycles, pedestrians, animals, broken pavement, glass, sand, puddles, ice, surface hazards or opening doors from parallel-parked vehicles, or a lane of substandard width that makes it unsafe to continue along the right portion of the way. For purposes of this paragraph, "lane of substandard width" means a lane that is too narrow for a bicycle and a vehicle to travel safely side by side in the lane.

This subsection does not apply in a municipality that, by ordinance approved by the Department of Public Safety and the Department of Transportation, makes other provisions regarding the operating location of a bicycle on a roadway.

Sec. 4. 29-A MRSA §2063, sub-§3, as amended by PL 2003, c. 452, Pt. Q, §42 and affected by Pt. X, §2, is further amended to read:

3. Seating. A person operating a bicycle may not ride other than upon or astride a regular and permanently attached seat.

Sec. 5. 29-A MRSA §2063, sub-§4, as repealed and replaced by PL 2001, c. 667, Pt. C, §17, is amended to read:

4. Hitching rides. A person riding on a bicycle, ~~or scooter or toy vehicle~~ may not attach it to a moving vehicle on a way.

Sec. 6. 29-A MRSA §2063, sub-§7, as repealed and replaced by PL 2001, c. 667, Pt. C, §17, is amended to read:

7. Penalties. A person 17 years of age or over who violates this section commits a ~~traffic infraction~~ civil violation for which a ~~forfeiture fine of no not less than \$25 and not more than \$10~~ \$250 may be adjudged. A person under 17 years of age is not subject to a fine under this section.

Sec. 7. 29-A MRSA §2063-B is enacted to read:

§2063-B. Toy vehicles

1. Definitions. For the purpose of this section, "toy vehicle" includes, but is not limited to, skateboards, rollerskates, wagons, sleds and coasters.

2. Hitching rides. A person riding on a toy vehicle may not attach it to a moving vehicle on a way.

3. Penalties. A person 17 years of age or over who violates this section commits a civil violation for

which a fine of not less than \$25 and not more than \$250 may be adjudged.

4. Impoundment. The chief of police of a municipality, or if there is no chief of police, the chair of the local legislative body, when satisfied that a juvenile under 17 years of age has ridden a toy vehicle in violation of this section, may impound the toy vehicle for a period not to exceed 5 days for the first offense, 10 days for a 2nd offense and 30 days for a subsequent offense.

Sec. 8. 29-A MRSA §2070, sub-§1-A is enacted to read:

1-A. Passing bicycle. An operator of a motor vehicle that is passing a bicycle proceeding in the same direction shall exercise due care by leaving a distance between the motor vehicle and the bicycle of not less than 3 feet while the motor vehicle is passing the bicycle. A motor vehicle operator may pass a bicycle traveling in the same direction in a no-passing zone only when it is safe to do so.

Sec. 9. 29-A MRSA §2070, sub-§6, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

6. Passing on the right. An operator may pass a vehicle on the right only under the following conditions:

- A. When the vehicle to be passed is making or about to make a left turn;
- B. On a way with unobstructed pavement not occupied by parked vehicles and of sufficient width for 2 or more lines of traffic in each direction; or
- C. On a way on which traffic is restricted to one direction, when the roadway is free from obstructions and of sufficient width for 2 or more lines of traffic.

An operator may pass on the right only under conditions permitting that movement in safety. An operator may not overtake by driving off the pavement or main traveled portion of the way.

A person operating a bicycle may pass a vehicle on the right at the bicyclist's own risk.

Sec. 10. 29-A MRSA §2085, as amended by PL 1999, c. 753, §5, is further amended to read:

§2085. Designated no-passing zones in residential areas

A municipality may request the department to designate a segment of a state or state aid highway in that municipality as a no-passing zone if the highway is outside the compact area of an urban compact municipality, as defined in Title 23, section 754. Such a request must be in writing to the commissioner and may be made only with the approval of the municipal-

ity's legislative body. A request is limited to segments of 2-lane ways in primarily residential areas and must be accompanied by a map showing the location of the proposed no-passing zone or zones and a written explanation of the need for such a zone in each location. The commissioner shall approve such a request unless the commissioner determines that granting such a request will unreasonably restrict the efficient flow of traffic or result in a threat to public safety in that location. The commissioner shall notify the municipality in writing of the commissioner's decision within 30 days of receiving the written request from the municipality. If a request is denied, the notification must state the specific reasons for the denial. A municipality whose request is denied may request the department to hold a public hearing within that municipality for the purpose of receiving public input on the requested change. The department shall hold the hearing within 30 days after a request is made and must inform the municipality of its final decision within 30 days after the hearing is held.

As soon as practicable after approving a municipal request, the department shall ensure that double, solid, yellow center lines are painted along the entire length of the no-passing zone ~~and that the zone is posted as a no-passing zone, at a minimum, in each direction at the start and end of the zone. The municipality may request additional posting along the length of the zone and shall reimburse the department for the costs of all posting.~~

A no-passing zone is not enforceable until the painting ~~and posting~~ required by this section is completed. A motor vehicle operator who passes another motor vehicle traveling in the same direction in a no-passing zone commits a traffic infraction.

~~Nothing in this section limits the enforceability of signs installed under section 2051.~~

Sec. 11. 29-A MRSA §2326, as enacted by PL 1999, c. 331, §1, is repealed and the following enacted in its place:

§2326. Education; violations and enforcement

A person who violates section 2323, subsection 1 commits a civil violation.

1. Education. For a first violation of section 2323, subsection 1, a law enforcement officer may provide bicycle safety information to the person. The officer may also inform that person's parent or guardian about the provisions of this chapter and about where to obtain a bicycle helmet.

2. Forfeiture. For a 2nd or subsequent violation of section 2323, subsection 1, a forfeiture of no more than \$25 may be adjudged. The fine may be waived if

a person presents proof of purchase of a bicycle helmet since the citation.

See title page for effective date.

CHAPTER 401

S.P. 656 - L.D. 1840

An Act To Define the Process for a Municipality To Secede from a County

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

Sec. 1. 30-A MRSA c. 113, sub-c. 3 is enacted to read:

SUBCHAPTER 3

SECESSION BY MUNICIPALITY FROM COUNTY

§2174. Secession by a municipality from a county

This subchapter establishes a process by which a municipality may secede from one county and join another. The municipality must share a political subdivision border with both counties.

§2175. Initiation of procedure

1. Petition. Upon receipt of a petition that seeks to have a municipality secede from one county and join another county signed by 10% of the number of voters in the municipality who voted at the last gubernatorial election, the municipal officers shall call, advertise and hold a public hearing at least 14 days and no more than 60 days after certifying the petition. The municipal officers shall publish notice of the public hearing in a newspaper of general circulation in the area. One notice must be published as close as possible to the 14th day before the hearing and a 2nd notice must be published as close as possible to the 7th day before the hearing.

A. The purpose of the public hearing under this section is to allow municipal residents and officers to discuss secession. The public hearing must include a formal presentation by those initiating the petition that must include a description of the problems that have led to the secession effort. Attendees shall discuss the problems, potential solutions other than secession and the potential impact of secession on the municipality and the county from which the municipality is seceding. The persons initiating the petition shall submit a written report at the public hearing that describes the impact of the proposed secession on property taxes in the county from which the municipality is seceding as well as in the municipality.

2. Question. When the municipal legislative body is the town meeting, no later than 90 days after the public hearing under this section, municipal officers shall prepare an article in the form below for inclusion in a town meeting warrant to be voted on by written ballot at a town meeting. In other municipalities, the vote must be by local referendum no later than 90 days after the public hearing under this section. The question to be voted on must be in substantially the following form:

"Be it resolved that the voters of X (municipality) seek approval of the Legislature for X (municipality) to secede from the County of X and join the County of Y. Following legislative approval, a countywide referendum is required before final secession is authorized. Do you support X (municipality) seeking the approval of the Legislature for X (municipality) to secede from the County of X?"

Yes No"

3. Approval. If the voters approve the question under subsection 2 by a majority vote of those voting and present, then the rest of the secession process set forth in this subchapter applies.

§2176. Legislative approval of secession

Upon a majority approval of the local referendum under section 2175, the municipality shall seek and, in order to secede, must receive approval from the Legislature for the proposed secession.

§2177. County approval of secession

Upon approval of the Legislature, both the county from which the municipality is seceding and the county that the municipality is joining under this subchapter shall hold a referendum vote during the next scheduled regular election. Both counties must agree by a majority vote in favor of secession. The question to be voted on must be in substantially the following form:

"Be it resolved that the voters of X (municipality) seek approval of the County of X and the County of Y to secede from the County of X and join the County of Y. Do you support X (municipality) seceding from the County of X and joining the County of Y and the municipality continuing to pay debt service owed to the County of X?"

Yes No"

§2178. Cost of referenda

The municipality petitioning to secede shall bear the expense of the 2 countywide referenda under section 2177.