

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE

FIRST REGULAR SESSION
December 3, 2008 to June 13, 2009

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PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Augusta, Maine
2009

(3) Has actual knowledge of the suspension or revocation;

(4) Has been sent written notice in accordance with section 2482 or former Title 29, section 2241, subsection 4; or

(5) Has failed to answer or to appear in court pursuant to a notice or order specified in section 2605 or 2608;

B. Violates paragraph A and the suspension was for OUI or an OUI offense;

C. Violates paragraph A and the suspension was for OUI or an OUI offense, the person was subject to the mandatory minimum sentence and the person:

(1) Has one prior conviction for violating this section;

(2) Has 2 prior convictions for violating this section; or

(3) Has 3 or more prior convictions for violating this section; or

D. Violates paragraph A, the suspension was not for OUI or an OUI offense and the person has one or more prior convictions for violating this section.

Except for an offense under subsection 8 or as otherwise provided, operating while license suspended or revoked is a Class E crime, which is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A.

Sec. 2. 29-A MRSA §2412-A, sub-§8 is enacted to read:

8. Traffic infraction. A person commits a traffic infraction operating while license suspended if the person has not been convicted or adjudicated of a prior offense under this section and the sole basis for the suspension is:

A. Failure to pay a fine;

B. Failure to pay a license reinstatement fee; or

C. Suspension for a dishonored check.

Sec. 3. 29-A MRSA §2551-A, sub-§3, as amended by PL 2009, c. 58, §§1 to 3, is further amended to read:

3. Offenses not included. The following convictions are not included under subsection 1, paragraph A:

A. A conviction of operating a motor vehicle without a license if the license had expired and was not suspended or revoked;

B. A conviction of operating after suspension when the suspension is based upon a failure to pay child support; ~~and~~

C. A conviction of operating after suspension when the suspension is based solely on a failure to pay the reinstatement fee required by section 2486; ~~and~~

D. An adjudication for the traffic infraction of operating after suspension under section 2412-A, subsection 8.

See title page for effective date.

CHAPTER 298

S.P. 494 - L.D. 1359

An Act To Improve the Use of Data from the Controlled Substances Prescription Monitoring Program

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

Sec. 1. 22 MRSA §7250, sub-§4, ¶D, as enacted by PL 2003, c. 483, §1, is amended to read:

D. A patient to whom a prescription is written, insofar as the information relates to that patient; ~~and~~

Sec. 2. 22 MRSA §7250, sub-§4, ¶E, as enacted by PL 2003, c. 483, §1, is amended to read:

E. Office personnel or personnel of any vendor or contractor, as necessary for establishing and maintaining the program's electronic system; ~~and~~

Sec. 3. 22 MRSA §7250, sub-§4, ¶F is enacted to read:

F. The office that administers the MaineCare program pursuant to chapter 855 for the purposes of managing the care of its members, monitoring the purchase of controlled substances by its members and avoiding duplicate dispensing of controlled substances.

See title page for effective date.

CHAPTER 299

H.P. 995 - L.D. 1419

An Act To Implement Respectful Language Amendments

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

PART A

Sec. A-1. 5 MRSA §20051, sub-§1, as enacted by PL 1989, c. 934, Pt. A, §3, is amended to read:

1. Laws. A county, municipality or other political subdivision may not adopt or enforce a local law, ordinance, regulation or rule having the force of law that includes drinking, being a ~~common drunkard~~ person with alcoholism or being found in an intoxicated condition as one of the elements of an offense giving rise to a criminal or civil penalty or sanction.

Sec. A-2. 14 MRSA §5956, first ¶ is amended to read:

Any person interested as or through an executor, administrator, trustee, guardian or other fiduciary, creditor, devisee, legatee, heir, next of kin or cestui que trust in the administration of a trust, or of the estate of a decedent, an infant, ~~lunatic~~ a person who is legally incompetent or a person who is insolvent may have a declaration of rights or legal relations in respect thereto:

Sec. A-3. 22 MRSA §822, as amended by PL 2005, c. 383, §18, is further amended to read:

§822. Reporting

Whenever any physician knows or has reason to believe that any person whom the physician examines or cares for has ~~or is afflicted with any~~ a disease or condition designated as notifiable, that physician shall notify the department and make such a report as may be required by the rules of the department. Reports must be in the form and content prescribed by the department and the department shall provide forms for making required reports.

Sec. A-4. 22 MRSA §5107-J, sub-§2, ¶C, as enacted by PL 2003, c. 465, §4, is amended to read:

C. The Governor shall appoint 3 members as follows:

- (1) One person who represents the area agencies on aging;
- (2) One person who represents persons and families ~~afflicted~~ with Alzheimer's disease or dementia; and
- (3) One person who represents a statewide organization representing persons with disabilities.

Sec. A-5. 22 MRSA §8552, sub-§2, ¶A, as enacted by PL 1995, c. 205, §1, is amended to read:

A. The program's written statement of its philosophy and mission that reflect the needs of individuals ~~afflicted~~ with dementia;

Sec. A-6. 34-B MRSA §1402, sub-§2, ¶B, as amended by PL 1995, c. 560, Pt. K, §27, is further amended to read:

B. Provide for informing and advising any indigent person, that person's relatives or friends and the representatives of any charitable agency as to:

- (1) The mental condition of the indigent person;
- (2) The prevention and treatment of the condition;
- (3) The available institutions or other means of caring for the ~~afflicted~~ person; and
- (4) Any other matter relative to the welfare of the person; and

Sec. A-7. 34-B MRSA §9002, sub-§3, as enacted by PL 1983, c. 459, §7, is amended to read:

3. Mental deficiency. "Mental deficiency" means mental deficiency as defined by appropriate clinical authorities to such extent that a person ~~so afflicted~~ is incapable of managing ~~himself and his~~ that person's affairs, but ~~shall~~ may not include mental illness.

Sec. A-8. 34-B MRSA §9002, sub-§4, as enacted by PL 1983, c. 459, §7, is amended to read:

4. Mental illness. "Mental illness" means mental disease to such extent that a person ~~so afflicted~~ requires care and treatment for ~~his~~ that person's own welfare or the welfare of others or of the community.

Sec. A-9. 37-B MRSA §601, as amended by PL 2007, c. 167, §9, is further amended to read:

§601. Home established; purpose

There must be public homes for veterans in Maine known as "Maine Veterans' Homes." In addition to the existing 120-bed home located in Augusta, a 120-bed home located in Scarborough, a home not to exceed 40 beds located in Caribou, a home located in Bangor not to exceed 120 beds, of which 40 beds are dedicated to ~~senile dementia~~ patients with dementia, and a home located in South Paris not to exceed 90 beds, of which 30 beds are dedicated to ~~senile dementia~~ patients with dementia, may be constructed if federal Veterans' Administration funds are available to meet part of the costs of each facility for construction or operation. In addition, a home located in Machias not to exceed 60 beds may be constructed if federal Veterans' Administration funds or funds from any other state, federal or private source are available to meet part of the costs of the facility for construction or operation, except that the Machias home may not begin operation prior to July 1, 1995 and the construction and funding of the Machias home may not in any way jeopardize the construction, funding or financial viability of any other home. The Maine Veterans'

Homes also are authorized to provide nonnursing facility care and services to Maine veterans if approved by appropriate state and federal authorities. The Board of Trustees of the Maine Veterans' Homes shall plan and develop the Machias home and any nonnursing facility care and services using any funds available for that purpose, except for the Augusta facility's funded depreciation account. The Maine Veterans' Homes are authorized to construct community-based outpatient clinics for Maine veterans in cooperation with the United States Department of Veterans Affairs and may construct and operate veterans hospice facilities, veterans housing facilities and other facilities authorized by the Board of Trustees of the Maine Veterans' Homes, using available funds. Any funds loaned to the Maine Veterans' Homes for operating purposes from the funded depreciation accounts of the Maine Veterans' Homes must be reimbursed from any funds received by the Maine Veterans' Homes and available for that purpose. The primary purpose of the Maine Veterans' Homes is to provide support and care for honorably discharged veterans who served on active duty in the United States Armed Forces or who served in the Reserves of the United States Armed Forces on active duty for other than training purposes or are entitled to retired pay under 10 United States Code, Chapter 1223 regardless of the age of such persons.

PART B

Sec. B-1. Develop recommendations for changes in statutory language. The Department of Health and Human Services, referred to in this Part as "the department," shall review the Maine Revised Statutes to identify those sections that use the term "mental retardation" or "mentally retarded" and develop recommendations for removal of the terms or substitutions of language that reflect the recommendations of the respectful language working group in the report submitted by the Maine Developmental Disabilities Council to the Joint Standing Committee on Health and Human Services pursuant to Resolve 2007, chapter 62. The department shall seek input from interested stakeholders in the development of those recommendations.

Sec. B-2. Report and recommendations. By January 15, 2010, the department shall submit a report to the Joint Standing Committee on Health and Human Services regarding recommended changes for the Maine Revised Statutes pursuant to section 1.

Sec. B-3. Authority for legislation. After receipt and review of the recommendations submitted pursuant to section 2, the Joint Standing Committee on Health and Human Services may submit legislation to the Second Regular Session of the 124th Legislature.

See title page for effective date.

CHAPTER 300 S.P. 513 - L.D. 1429

An Act To Strengthen the Workplace Smoking Laws and Other Laws Governing Smoking

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

Sec. 1. 22 MRSA §1542, sub-§2, ¶F, as enacted by PL 1993, c. 342, §1 and affected by §9, is repealed.

Sec. 2. 22 MRSA §1542, sub-§2, ¶J, as amended by PL 2005, c. 257, §4, is further amended to read:

J. Smoking is not prohibited in a private residence, subject to section 1580-A, unless the private residence is used as a day care or baby-sitting service. If a private residence is used as a day care or baby-sitting service, smoking is prohibited:

- (1) In the residence, during the hours of operation as a day care or baby-sitting service;
- (2) In outdoor areas on the property of that private residence, wherever a child under care may be present; and
- (3) During the facility's hours of operation, in a motor vehicle owned or operated by the facility whenever a child under care is in the vehicle.

Sec. 3. 22 MRSA §1580, as reallocated by PL 1983, c. 816, Pt. A, §15, is repealed.

Sec. 4. 22 MRSA §1580-A, sub-§2, ¶A, as enacted by PL 1985, c. 126, is amended to read:

A. "Business facility" means a structurally enclosed location or portion thereof at which employees perform services for their employer. A business facility ~~shall~~ does not include any workplace or portion of a workplace ~~which~~ that also serves as the employee's or employer's personal residence. A business facility is a place of employment. Notwithstanding this paragraph, a personal residence or unit or apartment in a residential facility is a business facility only during the period of time that an employee is physically present to perform work there. A residential facility, nursing home or a hospital is a business facility.

Sec. 5. 22 MRSA §1580-A, sub-§2, ¶A-2 is enacted to read:

A-2. "Designated smoking area" means an outdoor area where smoking is permitted, which