

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

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 12, 2009

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

Augusta, Maine
2009

cohol level or drug concentration in the same manner as for OUI.

Sec. 68. 29-A MRSA §2523, sub-§1, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

1. Mandatory submission to test. A person who operates a commercial motor vehicle shall submit to a test to determine ~~the blood alcohol that person's alcohol~~ level or drug concentration if there is probable cause to believe that the person has operated a commercial motor vehicle while having ~~a blood alcohol an alcohol~~ level of ~~0.04% or more~~ 0.04 grams or more of alcohol per 100 milliliters of blood or 210 liters of breath or while under the influence of drugs.

Sec. 69. 29-A MRSA §2523, sub-§3, ¶A, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

A. There is probable cause to believe the person operated a commercial motor vehicle while under the influence of drugs or with ~~a blood alcohol an alcohol~~ level of ~~.04% or more by weight of alcohol~~ 0.04 grams or more of alcohol per 100 milliliters of blood or 210 liters of breath;

Sec. 70. 29-A MRSA §2524, sub-§4, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5 and amended by PL 2003, c. 689, Pt. B, §6, is further amended to read:

4. Chemical tests on breath and urine specimens. A sample specimen of breath or urine may be submitted to the Department of Health and Human Services or a person certified by the Department of Health and Human Services for the purpose of conducting chemical tests to determine ~~blood alcohol alcohol~~ level or drug concentration.

Sec. 71. 29-A MRSA §2524, sub-§5, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5 and amended by PL 2003, c. 689, Pt. B, §6, is further amended to read:

5. Equipment for taking specimens. Only equipment having a stamp of approval affixed by the Department of Health and Human Services may be used to take a sample specimen of breath or urine, except that a self-contained, breath-alcohol testing apparatus if reasonably available may be used to determine the ~~blood alcohol alcohol~~ level.

Approved testing apparatus must have a stamp of approval affixed by the Department of Health and Human Services after periodic testing. That stamp is valid for no more than one year.

Sec. 72. Implementation. The Department of Public Safety and the Secretary of State shall imple-

ment the provisions of this Act within existing budgeted resources.

See title page for effective date.

CHAPTER 448

S.P. 491 - L.D. 1356

An Act To Improve the Ability of the Department of Education To Conduct Longitudinal Data Studies

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

Sec. 1. 20-A MRSA §6005 is enacted to read:

§6005. Maine Statewide Longitudinal Data System

The department shall develop and maintain the Maine Statewide Longitudinal Data System, a continuing program of information management, the purpose of which is to compile, maintain and disseminate information concerning the educational histories, placement, employment and other measures of success of participants in state educational programs. The commissioner may require a school administrative unit to collect and report individual student social security numbers to implement the Maine Statewide Longitudinal Data System only if additional federal funding is received to expand the department's kindergarten to grade 12 longitudinal data system existing as of the effective date of this section to a statewide system.

1. Placement information. A project conducted by the department that requires placement information must use information provided through the Maine Statewide Longitudinal Data System. The department shall implement an automated system that matches the social security numbers of former participants in state educational and training programs with information in the files of state and federal agencies that maintain educational, employment and United States armed services records and shall implement procedures to identify the occupations of those former participants whose social security numbers are found in employment records.

2. Dissemination of education records. The Maine Statewide Longitudinal Data System may not make public any information that could identify an individual or the individual's employer. The department must ensure that the purpose of obtaining placement information is to evaluate and improve education programs or to conduct research for the purpose of improving education services. Education records must be managed in compliance with the federal Family Educational Rights and Privacy Act of 1974, 20 United States Code, Section 1232g, referred to in this section as "FERPA." Personally identifiable informa-

tion in an education record that is not directory information may be released to other agencies within State Government, including postsecondary institutions, only under a signed memorandum of understanding requiring compliance with FERPA.

3. Notification and consent. If the commissioner requires a school administrative unit to collect and report individual social security numbers pursuant to section 15689-B, subsection 7, the school administrative unit must notify parents in the annual notice required under FERPA that the data is being collected and used for longitudinal data purposes and must request the parent to provide written consent to use the child's social security number for the collection of longitudinal data. The parental notification must include an explanation of the parent's right that the child's social security number is not required as a condition of enrollment and that the child's social security number may not be used for longitudinal data purposes unless the parent provides prior written consent. When a student attains 18 years of age, the written consent must be obtained from the student, and the rights accorded to the parent before the student attained 18 years of age are then accorded to the student.

Sec. 2. 20-A MRSA §15689-B, sub-§7, as amended by PL 2007, c. 539, Pt. C, §13, is further amended to read:

7. Required data; subsidy payments withheld. A school administrative unit shall provide the commissioner with information that the commissioner requests to carry out the purposes of this chapter, according to time schedules that the commissioner establishes. For the purposes of the Maine Statewide Longitudinal Data System established pursuant to section 6005, the commissioner may require a school administrative unit to collect and report individual student social security numbers. The commissioner may withhold monthly subsidy payments from a school administrative unit when information is not filed in the specified format and with specific content and within the specified time schedules. If the school administrative unit files the information in the specified format, the ~~Department of Education~~ department shall include the payment of the withheld subsidy in the next regularly scheduled monthly subsidy payment.

Sec. 3. Administrative letter. The Commissioner of Education shall send an administrative letter to superintendents, principals and school counselors regarding the establishment of the Maine Statewide Longitudinal Data System pursuant to the Maine Revised Statutes, Title 20-A, section 6005. The letter must provide school officials with information regarding the requirements of this Act, including suggested language to be included in the annual notice to parents required under the Family Educational Rights and Privacy Act of 1974. The suggested language for parental notification must include an explanation of a par-

ent's right that the child's social security number is not required as a condition of enrollment and that the child's social security number may not be used for the purposes of the Maine Statewide Longitudinal Data System unless the parent provides prior written consent.

See title page for effective date.

CHAPTER 449
H.P. 447 - L.D. 633

**An Act To Amend the Laws
Pertaining to Refusing To
Submit to Arrest or Detention**

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

Sec. 1. 17-A MRSA §751-A, as amended by PL 2001, c. 128, §1, is repealed.

Sec. 2. 17-A MRSA §751-B is enacted to read:

§751-B. Refusing to submit to arrest or detention

1. A person is guilty of refusing to submit to arrest or detention if, with the intent to hinder, delay or prevent a law enforcement officer from effecting the arrest or detention of that person, the person:

A. Refuses to stop on request or signal of a law enforcement officer. Violation of this paragraph is a Class E crime;

B. Uses physical force against the law enforcement officer. Violation of this paragraph is a Class D crime; or

C. Creates a substantial risk of bodily injury to the law enforcement officer. Violation of this paragraph is a Class D crime.

2. It is a defense to prosecution under this section that the person reasonably believed that the person attempting to effect the arrest or detention was not a law enforcement officer. It is a defense to prosecution under subsection 1, paragraph A that the law enforcement officer acted unlawfully in attempting to effect the arrest or detention.

Sec. 3. Appropriations and allocations. The following appropriations and allocations are made.

CORRECTIONS - STATE BOARD OF

State Board of Corrections Investment Fund Z087

Initiative: Appropriates funds for the incremental costs associated with one projected incarceration in a county jail.

GENERAL FUND

2009-10

2010-11