

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE

FIRST REGULAR SESSION
December 1, 2010 to June 29, 2011

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 28, 2011

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

Augusta, Maine
2011

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

Sec. 1. 20-A MRSA §254, sub-§13 is enacted to read:

13. Technical assistance; integrated model for instruction in personal finance. The commissioner shall develop a program of technical assistance that promotes the importance of financial literacy and encourages school administrative units to implement an integrated model for instruction in personal finance that may be used in secondary schools as part of the instruction in social studies or mathematics required by section 4722, subsection 2, paragraphs B and C. The commissioner, in consultation with the Finance Authority of Maine, the Office of Securities within the Department of Professional and Financial Regulation, Jobs for Maine's Graduates, organizations representing banks, credit unions and financial professionals and other interested organizations promoting personal finance initiatives, shall prepare and distribute annually, in January, a report to school boards and superintendents that includes strategies and resources available to implement an integrated model for instruction in personal finance for use in secondary schools. The annual report must also be provided to the joint standing committee of the Legislature having jurisdiction over education matters, and the department shall post the report on its publicly accessible website.

See title page for effective date.

CHAPTER 155

S.P. 361 - L.D. 1186

An Act To Amend the Probate Code Relating to the Authority of the Probate Court To Approve Transfers from a Protected Person's Estate

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

Sec. 1. 18-A MRSA §5-408, sub-§(6), as enacted by PL 2005, c. 12, Pt. DDD, §4 and affected by §17, is amended to read:

(6). The court may authorize a gift or other transfer for less than fair market value from the protected person's estate ~~other than to the protected person's spouse or dependent, blind or disabled child if the court finds that the gift or other transfer will not, directly or indirectly, diminish the protected person's estate in order to qualify for federal or state aid or benefits, including the MaineCare program under Title 22, chapter 855, and if the court finds:~~

(a). That the remaining estate assets of the protected person are sufficient for the protected per-

son's care and maintenance for the next 36 60 months, including due provision for the protected person's established standard of living and for the support of any persons the protected person is legally obligated to support and any dependents of the protected person; and

(b). That the gift or other transfer will not hasten the date of eligibility for MaineCare coverage of the protected person's long-term care expenses during the next 36 60 months.

~~This subsection does not prevent a transfer~~ If the gift or other transfer is being made to the protected person's spouse or blind or disabled child or to a trust established pursuant to 42 United States Code, Section 1396p(d)(4), or is otherwise specifically allowed without a transfer penalty by law governing the federal Medicaid program under 42 United States Code, the court may authorize the gift or other transfer without making the findings under paragraphs (a) and (b).

Sec. 2. 18-A MRSA §5-409, sub-§(d), as enacted by PL 2005, c. 12, Pt. DDD, §6 and affected by §17, is amended to read:

(d). The court may authorize a gift or other transfer for less than fair market value from the protected person's estate ~~other than to the protected person's spouse or dependent, blind or disabled child if the court finds that the gift or other transfer will not, directly or indirectly, diminish the protected person's estate in order to qualify for federal or state aid or benefits, including the MaineCare program under Title 22, chapter 855, and if the court finds:~~

(1). That the remaining estate assets of the protected person are sufficient for the protected person's care and maintenance for the next 36 60 months, including due provision for the protected person's established standard of living and for the support of any persons the protected person is legally obligated to support and any dependents of the protected person; and

(2). That the gift or other transfer will not hasten the date of eligibility for MaineCare coverage of the protected person's long-term care expenses during the next 36 60 months.

~~This subsection does not prevent a transfer~~ If the gift or other transfer is being made to the protected person's spouse or blind or disabled child or to a trust established pursuant to 42 United States Code, Section 1396p(d)(4), or is otherwise specifically allowed without a transfer penalty by law governing the federal Medicaid program under 42 United States Code, the court may authorize the gift or other transfer without making the findings under paragraphs (1) and (2).

Sec. 3. 18-A MRSA §5-425, sub-§(b-1), as enacted by PL 2005, c. 12, Pt. DDD, §8 and affected by §17, is amended to read:

(b-1). The court may authorize a gift or other transfer for less than fair market value from the protected person's estate ~~other than to the spouse or dependent, blind or disabled child~~ if the court finds that the gift or other transfer will not, directly or indirectly, diminish the protected person's estate in order to qualify for federal or state aid or benefits, including the MaineCare program under Title 22, chapter 855, and if the court finds:

- (1). That the remaining estate assets of the protected person are sufficient for the protected person's care and maintenance for the next ~~36~~ 60 months, including due provision for the protected person's established standard of living and for the support of any persons the protected person is legally obligated to support and any dependents of the protected person; and
- (2). That the gift or other transfer will not hasten the date of eligibility for MaineCare coverage of the protected person's long-term care expenses during the next ~~36~~ 60 months.

~~This subsection does not prevent a transfer~~ If the gift or other transfer is being made to the protected person's spouse or blind or disabled child or to a trust established pursuant to 42 United States Code, Section 1396p(d)(4), or is otherwise specifically allowed without a transfer penalty by law governing the federal Medicaid program under 42 United States Code, the court may authorize the gift or other transfer without making the findings under paragraphs (1) and (2).

See title page for effective date.

CHAPTER 156
H.P. 741 - L.D. 1005

**An Act To Clarify the
Standard of Proof for Traffic
Infractions**

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

Sec. 1. 29-A MRSA §103, sub-§4 is enacted to read:

4. Standard of proof. The burden of proof that a traffic infraction has occurred is on the State and must be established by a standard of a preponderance of the evidence.

See title page for effective date.

CHAPTER 157
H.P. 783 - L.D. 1048

**An Act To Delay the
Implementation of the Rental
Housing Radon Testing
Requirement**

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

Sec. 1. 14 MRSA §6030-D, sub-§1, as amended by PL 2009, c. 566, §19, is further amended to read:

1. Testing. By ~~2012~~ March 1, 2014 and every 10 years thereafter, a landlord or other person who on behalf of a landlord enters into a lease or tenancy at will agreement for a residential building shall have the air of the residential building tested for the presence of radon. A test required to be performed under this section must be conducted by a person registered with the Department of Health and Human Services pursuant to Title 22, chapter 165.

See title page for effective date.

CHAPTER 158
H.P. 370 - L.D. 477

**An Act Relating to Noise
Violations by Motor Vehicles,
Including Motorcycles**

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 Act provides a defense for mufflers or exhaust systems of motor vehicles and motorcycles to violations of excessive or unusual noise; and

Whereas, it is important to enact this law immediately as motorcycle traffic is at its peak during the spring and summer months and the effective date of this legislative session's enacted laws will likely occur in late summer or early fall; 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:**