

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

(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:

Sec. 1. 29-A MRSA §1912, sub-§6, as amended by PL 2005, c. 314, §11, is repealed and the following enacted in its place:

6. Defense for noise violations by motor vehicles and motorcycles. The following are defenses to a violation of subsection 1 or 3.

A. If a muffler or exhaust system of a motor vehicle as defined in section 101, subsection 42, not including a motorcycle, does not emit noise in excess of 95 decibels as measured in accordance with standards and specifications outlined in standard J-1169 adopted by the Society of Automotive Engineers in May 1998, subsections 1 and 3 do not apply. A person served with a Violation Summons and Complaint charging a violation of subsection 1 or 3 must provide satisfactory evidence that the muffler or exhaust system does not emit noise in excess of 95 decibels as measured in accordance with standards and specifications outlined in standard J-1169 adopted by the Society of Automotive Engineers in May 1998. Measurements must be made by a participating certified inspection station.

B. Subsections 1 and 3 do not apply to a muffler or exhaust system of a motorcycle that does not emit noise, as measured in accordance with standards and specifications outlined in standard J-2825 adopted by the Society of Automotive Engineers in May 2009, in excess of 92 decibels at an idle and emits noise that does not measure:

(1) More than 96 decibels using the set RPM test or swept RPM test for an engine configuration other than a 3-cylinder or 4-cylinder engine configuration; or

(2) More than 100 decibels using the set RPM test or swept RPM test for a 3-cylinder or 4-cylinder engine configuration.

A person served with a Violation Summons and Complaint charging a violation of subsection 1 or 3 must provide satisfactory evidence that the muffler or exhaust system does not exceed decibel levels as described in this paragraph. Measurements must be made by a participating certified inspection station.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

Effective May 26, 2011.

**CHAPTER 159
S.P. 331 - L.D. 1098**

**An Act To Increase
Accountability for the Most
Serious Offenders of Laws
Prohibiting Operating under
the Influence of Drugs and
Alcohol**

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

Sec. 1. 29-A MRSA §2411, sub-§1-A, ¶D, as amended by PL 2009, c. 447, §38, is further amended to read:

D. Violates paragraph A, B or C and:

(1) In fact causes serious bodily injury as defined in Title 17-A, section 2, subsection 23 to another person;

(1-A) In fact causes the death of another person; or

(2) Has either a prior conviction for a Class B or Class C crime under this section or former Title 29, section 1312-B or a prior criminal homicide conviction involving or resulting from the operation of a motor vehicle while under the influence of intoxicating liquor or drugs or with an alcohol level of 0.08 grams or more of alcohol per 100 milliliters of blood or 210 liters of breath. For purposes of this subparagraph, the 10-year limitation specified in section 2402 and Title 17-A, subsection 9-A, subsection 3 does not apply to the prior criminal homicide conviction.

See title page for effective date.

**CHAPTER 160
H.P. 690 - L.D. 930**

**An Act To Clarify Maine's
Phaseout of the "Deca"
Mixture of Polybrominated
Diphenyl Ethers**

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, under current law a person may not replace the "deca" mixture of polybrominated diphenyl ethers with a chemical that is a brominated or chlorinated flame retardant; and