

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE

FIRST SPECIAL SESSION
September 27, 2011

SECOND REGULAR SESSION
January 4, 2012 to May 31, 2012

THE EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
LAWS IS
SEPTEMBER 28, 2011

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
AUGUST 30, 2012

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

Augusta, Maine
2012

Sec. 17. 29-A MRSA §1354, sub-§6, ¶C, as enacted by PL 1995, c. 505, §15 and affected by §22, is amended to read:

C. The Secretary of State shall develop and implement training programs for the licensing and relicensing of ~~driver education teachers and~~ instructors.

Sec. 18. 29-A MRSA §1354, sub-§6, ¶G, as enacted by PL 1995, c. 505, §15 and affected by §22, is amended to read:

G. The Secretary of State shall investigate written complaints regarding the activities of driver education schools and ~~driver education teachers and~~ instructors.

Sec. 19. 29-A MRSA §1354, sub-§7, as enacted by PL 1995, c. 505, §15 and affected by §22 and amended by PL 1999, c. 547, Pt. B, §78 and affected by §80, is further amended to read:

7. Penalties. A person who conducts driver education, operates a driver education school or acts as a ~~driver education teacher or an~~ instructor without a license is guilty of a Class E crime. The State may bring an action in Superior Court to enjoin any person from violating this chapter, regardless of whether proceedings have been or may be instituted in the District Court or whether criminal proceedings have been or may be instituted.

Sec. 20. 29-A MRSA §1354, sub-§8, as enacted by PL 1995, c. 505, §15 and affected by §22, is amended to read:

8. Suspension or revocation of license; hearings. The Secretary of State may suspend, revoke or refuse to issue or renew a driver education school or ~~driver education teacher~~ or instructor license for non-compliance with statutory and regulatory requirements. A person refused a license or whose license is suspended or revoked may request a hearing with the Secretary of State. A requested hearing must be conducted pursuant to chapter 23, subchapter H ~~2~~, article 3.

Sec. 21. 29-A MRSA §2357, sub-§1, ¶A, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

A. A vehicle loaded entirely with building materials that absorb moisture during delivery ~~originating and terminating within the State~~, bark, sawdust, firewood, sawed lumber, dimension lumber, pulpwood, wood chips, logs, soil, unconsolidated rock material including limestone, bolts, farm produce, road salt, manufacturer's concrete products, solid waste or incinerator ash;

Sec. 22. 29-A MRSA §2382, sub-§5, as repealed and replaced by PL 2011, c. 356, §23, is amended to read:

5. Long-term permits. The Secretary of State may grant permits for up to one year for trucks, truck tractors, semitrailers and Class A special mobile equipment. ~~The fee for an overlimit permit is \$25 per month. Notwithstanding Title 5, section 8071, subsection 2, paragraph A, the Secretary of State, in consultation with the Commissioner of Transportation, shall establish the fee schedule by rule. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.~~

See title page for effective date.

CHAPTER 557

S.P. 630 - L.D. 1822

An Act To Allow the Change of Location of a Licensed Large Game Shooting Area

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

Sec. 1. 7 MRSA §1342-C is enacted to read:

§1342-C. Change of location of licensed commercial large game shooting area

A person holding a license for a commercial large game shooting area under section 1342 or 1342-A may apply to the commissioner for permission to change the location of the licensed area. The commissioner shall approve the change in location if the applicant demonstrates that the old location of the commercial large game shooting area will be discontinued and that the new location meets all of the applicable requirements of the section of law under which the original license was approved.

See title page for effective date.

CHAPTER 558

S.P. 612 - L.D. 1774

An Act Regarding the Matching Funds Provisions of the Maine Clean Election Act

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

Sec. 1. 21-A MRSA §1017, sub-§3-B, as corrected by RR 2009, c. 2, §46, is repealed.

Sec. 2. 21-A MRSA §1019-B, sub-§4, ¶A, as enacted by PL 2009, c. 524, §7, is amended to read:

A. A report required by this subsection must be filed with the commission according to a reporting schedule that the commission shall establish by

rule that takes into consideration existing campaign finance reporting requirements ~~and matching fund provisions under chapter 14~~. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 3. 21-A MRSA §1020-A, sub-§4-A, as amended by PL 2007, c. 443, Pt. A, §22, is further amended to read:

4-A. Basis for penalties. The penalty for late filing of a report required under this subchapter, ~~except for accelerated campaign finance reports required pursuant to section 1017, subsection 3-B~~, is a percentage of the total contributions or expenditures for the filing period, whichever is greater, multiplied by the number of calendar days late, as follows:

- A. For the first violation, 1%;
- B. For the 2nd violation, 3%; and
- C. For the 3rd and subsequent violations, 5%.

Any penalty of less than \$10 is waived.

Violations accumulate on reports with filing deadlines in a 2-year period that begins on January 1st of each even-numbered year. Waiver of a penalty does not nullify the finding of a violation.

A report required to be filed under this subchapter that is sent by certified or registered United States mail and postmarked at least 2 days before the deadline is not subject to penalty.

A registration or report may be provisionally filed by transmission of a facsimile copy of the duly executed report to the commission, as long as the facsimile copy is filed by the applicable deadline and an original of the same report is received by the commission within 5 calendar days thereafter.

~~The penalty for late filing of an accelerated campaign finance report as required in section 1017, subsection 3-B may be up to but no more than 3 times the amount by which the contributions received or expenditures obligated or made by the candidate exceed the applicable Maine Clean Election Fund disbursement amount, per day of violation. The commission shall make a finding of fact establishing when the report was due prior to imposing a penalty under this subsection. A penalty for failure to file an accelerated campaign finance report must be made payable to the Maine Clean Election Fund. In assessing a penalty for failure to file an accelerated campaign finance report, the commission shall consider the existence of mitigating circumstances. For the purposes of this subsection, "mitigating circumstances" has the same meaning as in subsection 2.~~

Sec. 4. 21-A MRSA §1020-A, sub-§5-A, ¶¶C and D, as amended by PL 2003, c. 628, Pt. A, §4, are further amended to read:

C. One thousand dollars for reports required under section 1017, subsection 2, paragraphs A and F and section 1017, subsection 3-A, paragraphs A and E; or

D. Five hundred dollars for municipal, district and county committees for reports required under section 1017-A, subsection 4-B; ~~or.~~

Sec. 5. 21-A MRSA §1020-A, sub-§5-A, ¶E, as enacted by PL 2001, c. 714, Pt. PP, §1 and affected by §2, is repealed.

Sec. 6. 21-A MRSA §1125, sub-§8-A, ¶¶A and B, as enacted by PL 2009, c. 302, §17 and affected by §24, are amended to read:

A. The range of campaign spending by candidates for that office in the 2 preceding elections; and

B. The Consumer Price Index published monthly by the United States Department of Labor, Bureau of Labor Statistics and any other significant changes in the costs of campaigning such as postage or fuel; ~~and.~~

Sec. 7. 21-A MRSA §1125, sub-§8-A, ¶C, as enacted by PL 2009, c. 302, §17 and affected by §24, is repealed.

Sec. 8. 21-A MRSA §1125, sub-§9, as repealed and replaced by PL 2009, c. 652, Pt. A, §25 and affected by §26, is repealed.

Sec. 9. 21-A MRSA §1125, sub-§13-A, as amended by PL 2011, c. 389, §58 and affected by §62, is further amended to read:

13-A. Distributions not to exceed amount in fund. The commission may not distribute revenues to certified candidates in excess of the total amount of money deposited in the fund as set forth in section 1124. Notwithstanding any other provisions of this chapter, if the commission determines that the revenues in the fund are insufficient to meet distributions under subsection 8-A ~~or 9~~, the commission may permit certified candidates to accept and spend contributions, reduced by any seed money contributions, aggregating no more than the applicable contribution limits established by the commission pursuant to section 1015, up to the applicable amounts set forth in subsections subsection 8-A and 9 according to rules adopted by the commission.

This subsection takes effect September 1, 2011.

Sec. 10. 21-A MRSA §1127, sub-§1, as amended by PL 2009, c. 302, §23, is further amended to read:

1. Civil fine. In addition to any other penalties that may be applicable, a person who violates any provision of this chapter or rules of the commission adopted pursuant to section 1126 is subject to a fine

not to exceed \$10,000 per violation payable to the fund. ~~The commission may assess a fine of up to \$10,000 for a violation of the reporting requirements of sections 1017 and 1019-B if it determines that the failure to file a timely and accurate report resulted in the late payment of matching funds.~~ In addition to any fine, for good cause shown, a candidate, treasurer, consultant or other agent of the candidate or the political committee authorized by the candidate pursuant to section 1013-A, subsection 1 found in violation of this chapter or rules of the commission may be required to return to the fund all amounts distributed to the candidate from the fund or any funds not used for campaign-related purposes. If the commission makes a determination that a violation of this chapter or rules of the commission has occurred, the commission shall assess a fine or transmit the finding to the Attorney General for prosecution. A final determination by the commission may be appealed to Superior Court in accordance with Title 5, chapter 375, subchapter 7 and the Maine Rules of Civil Procedure, Rule 80C. Fines assessed or orders for return of funds issued by the commission pursuant to this subsection that are not paid in full within 30 days after issuance of a notice of the final determination may be enforced in accordance with section 1004-B. Fines paid under this section must be deposited in the fund. In determining whether or not a candidate is in violation of the expenditure limits of this chapter, the commission may consider as a mitigating factor any circumstances out of the candidate's control.

Sec. 11. Appropriations and allocations. The following appropriations and allocations are made.

ETHICS AND ELECTION PRACTICES, COMMISSION ON GOVERNMENTAL

Governmental Ethics and Election Practices - Commission on 0414

Initiative: Adjusts payments to candidates to reflect the elimination of matching funds.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
All Other	\$0	(\$927,880)
	\$0	(\$927,880)
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	(\$927,880)

See title page for effective date.

**CHAPTER 559
S.P. 622 - L.D. 1802**

An Act To Implement Recommendations of the Commission To Study Priorities and Timing of Judicial Proceedings in State Courts

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

PART A

Sec. A-1. 1 MRSA §409, sub-§1, as amended by PL 2009, c. 240, §5, is further amended to read:

1. Records. If any body or agency or official who has custody or control of any public record refuses permission to inspect or copy or abstract a public record, this denial must be made by the body or agency or official in writing, stating the reason for the denial, within 5 working days of the request for inspection by any person. Any person aggrieved by denial may appeal, within 5 working days of the receipt of the written notice of denial, to any Superior Court within the State. If a court, after a trial de novo, determines such denial was not for just and proper cause, it shall enter an order for disclosure. Appeals are privileged in respect to their assignment for trial over all other actions except writs of habeas corpus and actions brought by the State against individuals may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require.

Sec. A-2. 1 MRSA §409, sub-§2, as amended by PL 2007, c. 695, Pt. C, §1, is further amended to read:

2. Actions. If any body or agency approves any ordinances, orders, rules, resolutions, regulations, contracts, appointments or other official action in an executive session, this action is illegal and the officials responsible are subject to the penalties hereinafter provided. Upon learning of any such action, any person may appeal to any Superior Court in the State. If a court, after a trial de novo, determines this action was taken illegally in an executive session, it shall enter an order providing for the action to be null and void. Appeals are privileged in respect to their assignment for trial over all other actions except writs of habeas corpus or actions brought by the State against individuals may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require.

Sec. A-3. 4 MRSA §184, sub-§6, as amended by PL 2001, c. 471, Pt. D, §6, is further amended to read: