

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-SIXTH LEGISLATURE

FIRST REGULAR SESSION
December 5, 2012 to July 10, 2013

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
OCTOBER 9, 2013

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

Augusta, Maine
2013

with the board, regarding noncompliance with or violation of this chapter or of rules adopted by the board. Investigation may include a hearing before the board to determine whether grounds exist for suspension, revocation or denial of a license, or as otherwise considered necessary to the fulfillment of its responsibilities under this chapter. The board may subpoena witnesses, records and documents, including records and documents maintained by a health care facility, in an investigation or hearing it conducts.

The board shall notify the licensee of the content of a complaint filed against the licensee as soon as possible, but, absent unusual circumstances justifying the delay, not later than 60 days from receipt of this information. The licensee shall respond within 30 days. The board shall share the licensee's response with the complainant, unless the board determines that it would be detrimental to the health of the complainant to obtain the response. If the licensee's response to the complaint satisfies the board that the complaint does not merit further investigation or action, the matter may be dismissed, with notice of the dismissal to the complainant, if any.

If, in the opinion of the board, the factual basis of the complaint is or may be true, and ~~the complaint~~ is of sufficient gravity to warrant further action, the board may request an informal conference with the licensee. The board shall provide the licensee with adequate notice of the conference and of the issues to be discussed. The complainant may attend the conference and may be accompanied by up to 2 individuals, including legal counsel. The conference must be conducted in executive session of the board, or its subcommittee, pursuant to Title 1, section 405, unless otherwise requested by the licensee. Before the board or its subcommittee decides what action to take at the conference or as a result of the conference, the board or its subcommittee shall give the complainant a reasonable opportunity to speak. Statements made at the conference may not be introduced at a subsequent formal hearing unless all parties consent.

When a complaint has been filed against a licensee and the licensee moves or has moved to another state, the board may report to the appropriate licensing board in that state the complaint that has been filed, other complaints in the licensee's record on which action was taken and disciplinary actions of the board with respect to that licensee.

When an individual applies for a license under this chapter, the board may investigate the professional record of that individual, including professional records that the individual may have as a licensee in other states. The board may deny a license or authorize a restricted license based on the record of the applicant in other states.

If the board or its subcommittee finds that the factual basis of the complaint is true and is of sufficient grav-

ity to warrant further action, ~~the board or its subcommittee~~ may take any of the following actions ~~the board or its subcommittee~~ considers appropriate:

- A. Warn, censure or reprimand;
- B. With the consent of the licensee, enter into a consent agreement that fixes the period and terms of probation best adapted to protect the public health and safety and to rehabilitate or educate the licensee. A consent agreement may be used to terminate a complaint investigation, if entered into by the board, the licensee and the Attorney General's office;
- C. In consideration for acceptance of a voluntary surrender of the license, negotiate stipulations, including terms and conditions for reinstatement that ensure protection of the public health and safety and serve to rehabilitate or educate the licensee. These stipulations may be set forth only in a consent agreement signed by the board, the licensee and the Attorney General's office;
- D. If the board or its subcommittee concludes that modification or nonrenewal of the license is in order, hold an adjudicatory hearing in accordance with the provisions of Title 5, chapter 375, subchapter ~~4~~; or
- E. If the board or its subcommittee concludes that suspension or revocation of the license is in order, file a complaint in the District Court in accordance with Title 4, chapter 5.

Sec. 2. Rulemaking. The Department of Professional and Financial Regulation, State Board of Nursing shall amend its rules to implement the provisions of this Act. Rules adopted pursuant to this Act are routine technical rules as defined in the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A.

See title page for effective date.

CHAPTER 24

H.P. 148 - L.D. 187

An Act To Permit Temporary Operation of a Motor Vehicle with an Expired Operator's License Solely for the Purpose of Traveling Home or Renewing the License

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

Sec. 1. 29-A MRSA §1251, sub-§1, ¶E, as enacted by PL 2005, c. 314, §6, is amended to read:

- E. ~~With~~ Unless a permit is issued pursuant to subsection 7, with a license issued by this State

that expired within the previous 90 days. Violation of this paragraph is a traffic infraction.

Sec. 2. 29-A MRSA §1251, sub-§7 is enacted to read:

7. Temporary permit to operate a motor vehicle with an expired license. Upon stopping an operator of a motor vehicle who is in violation of subsection 1, paragraph E, a law enforcement officer may issue a permit to the operator of the motor vehicle to operate the motor vehicle to the operator's residence or to an office of the bureau for the sole purpose of renewing the operator's license.

See title page for effective date.

CHAPTER 25
S.P. 76 - L.D. 240

An Act To Allow Motor Fuel
Taxable Sales Disclosure

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

Sec. 1. 36 MRSA §191, sub-§2, ¶L, as repealed and replaced by PL 1987, c. 769, Pt. A, §146, is amended to read:

L. The listing of gasoline distributors possessing a certificate under section 2904 and the number of taxable gallons sold by each gasoline distributor in this State each month;

Sec. 2. 36 MRSA §191, sub-§2, ¶Q, as amended by PL 2009, c. 434, §12, is further amended to read:

Q. The listing of persons possessing certificates under section 3204 and the number of taxable gallons sold by each person possessing a certificate in this State each month;

See title page for effective date.

CHAPTER 26
S.P. 91 - L.D. 255

An Act To Establish July 27th
as Maine Korean War Veteran
Recognition Day

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

Whereas, immediate enactment of this legislation is necessary in order to properly celebrate Maine Korean War veterans on the appropriate day; 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. 1 MRSA §150-I is enacted to read:

§150-I. Maine Korean War Veteran Recognition Day

In recognition of the service and contributions of those veterans of the United States Armed Forces who served during the Korean War, the State designates July 27th of each year as Maine Korean War Veteran Recognition Day. The Governor shall annually issue a proclamation urging the people of the State to observe the day with appropriate celebration and activity.

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

Effective April 8, 2013.

CHAPTER 27
S.P. 134 - L.D. 354

An Act To Amend the County
Jail Inspection Requirement
for Nationally Accredited
Facilities

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

Sec. 1. 34-A MRSA §1208, sub-§2, ¶A, as enacted by PL 1983, c. 581, §§10 and 59, is amended to read:

A. The commissioner shall conduct a comprehensive inspection of each county and municipal detention facility every 2 years, in order to provide the department with information, verified by on-site inspection, regarding compliance with all department standards. The commissioner may dispense with this inspection if, when it is due, the facility is accredited by a nationally recognized correctional accrediting body.

Sec. 2. 34-A MRSA §1208, sub-§2, ¶B, as enacted by PL 1983, c. 581, §§10 and 59, is amended to read:

B. The commissioner shall conduct every 2 years no fewer than 3 additional inspections of each county and municipal detention facility during the period between each comprehensive inspection, that are in addition to any comprehensive inspec-