

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

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

Augusta, Maine
2013

3. Crossbow hunter education requirements. ~~A~~ Except as provided in paragraph A, a person who applies for a crossbow hunting license other than a junior hunting license or an apprenticeship hunter license must submit proof of having successfully completed an archery hunting education course and a crossbow hunting course as described in section 10108 or equivalent crossbow and archery hunting education courses or satisfactory evidence of having previously held adult archery and crossbow hunting licenses issued specifically for the purpose of hunting with a crossbow or bow and arrow in this State or any other state, province or country in any year after 1979.

When proof or evidence cannot be otherwise provided, the applicant may substitute a signed affidavit that the applicant has previously held the required adult crossbow and archery hunting license or has successfully completed the required crossbow and archery hunting education courses.

A. A person who is an enrolled member of the Passamaquoddy Tribe, the Penobscot Nation, the Houlton Band of Maliseet Indians or the Aroostook Band of Micmacs who presents certification from the respective reservation governor or the Aroostook Micmac Council stating that the person is an enrolled member of a federally recognized nation, band or tribe listed in this paragraph is exempt from the requirements of this subsection.

Sec. 3. 12 MRSA §12201, sub-§3, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

3. Successful completion of trapper evaluation program required for license. ~~A~~ Except as provided in paragraph A, a person who applies for a state license to trap, other than a junior license, must submit proof of having successfully completed an education course of the type described in section 10108, subsection 7 or satisfactory evidence of having previously held an adult license to trap in this State or any other state, province or country in any year beginning with 1978.

When proof or evidence can not otherwise be provided, the person may substitute a signed affidavit that that person has previously held the required adult trapping license or that that person has successfully completed the required trapper education course.

A. A person who is an enrolled member of the Passamaquoddy Tribe, the Penobscot Nation, the Houlton Band of Maliseet Indians or the Aroostook Band of Micmacs who presents certification from the respective reservation governor or the Aroostook Micmac Council stating that the person is an enrolled member of a federally recognized nation, band or tribe listed in this para-

graph is exempt from the requirements of this subsection.

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

Effective May 31, 2013.

CHAPTER 186

H.P. 130 - L.D. 155

An Act To Streamline the Approval of Accessibility Structures

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

Whereas, when a person with a disability requires approval to build a ramp that provides access to that person's dwelling, delay in the approval process can pose significant hardship; and

Whereas, applying for approval through a municipal board can be a slow process, and this Act allows an application to be made through a municipal code enforcement officer, which could provide a more expeditious proceeding; 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. 30-A MRSA §4353, sub-§4, as amended by PL 1997, c. 148, §1, is further amended to read:

4. Variance. Except as provided in subsections 4-A, 4-B and 4-C ~~and section 4353-A~~, the board may grant a variance only when strict application of the ordinance to the petitioner and the petitioner's property would cause undue hardship. The term "undue hardship" as used in this subsection means:

- A. The land in question can not yield a reasonable return unless a variance is granted;
- B. The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
- C. The granting of a variance will not alter the essential character of the locality; and

D. The hardship is not the result of action taken by the applicant or a prior owner.

Under its home rule authority, a municipality may, in a zoning ordinance, adopt additional limitations on the granting of a variance, including, but not limited to, a provision that a variance may be granted only for a use permitted in a particular zone.

Sec. 2. 30-A MRSA §4353-A is enacted to read:

§4353-A. Code enforcement officer; authority for disability structures permits

Notwithstanding section 4353, a municipality by ordinance may authorize a code enforcement officer to issue a permit to an owner of a dwelling for the purpose of making a dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. If the permit requires a variance, the permit is deemed to include that variance solely for the installation of equipment or the construction of structures necessary for access to or egress from the dwelling for the person with a disability. The code enforcement officer may impose conditions on the permit, including limiting the permit to the duration of the disability or to the time that the person with a disability lives in the dwelling.

For the purposes of this section, the term "structures necessary for access to or egress from the dwelling" includes ramps and associated railings, walls or roof systems necessary for the safety or effectiveness of the ramps.

For the purposes of this section, "disability" has the same meaning as a physical or mental disability under Title 5, section 4553-A.

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

Effective May 31, 2013.

CHAPTER 187

S.P. 36 - L.D. 85

An Act To Amend the Motor Vehicle Ignition Interlock Device Requirements in the Laws Regarding Operating Under the Influence

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

Sec. 1. 29-A MRSA §2411, sub-§5, ¶D, as amended by PL 2007, c. 531, §2 and affected by §10, is further amended to read:

D. For a person having 3 or more previous OUI offenses within a 10-year period, which is a Class C crime:

(1) A fine of not less than \$2,100, except that if the person failed to submit to a test at the request of a law enforcement officer, a fine of not less than \$2,500;

(2) A period of incarceration of not less than 6 months, except that if the person failed to submit to a test at the request of a law enforcement officer, a period of incarceration of not less than 6 months and 20 days;

(3) A court-ordered suspension of a driver's license for a period of ~~6~~ 8 years; and

(4) In accordance with section 2416, a court-ordered suspension of the person's right to register a motor vehicle; and

~~(5) In accordance with section 2508, installation of an ignition interlock device in the motor vehicle the person operates for a period of 4 years after the period of suspension has run;~~

Sec. 2. 29-A MRSA §2508, sub-§1, ¶C, as amended by PL 2009, c. 482, §1, is further amended to read:

C. The license of a person with 4 or more OUI offenses may be reinstated after ~~the expiration 4 years of the period of suspension period has run~~ if the person has installed for a period of 4 years an ignition interlock device approved by the Secretary of State in the motor vehicle the person operates. ~~This paragraph applies only to 4th or subsequent offenses committed after August 31, 2008.~~

See title page for effective date.

CHAPTER 188

H.P. 408 - L.D. 589

An Act To Strengthen the Law Regarding Texting and Driving

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

Sec. 1. 29-A MRSA §2119, sub-§3, as amended by PL 2011, c. 654, §7, is repealed and the following enacted in its place:

3. Penalties. The following penalties apply to a violation of this section.

A. A person who violates this section commits a traffic infraction for which a fine of not less than \$250 may be adjudged.

B. A person who violates this section after previously having been adjudicated as violating this