

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

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FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
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PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH THE MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Augusta, Maine
2013

- (43-B) Tolla Wolla WMA - Livermore - Androscoggin County;
- (43-C) Green Point WMA - Dresden - Lincoln County;
- (43-D) Hurds Pond WMA - Swanville - Waldo County;
- (43-E) Sherman Lake WMA - Newcastle, Damariscotta - Lincoln County;
- (43-F) Ducktrap River WMA - Belmont, Lincolnville - Waldo County;
- (45) Stump Pond WMA - New Vineyard - Franklin County;
- (46) Bog Brook WMA - Beddington, Deblois - Washington County;
- (47) Cobscook Bay WMA - Lubec, Pembroke, Perry, Trescott Township - Washington County;
- (48) Mattawamkeag River System WMA - Drew Plantation, Kingman Township, Prentiss Township, Webster Township - Penobscot County;
- (49) Booming Ground WMA - Forest City - Washington County;
- (50) Butler Island WMA - Ashland - Aroostook County;
- (51) Pollard Flat WMA - Masardis - Aroostook County;
- (52) Caribou Bog WMA - Old Town, Orono - Penobscot County;
- (53) Delano WMA - Monson - Piscataquis County;
- (54) Egypt Bay WMA - Hancock - Hancock County;
- (55) Spring Brook WMA - Hancock - Hancock County;
- (56) Strong WMA - Strong - Franklin County;
- (57) Plymouth Bog WMA - Plymouth - Penobscot County; and
- (58) Such other areas as the commissioner designates, by rules adopted in accordance with section 12701, as state-owned wildlife management areas.

Sec. 22. 12 MRSA §12952, sub-§2, ¶A, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

A. Possess, at the licensee's place of business, lawfully acquired fish or wildlife specimens for

the sole purpose of preparing and mounting them, including skull mounts;

Sec. 23. 12 MRSA §13056, sub-§2, ¶F, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

F. A motorboat from a country other than the United States, as long as the motorboat has not been within this State for a period in excess of 60 consecutive days; ~~and~~

Sec. 24. 12 MRSA §13056, sub-§2, ¶G, as corrected by RR 2003, c. 1, §9 and affected by PL 2003, c. 614, §9 and PL 2005, c. 397, Pt. A, §§55 and 56, is amended to read:

G. A motorboat used exclusively for racing purposes that displays on its hull in a prominent manner a valid boat number issued by a recognized racing association; and

Sec. 25. 12 MRSA §13056, sub-§2, ¶H is enacted to read:

H. A motorboat participating in an event as permitted by section 13061.

Sec. 26. 12 MRSA §13109, sub-§4, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

4. Temporary registrations and numbers. The commissioner may issue temporary numbers and registrations for snowmobiles to bona fide dealers, who may, upon the sale or exchange of a snowmobile, issue them to new owners in order to allow them to operate snowmobiles for a period of 20 consecutive days after the day date of sale in lieu of a permanent number as required by this chapter. The fee for each temporary registration certificate is \$1.

See title page for effective date.

CHAPTER 409

S.P. 157 - L.D. 415

An Act To Require a Warrant To Obtain the Location Information of a Cell Phone or Other Electronic Device

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

Sec. 1. 16 MRSA c. 3, sub-c. 10 is enacted to read:

SUBCHAPTER 10
ELECTRONIC DEVICE LOCATION
INFORMATION

§641. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

- 1. Adverse result.** "Adverse result" means:
 - A. Immediate danger of death or serious physical injury;
 - B. Flight from prosecution;
 - C. Destruction of or tampering with evidence;
 - D. Intimidation of a potential witness;
 - E. Substantially jeopardizes an investigation; or
 - F. Undue delay of a trial.
- 2. Electronic communication service.** "Electronic communication service" means a service that provides to users the ability to send or receive wire or electronic communications.
- 3. Electronic device.** "Electronic device" means a device that enables access to, or use of, an electronic communication service, remote computing service or location information service.
- 4. Government entity.** "Government entity" means a state or local agency, including but not limited to a law enforcement entity or any other investigative entity, agency, department, division, bureau, board or commission or an individual acting or purporting to act for or on behalf of a state or local agency.
- 5. Location information.** "Location information" means information concerning the location of an electronic device, including both the current location and any prior location of the device, that, in whole or in part, is generated, derived from or obtained by the operation of an electronic device.
- 6. Location information service.** "Location information service" means a global positioning service or other mapping, locational or directional information service.
- 7. Owner.** "Owner" means the person or entity having the legal title, claim or right to an electronic device.
- 8. Remote computing service.** "Remote computing service" means computer storage or processing services provided by means of an electronic communication service.
- 9. User.** "User" means a person or entity that uses an electronic device.

§642. Warrant needed for acquisition of location information

Except as provided in this subchapter, a government entity may not obtain location information without a valid warrant issued by a duly authorized judge or justice using procedures established pursuant to Title 15, section 55.

A judge or justice may issue a warrant for the location information of an electronic device pursuant to this section for a period of time necessary to achieve the objective of the authorization, but in any case the warrant is not valid for more than 10 days after the issuance. A judge or justice may grant an extension of a warrant upon a finding of continuing probable cause and a finding that the extension is necessary to achieve the objective of the authorization. An extension may not exceed 30 days.

§643. Notice

Notice must be given to the owner or user of an electronic device whose location information was obtained by a government entity. The government entity's notification obligation applies only if the government entity is able to identify the owner or user.

1. Timing and content of notice. Unless the court determines under subsection 2 that no notice is required, the government entity shall provide notice to the owner or user that location information was obtained by the government entity from that owner's or user's electronic device within 3 days of obtaining the location information. The notice must be made by service or delivered by registered or first-class mail, e-mail or any other means reasonably calculated to be effective as specified by the court issuing the warrant. The notice must contain the following information:

- A. The nature of the law enforcement inquiry, with reasonable specificity;
- B. The location information of the owner or user that was supplied to or requested by the government entity and the date on which it was provided or requested; and
- C. If location information was obtained from a provider of electronic communication service or location information service or other 3rd party, the identity of the provider of electronic communication service or location information service or the 3rd party from whom the information was obtained.

2. Notification not required. A government entity acting under section 642 may include in the application for a warrant a request for an order to waive the notification required under this section. The court may issue the order if the court determines that there is reason to believe that notification will have an adverse result.

3. Preclusion of notice to owner or user subject to warrant for location information. A government entity acting under section 642 may include in its application for a warrant a request for an order directing a provider of electronic communication service or location information service to which a warrant is directed not to notify any other person of the existence of the warrant. The court may issue the order if the court determines that there is reason to believe that notification of the existence of the warrant will have an adverse result.

§644. Exceptions to warrant requirement

When disclosure of location information is not prohibited by federal law, a government entity may obtain the location information without a warrant:

1. Emergency services. To respond to the user's call for emergency services:

2. Consent of owner or user. With the informed, affirmative consent of the owner or user of the electronic device concerned, except when the device is known or believed by the owner or user to be in the possession of a 3rd party known to the owner or user:

3. Consent of family member. With the informed, affirmative consent of the legal guardian or next of kin of the owner or user, if the owner or user is believed to be deceased or reported missing and unable to be contacted; or

4. Immediate danger of death or serious injury. If the government entity reasonably believes that an emergency involving immediate danger of death or serious physical injury to a person requires the disclosure, without delay, of location information concerning a specific person and that a warrant cannot be obtained in time to prevent the identified danger, and the possessor of the location information, in good faith, believes that an emergency involving danger of death or serious physical injury to a person requires the disclosure without delay.

Within a reasonable period of time after seeking disclosure pursuant to this subsection, the government entity seeking the location information shall file with the appropriate court a written statement setting forth the facts giving rise to the emergency and the facts as to why the person whose location information was sought is believed to be important in addressing the emergency.

§645. Conditions of use of location information

1. Conditions of use of location information in proceeding. Location information obtained pursuant to this subchapter or evidence derived from that information may be received in evidence or otherwise disclosed in a trial, hearing or other proceeding only if each party, not less than 10 days before the trial, hearing or proceeding, has been furnished with a copy of

the warrant and accompanying application under which the information was obtained.

2. Ten-day requirement; exception. The 10-day requirement under subsection 1 may be waived if a judge makes a finding that it was not possible to provide a party with the warrant and accompanying application 10 days prior to a trial, hearing or proceeding and that the party will not be prejudiced by the delay in receiving the information.

§646. Action against a corporation

This subchapter may not be construed to create a cause of action against a corporation or its officers, employees or agents for providing location information.

See title page for effective date.

CHAPTER 410

S.P. 393 - L.D. 1132

An Act To Achieve Economic Growth by Enhancing Science, Technology, Engineering and Mathematics Education and To Meet Workforce Needs

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

Sec. 1. 20-A MRSA §11, sub-§7, as enacted by PL 2011, c. 346, §2, is amended to read:

7. Assistance. The executive director established pursuant to subsection 9, the Department of Education, the University of Maine System and the Maine Community College System and the Maine Maritime Academy shall jointly provide staff support to the council.

Sec. 2. 20-A MRSA §11, sub-§§9 and 10 are enacted to read:

9. Office of executive director. The council shall establish the office of executive director to provide leadership and management expertise to assist the council in meeting its goals. The council may enter into an agreement, to the extent that public and private funds are available, to contract with an executive director to assist the council in the execution of its duties under this section.

10. Funding. The council may receive and expend funds from public and private sources. Funds must be used to carry out the council's duties and other provisions of this section. State and federal funds received by the council must be held separate and apart from all other money, funds and accounts. Any balance of funds appropriated, allocated or authorized by the Legislature remaining at the end of a fiscal year do