

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-EIGHTH LEGISLATURE

SECOND SPECIAL SESSION
June 19, 2018 to September 13, 2018

THE GENERAL EFFECTIVE DATE FOR
SECOND SPECIAL SESSION
NON-EMERGENCY LAWS IS
DECEMBER 13, 2018

ONE HUNDRED AND TWENTY-NINTH LEGISLATURE

FIRST REGULAR SESSION
December 5, 2018 to June 20, 2019

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 19, 2019

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

Augusta, Maine
2019

beverages for exclusive sale by that dealer at retail has the obligation of a distributor under this section. The ~~commissioner~~ department may establish by rule, in accordance with the Maine Administrative Procedure Act, criteria prescribing the manner in which distributors shall fulfill the obligations imposed by this paragraph. The rules may establish a minimum number or value of containers below which a distributor is not required to respond to a request to pick up empty containers. Any rules adopted under this paragraph must allocate the burdens associated with the handling, storage and transportation of empty containers to prevent unreasonable financial or other hardship.

Sec. 20. Transition provisions. The following transition provisions apply to changes in rulemaking and the impact on pending proceedings.

1. Effect on existing rules. All rules adopted by the Commissioner of Environmental Protection prior to the effective date of this Act continue in effect until amended or rescinded by the Board of Environmental Protection; and

2. Effect on pending proceedings. All regulatory proceedings pending before the Board of Environmental Protection or the Commissioner of Environmental Protection on the effective date of this Act are subject to the Maine Revised Statutes, Title 1, section 302.

See title page for effective date.

CHAPTER 316

H.P. 1305 - L.D. 1834

An Act Regarding Prostitution

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

Sec. 1. 17-A MRSA §853-A, sub-§1, ¶B, as amended by PL 2007, c. 476, §29, is further amended to read:

B. The person violates paragraph A and, at the time of the offense, the person has one or more prior convictions under this section or for engaging in substantially similar conduct to that contained in this section in another jurisdiction. Section 9-A governs the use of prior convictions when determining a sentence, except that, for the purposes of this paragraph, the date of the prior conviction may not precede the commission of the offense by more than 2 years. Violation of this paragraph is a Class ~~D~~ E crime.

Sec. 2. 17-A MRSA 1902, sub-§6 is enacted to read:

6. A deferred disposition is a preferred disposition in a prosecution for engaging in prostitution under section 853-A, subsection 1, paragraph B.

See title page for effective date.

CHAPTER 317

H.P. 211 - L.D. 287

An Act To Impose on Mental Health Professionals a Duty To Warn and Protect

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

Sec. 1. 32 MRSA §2600-D is enacted to read:

§2600-D. Duty to warn and protect

1. Duty. An osteopathic physician licensed under this chapter has a duty to warn of or to take reasonable precautions to provide protection from a patient's violent behavior if the osteopathic physician has a reasonable belief based on communications with the patient that the patient is likely to engage in physical violence that poses a serious risk of harm to self or others. The duty imposed under this subsection may not be interpreted to require the osteopathic physician to take any action that in the reasonable professional judgment of the osteopathic physician would endanger the osteopathic physician or increase the threat of danger to a potential victim.

2. Discharge of duty. An osteopathic physician subject to a duty to warn or provide protection under subsection 1 may discharge that duty if the osteopathic physician makes reasonable efforts to communicate the threat to a potential victim, notifies a law enforcement agency or seeks involuntary hospitalization of the patient under Title 34-B, chapter 3, subchapter 4, article 3.

3. Immunity. No monetary liability and no cause of action may arise concerning patient privacy or confidentiality against an osteopathic physician licensed under this chapter for information disclosed to 3rd parties in an effort to discharge a duty under subsection 2.

Sec. 2. 32 MRSA §3300-G is enacted to read:

§3300-G. Duty to warn and protect

1. Duty. A physician licensed under this chapter has a duty to warn of or to take reasonable precautions to provide protection from a patient's violent behavior if the physician has a reasonable belief based on communications with the patient that the patient is likely to engage in physical violence that poses a serious risk of harm to self or others. The duty imposed under this subsection may not be interpreted to require the physi-

cian to take any action that in the reasonable professional judgment of the physician would endanger the physician or increase the threat of danger to a potential victim.

2. Discharge of duty. A physician subject to a duty to warn or provide protection under subsection 1 may discharge that duty if the physician makes reasonable efforts to communicate the threat to a potential victim, notifies a law enforcement agency or seeks involuntary hospitalization of the patient under Title 34-B, chapter 3, subchapter 4, article 3.

3. Immunity. No monetary liability and no cause of action may arise concerning patient privacy or confidentiality against a physician licensed under this chapter for information disclosed to 3rd parties in an effort to discharge a duty under subsection 2.

Sec. 3. 32 MRSA §3820 is enacted to read:

§3820. Duty to warn and protect

1. Duty. A licensee under this chapter has a duty to warn of or to take reasonable precautions to provide protection from a patient's violent behavior if the licensee has a reasonable belief based on communications with the patient that the patient is likely to engage in physical violence that poses a serious risk of harm to self or others. The duty imposed under this subsection may not be interpreted to require the licensee to take any action that in the reasonable professional judgment of the licensee would endanger the licensee or increase the threat of danger to a potential victim.

2. Discharge of duty. A licensee subject to a duty to warn or provide protection under subsection 1 may discharge that duty if the licensee makes reasonable efforts to communicate the threat to a potential victim, notifies a law enforcement agency or seeks involuntary hospitalization of the patient under Title 34-B, chapter 3, subchapter 4, article 3.

3. Immunity. No monetary liability and no cause of action may arise concerning patient privacy or confidentiality against a person licensed under this chapter for information disclosed to 3rd parties in an effort to discharge a duty under subsection 2.

Sec. 4. 32 MRSA §6207-C is enacted to read:

§6207-C. Duty to warn and protect

1. Duty. A certified alcohol and drug counselor or a licensed alcohol and drug counselor has a duty to warn of or to take reasonable precautions to provide protection from a client's violent behavior if the counselor has a reasonable belief based on communications with the client that the client is likely to engage in physical violence that poses a serious risk of harm to self or others. The duty imposed under this subsection may not be interpreted to require the counselor to take any action that in the reasonable professional judgment

of the counselor would endanger the counselor or increase the threat of danger to a potential victim.

2. Discharge of duty. A certified alcohol and drug counselor or a licensed alcohol and drug counselor subject to a duty to warn or provide protection under subsection 1 may discharge that duty if the counselor makes reasonable efforts to communicate the threat to a potential victim, notifies a law enforcement agency or seeks involuntary hospitalization of the client under Title 34-B, chapter 3, subchapter 4, article 3.

3. Immunity. No monetary liability and no cause of action may arise concerning client privacy or confidentiality against an alcohol and drug counselor certified or licensed under this chapter for information disclosed to 3rd parties in an effort to discharge a duty under subsection 2.

Sec. 5. 32 MRSA §7006 is enacted to read:

§7006. Duty to warn and protect

1. Duty. A licensee under this chapter has a duty to warn of or to take reasonable precautions to provide protection from a client's violent behavior if the licensee has a reasonable belief based on communications with the client that the client is likely to engage in physical violence that poses a serious risk of harm to self or others. The duty imposed under this subsection may not be interpreted to require the licensee to take any action that in the reasonable professional judgment of the licensee would endanger the licensee or increase the threat of danger to a potential victim.

2. Discharge of duty. A licensee subject to a duty to warn or provide protection under subsection 1 may discharge that duty if the licensee makes reasonable efforts to communicate the threat to a potential victim, notifies a law enforcement agency or seeks involuntary hospitalization of the client under Title 34-B, chapter 3, subchapter 4, article 3.

3. Immunity. No monetary liability and no cause of action may arise concerning client privacy or confidentiality against a person licensed under this chapter for information disclosed to 3rd parties in an effort to discharge a duty under subsection 2.

Sec. 6. 32 MRSA §13866 is enacted to read:

§13866. Duty to warn and protect

1. Duty. A licensee under this chapter has a duty to warn of or to take reasonable precautions to provide protection from a client's violent behavior if the licensee has a reasonable belief based on communications with the client that the client is likely to engage in physical violence that poses a serious risk of harm to self or others. The duty imposed under this subsection may not be interpreted to require the licensee to take any action that in the reasonable professional judgment of the licensee would endanger the licensee or increase the threat of danger to a potential victim.

2. Discharge of duty. A licensee subject to a duty to warn or provide protection under subsection 1 may discharge that duty if the licensee makes reasonable efforts to communicate the threat to a potential victim, notifies a law enforcement agency or seeks involuntary hospitalization of the client under Title 34-B, chapter 3, subchapter 4, article 3.

3. Immunity. No monetary liability and no cause of action may arise concerning client privacy or confidentiality against a person licensed under this chapter for information disclosed to 3rd parties in an effort to discharge a duty under subsection 2.

See title page for effective date.

CHAPTER 318
S.P. 53 - L.D. 166

**An Act To Protect
Schoolchildren by Providing
Additional Enforcement and
Prevention Options for
Unlawful Passing of a School
Bus**

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

Sec. 1. 29-A MRSA §2117, as enacted by PL 2009, c. 223, §1, is amended to read:

§2117. Use of traffic surveillance cameras restricted

The Except as provided in subsections 1 and 2, the State or a municipality may not use a traffic surveillance camera to prove or enforce a violation of this Title. For purposes of this section, "traffic surveillance camera" means a device that, in conjunction with a lighted traffic-control device or a lane direction control device, as described in section 2057, subsections 1 and 3, or a speed measurement device as described in section 2075, subsection 4, automatically produces one or more photographs, one or more microphotographs, a videotape or any other recorded image of a vehicle at the time the vehicle is operated in violation of state law.

~~This section does not apply to a photo-monitoring system, as defined by Title 23, section 1980, subsection 2-A, paragraph B, subparagraph 4, used by the Maine Turnpike Authority for toll enforcement purposes.~~

1. School buses. The State or a municipality may use a traffic surveillance camera mounted on a school bus in conjunction with a lighted traffic-control device to prove or enforce a violation of section 2308, subsection 2. A photograph, microphotograph, videotape or other recorded image or audio produced by a

traffic surveillance camera mounted on a school bus is confidential and may only be released to a law enforcement officer for the purpose of an investigation into a violation of the law or to a law enforcement officer, prosecutor, defendant or court for the purpose of a prosecution of a violation of the law.

The state or a municipality may not retain a photograph, microphotograph, videotape or other recorded image or audio produced by a traffic surveillance camera mounted on a school bus for more than 30 days from the date of production unless it is released in accordance with this subsection.

For the purposes of this subsection, "prosecutor" means a person who by virtue of public employment is vested by law with a duty to prosecute offenders for crimes, whether that duty extends to all crimes or is limited to specific crimes.

2. Toll enforcement. The Maine Turnpike Authority may use a photo-monitoring system, as defined by Title 23, section 1980, subsection 2-A, paragraph B, subparagraph (4), for toll enforcement purposes.

Sec. 2. 29-A MRSA §2301, sub-§§1-D and 5-C are enacted to read:

1-D. Extended stop arm. "Extended stop arm" means a stop arm that when activated extends 3 to 6 feet outward from the left side of a school bus.

5-C. Stop arm. "Stop arm" means a device mounted on the left side of a school bus that when activated displays a stop sign to traffic in front of and behind that school bus.

Sec. 3. 29-A MRSA §2302, sub-§1, ¶G, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

G. May be equipped with a system of stop arms or extended stop arms to be operated only with the red signal lights; and

Sec. 4. 29-A MRSA §2308, sub-§6, as amended by PL 2019, c. 113, Pt. C, §75, is further amended to read:

6. Penalty. A violation of this section subsection 2 is a Class E crime that is punishable by a \$250 minimum fine for the first offense and a mandatory 30-day suspension of a driver's license for a 2nd offense occurring within 3 years of the first offense.

Sec. 5. 29-A MRSA §2380, sub-§3-A, as enacted by PL 2005, c. 482, §6, is amended to read:

3-A. Maximum width; additional exceptions. In addition to the exceptions in subsection 3, the following are excluded from the measurement of vehicle width:

- A. Reflecting mirrors;
- B. Turn signal lamps; ~~and~~