

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

CHAPTER 452
S.P. 614 - L.D. 1824

**An Act To Make Certain
Snowmobile and Watercraft
Laws Consistent with
All-terrain Vehicle Laws**

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

Sec. 1. 12 MRSA §10651, sub-§1, ¶E, as affected by PL 2003, c. 614, §9 and amended by c. 695, Pt. B, §6 and affected by Pt. C, §1, is further amended to read:

E. Attempt to elude a law enforcement officer by:

- (1) Operating or attempting to operate an all-terrain vehicle or snowmobile past a clearly identifiable police roadblock; or
- (2) After being requested or signaled to stop by a law enforcement officer in uniform, operating or attempting to operate an all-terrain vehicle, snowmobile or watercraft at a reckless rate of speed.

Sec. 2. 12 MRSA §10703, sub-§1, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

1. Blood or breath test. If the law enforcement officer has probable cause to believe a person hunted wild animals or wild birds or operated or attempted to operate a watercraft, snowmobile or ATV while under the influence of intoxicating liquor, then the officer shall inform the person that a breath test will be administered, unless, in the determination of the officer, it is unreasonable for a breath test to be administered, in which case a blood test must be administered. ~~When a blood test is required, the test may be administered by a physician of the accused's choice, at the request of the accused and if reasonably available.~~ The law enforcement officer may determine which type of breath test, as described in subsection 5, will be administered.

Sec. 3. 12 MRSA §10703, sub-§2, as affected by PL 2003, c. 614, §9 and amended by c. 655, Pt. B, §77 and affected by §422, is further amended to read:

2. Prerequisites to tests. ~~Before any test is given, the~~ The law enforcement officer shall inform the person to be tested of the consequences of refusing to comply with the test. If the person fails to comply with the duty to submit to and complete the requested chemical tests at the direction of the law enforcement officer, that person is committing a civil violation for which the person may be required to pay a fine of up to \$500. The officer shall also inform the person that the failure to comply with the duty to submit to a chemical test is admissible in evidence against that

person at any trial for hunting or operating under the influence of intoxicating liquor or drugs or a combination of liquor and drugs.

Test results may not be excluded as evidence in any proceeding before any administrative officer or court of this State as a result of the failure of the law enforcement officer to comply with these prerequisites. The only effects of the failure of the officer to comply with the prerequisites are as provided in subsection 7.

Sec. 4. 12 MRSA §10703, sub-§4, ¶B, as amended by PL 2009, c. 447, §11, is further amended to read:

B. If, at the time alleged, a defendant who was 21 years of age or older at the time of the arrest had an alcohol level in excess of 0.05 grams of alcohol ~~or more~~ but less than 0.08 grams of alcohol per 100 milliliters of blood or 210 liters of breath, it is relevant evidence, but it is not to be given prima facie effect in indicating whether or not the defendant was under the influence of intoxicating liquor within the meaning of this section, but that fact may be considered with other competent evidence in determining whether or not the defendant was under the influence of intoxicating liquor.

Sec. 5. 12 MRSA §10703, sub-§5, ¶A, as amended by PL 2009, c. 447, §12, is further amended to read:

A. ~~Only a duly licensed physician, registered physician's assistant, registered nurse or a person certified by the Department of Health and Human Services under certification standards set by that department, acting at the request of a law enforcement officer, may draw a specimen of blood to determine an alcohol level or drug concentration of a person who is complying with the duty to submit to a chemical test. Only a physician, registered physician's assistant, registered nurse or person whose occupational license or training allows that person to draw blood samples may draw a specimen of blood for the purpose of determining the blood-alcohol level or the presence of a drug or drug metabolite.~~ This limitation does not apply to the taking of breath or urine specimens. When a person draws a specimen of blood at the request of a law enforcement officer, that person may issue a certificate that states that the person is in fact a duly licensed or certified person as required by this subsection and that the person followed the proper procedure for drawing a specimen of blood to determine an alcohol level or drug concentration. That certificate, when duly signed and sworn to by the person, is admissible as evidence in any court of the State. It is prima facie evidence that the person was duly licensed or certified and that the person followed the proper procedure for drawing a specimen of blood for chemical testing, unless, with 10 days' written notice to

the prosecution, the defendant requests that the person testify as to licensure or certification, or the procedure for drawing the specimen of blood.

Sec. 6. 12 MRSA §10703, sub-§6, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9 and amended by c. 689, Pt. B, §6, is further amended to read:

6. Liability. ~~A physician, physician's assistant, registered nurse, person certified by the Department of Health and Human Services or hospital~~ Only a physician, registered physician's assistant, registered nurse or person whose occupational license or training allows that person to draw blood samples or other health care provider in the exercise of due care is not liable in damages or otherwise for any act done or omitted in performing the act of collecting or withdrawing specimens of blood at the request of a law enforcement officer pursuant to this section.

Sec. 7. 12 MRSA §10757, as amended by PL 2015, c. 281, Pt. A, §2, is further amended to read:

§10757. Fraudulently obtaining or possessing license, permit or registration

A person may not obtain or possess a paper or electronic license ~~or~~ permit or registration authorized in this Part through fraud, misstatement or misrepresentation. A person who violates this section commits a Class E crime.

Sec. 8. 12 MRSA §10902, sub-§10, as amended by PL 2011, c. 253, §17, is further amended to read:

10. Mandatory suspension for certain ATV, snowmobile and watercraft violations. The commissioner shall suspend for at least one year all licenses, permits and registrations issued by the department pursuant to this Part to any person convicted or adjudicated of:

- A. Abuse of another person's property as prohibited under section 13157-A, subsection 22;
- B. Operating an ATV, snowmobile or watercraft under the influence as prohibited under section 10701, subsection 1-A, paragraph D;
- C. Operating an ATV to endanger, as prohibited under section 13157-A, subsection 11, operating a snowmobile to endanger, as prohibited under section 13106-A, subsection 10, or operating a watercraft to endanger, as prohibited under section 13068-A, subsection 5;
- D. Reckless operation of an ATV, as prohibited under section 13157-A, subsection 10, reckless operation of a snowmobile, as prohibited under section 13106-A, subsection 9, or reckless operation of a watercraft, as prohibited under section 13068-A, subsection 6; or

E. Failure or refusal to stop an ATV or attempting to elude an officer, as prohibited under section 10651, subsection 1, paragraphs D and E, failure or refusal to stop a snowmobile or attempting to elude an officer, as prohibited under section 10651, subsection 1-E, or failure or refusal to stop a watercraft or attempting to elude an officer, as prohibited under section 10651, subsection 1-E.

The commissioner shall reinstate licenses, permits and registrations that have been suspended pursuant to this subsection after the period of suspension has lapsed and after that person has successfully completed an ~~ATV safety and ethics course as provided in subsection 9~~ ethics course as required by the department and has successfully completed a safety course as required by the department that relates to the specific violation for which the person was convicted or adjudicated.

Sec. 9. 12 MRSA §13001, sub-§25, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

25. Snowmobile. "Snowmobile" means a vehicle propelled by mechanical power that is primarily designed to travel over ice or snow and is supported in part by skis, belts or cleats. "Snowmobile" does not include a motor vehicle as defined in Title 29-A, section 101.

Sec. 10. 12 MRSA §13056, sub-§8, as amended by PL 2009, c. 213, Pt. OO, §§14 and 15, is further amended to read:

8. Fees. The fees for each original or renewal certificate of number with 2 validation stickers are set out in this subsection.

A. For a watercraft requiring or whose owner requests a certificate of number and that is equipped with a motor having a manufacturer's horsepower rating of:

- (1) Ten horsepower or less, the fee is \$25 for operating on inland waters of the State and \$15 for operating only on tidal waters of the State;
- (2) Greater than 10, but not more than 50 horsepower, the fee is \$30 for operating on inland waters of the State and \$20 for operating only on tidal waters of the State; and
- (3) Greater than 50 horsepower but not more than 115 horsepower, the fee is \$36 for operating on inland waters of the State and \$26 for operating only on tidal waters of the State.

B. For a personal watercraft requiring or whose owner requests a certificate of number and watercraft equipped with a motor having a manufacturer's horsepower rating of 115 horsepower or greater, the fee is \$44 for operating on inland wa-

ters of the State and \$34 for operating only on tidal waters of the State.

C. For a duplicate certificate of number, the fee is \$1.

D. For a duplicate validation sticker (per set), the fee is \$1.

E. For a certificate of number issued with transfer of ownership authorized in subsection 10, the fee is \$2.

Validation stickers are nontransferable.

A motorboat that is used for governmental purposes and is owned and operated in the State by the Federal Government, the State or a political subdivision of the State is exempt from registration fees.

Sec. 11. 12 MRSA §13104, sub-§13, as affected by PL 2003, c. 614, §9 and amended by c. 655, Pt. B, §390 and affected by §422, is repealed.

Sec. 12. 12 MRSA §13106-A, sub-§10, ¶B, as enacted by PL 2003, c. 655, Pt. B, §394 and affected by §422, is amended to read:

B. Operating the snowmobile in a manner that fails to control its speed at all times as necessary to avoid colliding with any person, vehicle, snowmobile or other object ~~on or adjacent to the snowmobile trail.~~

Sec. 13. 12 MRSA §13113, sub-§6, as enacted by PL 2005, c. 93, §3, is repealed.

Sec. 14. 36 MRSA §2903-D, sub-§2, ¶A, as amended by PL 2003, c. 414, Pt. B, §66 and affected by c. 614, §9, is further amended to read:

A. The Commissioner of Inland Fisheries and Wildlife receives 14.93% of that amount, to be used by the commissioner for the purposes set forth in Title 12, section 1893, subsection 3, section 10206, subsection 2, section 13104, subsections 2 to ~~13~~ 12 and section 13105, subsection 1; and

See title page for effective date.

CHAPTER 453

H.P. 1314 - L.D. 1843

An Act To Provide Funding for Two Positions in the Department of Agriculture, Conservation and Forestry

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

Sec. 1. Appropriations and allocations. The following appropriations and allocations are made.

AGRICULTURE, CONSERVATION AND FORESTRY, DEPARTMENT OF

Land Management and Planning 0239

Initiative: Establishes one Chief Planner position and one Planning and Research Associate II position in the Bureau of Land Management and Planning.

OTHER SPECIAL REVENUE FUNDS	2019-20	2020-21
POSITIONS - LEGISLATIVE COUNT	2.000	2.000
Personal Services	\$169,110	\$177,230
OTHER SPECIAL REVENUE FUNDS TOTAL	\$169,110	\$177,230

See title page for effective date.

CHAPTER 454

H.P. 38 - L.D. 37

An Act To Allow for the Sale of Nonprescription Drugs through Vending Machines

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

Sec. 1. 32 MRSA §13751, sub-§2, as amended by PL 2007, c. 402, Pt. DD, §22, is further amended to read:

2. Classifications. Pharmacies must be licensed in classifications set out in this subsection.

Each pharmacy must apply for a license in one of the following classifications:

- A. Retail pharmacy;
- B. Mail order prescription pharmacy;
- C. Wholesale pharmacy;
- D. Rural health center; ~~or~~
- E. Free clinic; ~~or~~
- F. Vending machine outlet.

Sec. 2. 32 MRSA §13792, as enacted by PL 1987, c. 710, §5, is repealed and the following enacted in its place:

§13792. Sale by certain methods prohibited

1. Methods of sale prohibited. A person may not sell, distribute, vend or otherwise dispose of any